

**MAUI PLANNING COMMISSION
REGULAR MINUTES
JANUARY 22, 2019**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Chairperson Keaka Robinson at approximately 9:07 a.m., Tuesday, January 22, 2019, Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.

Mr. Robinson: Good morning everyone. Welcome to the Planning Commission January 22nd meeting. In attendance today we have Commissioner Christian Tackett. Good morning.

Mr. Tackett: Good morning.

Mr. Robinson: Commissioner P Denise La Costa, good morning.

Ms. La Costa: Aloha Chair.

Mr. Robinson: Commissioner Lawrence Carnicelli, good morning.

Mr. Carnicelli: Good morning Chair.

Mr. Robinson: Commissioner Kahu Hill.

Kahu Hill: Aloha Kakahiaka Chair.

Mr. Robinson: Aloha. Commissioner Kellie Pali.

Ms. Pali: Good morning.

Mr. Robinson: Good morning. And Vice-Chair Larry Hudson.

Mr. Hudson: Good morning Chair.

Mr. Robinson: We have Corporation Counsel, smile's on, and we have Director Michele McLean.

Ms. McLean: Good morning Chair.

Mr. Robinson: Director.

Ms. McLean: Thank you Chair. There are three public hearing items scheduled this morning. I did want to announce that there was another item for which a public hearing notice had been sent out. It's not on the agenda today because after that notice went out, the applicant withdrew. So if there is anybody here or anyone watching who is here for the Kihei Pool House STRH application, it's not on the agenda because the applicant withdrew. So there is nothing to discuss on that item in case anyone was here interested in that.

1 The first item is a request initiated by the Planning Department or excuse me, initiated by the
2 County Council. It's Council Resolution 17-151 referring to you proposed bills to amend the
3 Makawao-Pukalani-Kula Community Plan use designation, State Land Use District
4 Classification and Zoning for property situated at 2-4-002: 011 and 2-4-002: portion of 006. This
5 is for the Hui No`eau Visual Arts Center property in Makawao, and the Tara Furukawa is the
6 project planner.

7
8 **B. PUBLIC HEARINGS** (Action to be taken after each public hearing.)

9
10 1. **MICHELE MCLEAN, AICP, Acting Planning Director, transmitting Council**
11 **Resolution No. 17-151 referring to the Maui Planning Commission**
12 **Proposed Bills to Amend the Makawao-Pukalani-Kula Community Plan**
13 **Land Use designation, State Land Use District Classification, and Zoning**
14 **Change for property situated at TMK: (2) 2-4-002: 011 and 2-4-002: por. of**
15 **006 (Hui No`eau Visual Arts Center), Makawao, Island of Maui.**
16 **(T. Furukawa)**

17
18 a. **Proposed bill to amend the Makawao-Pukalani-Kula Community Plan**
19 **Land Use designation from Agriculture to Public/Quasi-Public for**
20 **approximately 4.306 acres at TMK:(2) 2-4-002: 006 (por.).**
21 **(CPA 2017/0003)**

22
23 b. **Proposed bill to amend the State Land Use District Boundary**
24 **Classifications from Agricultural to Rural for approximately**
25 **14.775 acres at TMK: (2) 2-4-002: 011 and (2) 2-4-002: 006**
26 **(por.).(DBA 2017/0003)**

27
28 c. **Proposed bills to change the zoning from Interim District to P-1**
29 **Public/Quasi-Public District for TMK (2) 2-4-002:011 and from the**
30 **Agricultural District to P-1 Public/Quasi-Public District for property**
31 **situated at TMK: (2) 2-4-002: 006 (por.) (CIZ 2017/0004)**

32
33 Ms. Tara Furukawa: Good morning Commissioners.

34
35 Mr. Robinson: Good morning Tara.

36
37 Ms. Furukawa: This item is under you review because the Council initiated the resolution which
38 is a bill to change land use designations for two properties in Makawao that are owned by the
39 Hui No`eau. The land area totals 14.775 acres and the matter's being referred to you because
40 the land acreage is less than 15 acres so pursuant to Hawaii Revised Statutes, Section 205
41 such decisions shall be determined by the Maui County Council. The Maui Planning
42 Commission must make a recommendation to the Council. Robb Cole of Hawaii Land Use
43 Group is the consultant for the project and he'll present you with a scope of the proposed land
44 use entitlement changes and I'll then come back and present you with the Department
45 recommendation.

46
47 Mr. Robb Cole: Thank you Tara. Good morning Chair, Members of the Planning Commission,

1 Staff, the Planning Department, Public Works. Thank you for volunteering your time today to
2 review this project.

3
4 Mr. Robinson: Please introduce yourself.

5
6 Mr. Cole: Sorry. Robb Cole of Hawaii Land Use Group here on behalf of the Hui No`eau Visual
7 Art Center. Hui No`eau is a nonprofit organization that maintains the Kaluanui Estate in
8 Makawao and runs probably one of the most prolific arts education centers in Hawaii. I'd like to
9 acknowledge in the audience Caroline Killhour, the Executive Director, Ashley Hesjedal, Staff,
10 and a great number of the Hui No`eau Board of Directors, if you'd raise your hand please.

11
12 Today's recommendation is a very important step in a long process. Special permits and
13 Conditional Permits are kind of like training wheels for a project. Hui No`eau is kind of like the
14 adult riding a bike very well with training wheels. Hopefully today the Planning Commission is
15 able to loosen the bolts on these wheels and when we return to Commission they can take them
16 off.

17
18 Unless there's any objections I'd like to quickly mention a few things on the record for
19 housekeeping and then I'd like to give a brief overview regarding the current status of the Hui
20 and what projects are in the pipeline over the next decade. Then I'd like to briefly talk about the
21 action that's proposed and what the implications might be. Staff Planner Tara Furukawa has
22 been very good in providing us with a report, a recommendation and administering the project
23 ...(inaudible)...

24
25 Just for the record I'd like to note that we submitted a revised legal description signed
26 January 18, 2019 and that's pertaining to the Change in Zoning and District Boundary
27 Amendment. It replaces the legal description that was on file. And we'd also like to note that
28 six letters of support were transmitted for this project after the mailout was sent to the
29 Commissioners. They include letters of support from the adjacent neighbor, Montessori School,
30 the additional letters include abutting neighbors Labovitz, Conrad and adjacent neighbor
31 Powers. Partnering organizations Awahi Forest Restoration Project, Maui High School,
32 Kekaulike High School, and lastly letter of support Hui No`eau Board Member, Robert Stoner.

33
34 I'd like to point out today we are missing Don Bernshouse our architect. Luckily this action is
35 more about land use controls than it is details about buildings. Purposely the exhibits in your
36 files are conceptual and not detailed, but to the best of our ability we'll describe any technical
37 issues should you have questions.

38
39 Hui No`eau is on the Kaluanui Estate, a century year old estate constructed by Harry and Ethel
40 Baldwin. The estate and its grounds were designed by notable architect and Harry's cousin,
41 C.W. Dickey. It feature a two-story Mediterranean style villa, a carriage house, matching guest
42 house and also a stable to house the horses that occupied the estate at that time. At the time
43 this was built it was interesting Hawaii was a Territory, the world was at war, the sugar boom
44 was feeding construction of large estates while plantation camps existed. There were horses
45 for transportation but also the beginning of the automobile period.

46
47 The Baldwins used their estate in interesting ways. Ethel Baldwin in particular was a notable

1 social advocate. She believed in issues such as equality. She petitioned for racial equality in
2 the hospitals. She was petitioning the Red Cross to fund social and fiscal programs to aid the
3 families of soldiers in the war and she was a woman's...(inaudible)...leader. These qualities
4 lead her to use her estate in very interesting ways. There were a lot of public events that
5 happened. During the war period military was entertained on site and Ms. Baldwin also was
6 instrumental in starting a USO what we know as Casanova's Restaurant.

7
8 Civic groups like the Boy Scouts were allowed to use the property for their events and Ethel in
9 particular was an advocate of the arts and she used the property especially for the promotion of
10 arts. Her and daughter, Francis started what is called the Hui No`eau Art Society in 1934. And
11 way that she used her property differently included converting the guest house to a jewelry
12 making studio. Having gallery events in her solarium and inviting artists in the Hui No`eau
13 collective to paint and conduct art classes on property. Notably she would invite people from
14 abroad to come and teach their particular style and as their rent at staying at the house they
15 would have to teach the members of Hui No`eau.

16
17 After the passing of the Baldwins the property was taken over by Maui Land and Pine but still
18 used for public uses. For a while the property was used as a residence of the President of the
19 Maunaolu College and the property was used for academic debates and talks.

20
21 In the mid-70s Colin Cameron, grandson of the Baldwins and CEO of Maui Land and Pine
22 leased the Hui for...leased the property to the Hui for the crazy rate of a dollar a year and that
23 went on for about 30 years. And I'll start kind of my history of land use starting in the mid-70s.

24
25 This is a aerial map of a particularly dry period but it shows the location of the Hui No`eau
26 compared to Baldwin Avenue and Kaluanui Road. The current Hui No`eau property contains
27 Parcel 011 which is about 10 ½ acres and Parcel 006 which is a little over 14 acres together
28 they comprise about 25 acres of land.

29
30 The primary residence of Hui No`eau has been converted in adaptive reuse for use as a art
31 center. The upper floors are primarily administrative offices and the lower floors are used for a
32 variety of uses including this is the dining rooms which is now part of an art gallery. The living
33 room of the lower floor is now the exhibition gallery, another shot of that, and the solarium is
34 used as part of the gallery and also for certain teaching events. Here is an educator from the
35 Big Island, Dalani who is educating her students on the construction and dye of kapa.
36 Harry Baldwin's office is also located on the ground floor and it is now currently used as a
37 history room and also used for specialty art projects. It currently painted as such by a muralist
38 from Mexico City, Mazatl and he was here in the conjunction with the Awahi Forest Restoration
39 Project and his work is inspired by his work with the organization and he created this mural at
40 the Hui. If you were able to read Art Medeiros' letter he stated that the talks and workshops
41 done in collaboration with the Hui and Mazatl were estimated to have exposed about 13,000
42 individuals to the expression of Maui's native forest ...(inaudible)... efforts on their way to
43 protect them.

44
45 This is a view of the formal lawn fronting the Hui No`eau Baldwin residence and has a reflecting
46 pool similar to the one at Seabury Hall. This event here is a family day and was proceeded by a
47 hula performance. This is another performance done at the beginning of Malama Wao Akua,

1 another benefit this time to...in conjunction with the East Maui Watershed Partnership. A
2 jewelry art exhibit followed...this is the opening event which the exhibits were geared towards
3 bringing awareness towards the endangered and protected species of Maui.

4
5 This is the guest cottage, as mentioned once converted into a jewelry studio and used on
6 occasion to house artists from abroad who come to teach. This is the carriage house also
7 known as the garage. It currently houses the print making studio of the Hui. Here a junior print
8 maker is learning the skills on small scale and here are some expert print makers using one of
9 the larger print presses.

10
11 The Hui also teaches classes on photography both digital and old school film. Inside the former
12 milk room there is a dark room, development studio. Hawaiian crafts such as leis, weaving and
13 kapa print making are taught. One of the last buildings of the estate I'll talk about is the stables.
14 This building you can see is kind of a collection of old and new construction. Back when there
15 were horses the long section of this building housed the stables for the horses and the section
16 to the right was a tack room. This building was built a little bit different like from the others. It
17 wasn't, it didn't use the same quality materials and it is deteriorating. We'll talk about that in a
18 little bit. This is the guest cottage...or sorry, this is the caretaker's cottage also known as the
19 maid's cottage and sometimes the Matsumoto Building.

20
21 Moving up to about 1995 approximately the same time that the stables were expanded the Hui
22 constructed a glass kiln and studio where glass blowing is performed and taught. Around 2000,
23 1990-2000, a children's studio was constructed. It is the base for the children's programs and
24 the children's summer programs. Adjacent to that is a central restroom facility also built in 1991.
25 Working our way up to 2008, this building was constructed. It originally was designed to contain
26 the woodworking shop. Due to the failure of the stables and the ceramics program inside the
27 use of this building was changed to house the ceramics programs and the metalsmithing
28 program.

29
30 Moving up to 2013, Waldorf Schools of Maui approached the Hui looking for a place to incubate
31 a pilot high school program. Hui strategically located a structure that was an eyesore and a
32 hazard which was an old garage attached to the caretaker's cottage. And we came in here to
33 the Commission in 2013 for a permit to construct a new classroom and that was constructed in
34 2014. In 2015, we came in because the school was looking at expanding. Waldorf proposed to
35 build two classroom building and an administrative building on the old tennis courts of the
36 property and a new parking lot. That was constructed in 2016 and this is affectionately known
37 as Waldorf Village.

38
39 An earlier plan presented to the Planning Commission showed construction of the woodshop
40 building here and a future pavilion for events. That plan has changed a little bit and I'll kinda
41 walk you through, give a little more detail.

42
43 This is an overview of the two parcels, Parcel 006 and Parcel 011 together they comprise
44 25 acres. Parcel 006 is a little over 14 and Parcel 011 is a little...I'm sorry, Parcel 011 is a little
45 bit over ten acres. The area of rezoning contains about a little over four acres of Parcel 006 and
46 all of Parcel 011. The remaining part of Parcel 006 will remain in Agriculture and is not part of
47 this process.

1
2 Zooming in here, this is the main section of Hui No`eau including the formal estate. I'd like to
3 point out a couple things here. In this lower section here which is hard to see kind of an orange
4 color, this historic site actually has a historic site within it. This is remnant of the 1857 East Maui
5 Mill. In the sections that are kind of dark red or brown these are the old...the buildings of the
6 original estate dated to 1917 including the main house, guest house, carriage house,
7 caretaker's house and the stables. Noting the areas in green are more modern including
8 sections of the stables, the aforementioned children's studio and restroom building, the 2008
9 ceramics and metalsmithing building and the Waldorf Village. The lighter green areas are
10 hardscape associated with parking. The upper red area here is the historic parking for the Hui
11 which is a grass gravel parking lot. This next photo or this next slide shows you the expansion
12 planned over the next decade.

13
14 Additionally I'll point out here we have a number of walkways into increased accessibility of the
15 project. There'll be a number of wheelchair accessible pathways linking the buildings together
16 and linking the upper historic campus with the lower modern campus. Breaks along the
17 pathways will be connected with benches or other places to take in the view. In your packet you
18 have this exhibit here which shows some of the pathways planned. Also planned for
19 accessibility is to create a ADA accessible restroom in the Baldwin House. Fortunately there is
20 a covered exterior walkway that if enclosed would be able...would create enough room to create
21 an accessible restroom without much change to the building. Very fortunately right next to the
22 covered stairway is an uncovered stairway. Some plans in your packet show breaking through
23 the wall to the exterior and creating a new wall on the outside. This will create a restroom that
24 fits ADA standards and also provides sanitary resources for parents with children who are in
25 diapers.

26
27 I'm going to talk about some of the upcoming projects. More significant I've labeled them one,
28 two and three and these are in chronological order. I'm gonna note that items one and three are
29 within portion of Parcel 006 and that's different because Parcel 006 has a different zoning than
30 Parcel 011 so the zoning action is actually gonna allow these projects to occur in their desired
31 locations.

32
33 Parcel 1 I had briefly talked about how this building created in 2008 was originally meant to be
34 part of the woodworking process. And I want to acknowledge a champion of this development,
35 John Hoxie, Jr., standing next to Caroline, here he is receiving an award from the
36 Historic Hawaii Foundation. John passed away last year. He was a former board president,
37 board vice-president, head of many committees including the facilities committee that wants to
38 get all these things built. I got to interact a lot of John over the last year and I know he would
39 want to be here today.

40
41 And kinda a blow up of the lower campus, I'll point out the new woodworking building and the
42 name of the building, the Bud Schafer, John Hoxie Woodworking and Innovation Center. This is
43 gonna allow the Hui's woodworking program to take a new direction. It's gonna borrow some
44 elements from other buildings on the campus. The articulated roof, transom windows, and
45 support details match the 2008 building that it was originally designed to hold the woodworking.
46 Inside, this is part of your packet, there's a large space for woodworking activities and including
47 for safety and also for performance a dedicated dust collection system. It's also, internal

1 storage, dust free and some office space.

2

3 Going back to the map here, I'm going to point out the next item. Woodworking center will
4 probably be submitted for permit within a month or two and of course, we will have to wait until
5 the zoning is complete before the building permit can be accepted.

6

7 The next item is probably in the three to five year range and that's reconstruction of the stables.
8 Once again here's the stable building with new addition on the left, old construction there on
9 the...in the middle of the stables and on the other side here the tack shed. Tack shed and the
10 stables may have been built at different times. They have a different(inaudible)...footprint
11 and they're at different elevations. Both are showing a lot of wear and erosion and termite
12 damage. Sections of the roof of the...this is the hip where the two buildings join. We're seeing
13 collapse and structural damage.

14

15 In its place Hui No`eau is proposing to reconstruct both wings of the stables. The north-south
16 wing will be reconstructed as it is as an enclosed facility with three classrooms. The upper
17 classroom will be a...I would say have a high volume, high ceiling and the lower classroom will
18 actually be two stories. This will add about 650 square feet of usable area to the structure.

19

20 The third structure is probably in the seven to ten-year time frame. It includes a event pavilion
21 and so it will allow the Hui to take advantage of the beautiful westward sunset views and relieve
22 some pressure on the historic Baldwin House. In your packet you can see there is a conceptual
23 drawing of about a 2,000 to 3,000 square foot facility with a lanai, possibly some food service
24 prep area and probably depending on how long Waldorf stays at the school restrooms will be
25 determined at that time whether they are needed. It also shows a new parking area to replace
26 the parking that is displaced by the facility. The parking area will be kind of lower down on the
27 hill hidden away from view from the historic estate.

28

29 To summarize the action there's a Community Plan Amendment and in 1995 the community
30 plan was amended it suggested at about 15 acres was going to be zoned in the community plan
31 or sorry, will be designated in the community plan as Public/Quasi-Public what ended up
32 resulting in the map it was about ten and a half. So about four acres are gonna be added in the
33 community plan.

34

35 For zoning, the property is currently a mix of Interim and Agriculture. The property...the Interim
36 section has never been properly zoned so this will be the first zoning action. The Agricultural
37 side was not deliberately zoned but zoned through the Agricultural Bill which had some auto
38 zoning provision if the community plan and state designation were also Agriculture. In this case,
39 nearly 15 acres will be designated to P1, Public/Quasi-Public zoning.

40

41 And then the District Boundary Amendment, the same area will be converted from Ag to Rural.
42 And I know you've looked at Seabury Hall's application. Seabury decided not to go with Rural
43 but with Urban. And in this case, the Hui No`eau knew they could accomplish what they wanted
44 with the Urban...sorry, with the Rural designation and they felt it might alarm some of their
45 neighbors if they were to say they wanted Urban state designation.

46

47 I'm just going to point out on the maps, here's the community plan amendment, the dark blue is

1 the area that's currently zoned or currently designated, sorry, Public/Quasi-Public in 1995 and
2 then additional here that's in Agriculture that will be part of that designation.

3
4 Here's the Change in Zoning. The area in red is currently Interim and the area that is kind of
5 this light green is Agriculture. Once again the entire area will be rezoned to Public/Quasi-Public,
6 P1. And the District Boundary Amendment the entire site is in Agriculture. The abutting
7 Montessori Campus is in Rural and the project will be redesignated to Rural to match
8 Montessori.

9
10 The changes that are resulting from the comprehensive rezoning. One of the things that came
11 up is we had some neighbors that were a little concerned about the Rural zoning. They thought
12 it might lead to greater residential development and after explaining it to them, actually the
13 change to Public/Quasi-Public from Interim restricts the zoning. It doesn't give additional land
14 use abilities it takes them away. So new residential development will not be available to the Hui
15 land use change happens.

16
17 Currently Waldorf High School has some limitations that are established in the State Special
18 Permit. Once the state designation is changed that permit is moot. So unless there are
19 restrictions in the new permit or sorry in the new zoning Waldorf School will be able to continue
20 indefinitely. This is a little bit moot because is, has been actively pursuing their forever home.
21 We know they are looking. It can be a little bit difficult to find a adequately suitable property
22 especially when it comes to water supply. So we think currently Waldorf is there till 2021 by
23 permit. They have a renewable lease with the Hui and we anticipate they will be moving on that
24 time. This rezoning may gave them a little extra time should they need it. There are about four
25 more acres that are available for development. Now these four acres are currently part of the
26 State Special Permit, but since they are zoned Agriculture and not Interim, we have not...the
27 Hui has not been able to develop any buildings on there. So the change in zoning will allow
28 them to construct the woodworking building and the future pavilion in a section of the property
29 they think is most reasonable and protects the historic integrity of the other parts of the site.

30
31 And as far as architectural review the Hui through its permits has always been required to meet
32 with the Urban Design Review Board and get comments from the State Historic Preservation
33 Division. The Planning Department has suggested a comment or suggested a recommendation
34 that this continue, that there be a condition on zoning that requires the Hui to solicit both
35 agencies for comment prior to the approval of building permits. So if you pass that onto the
36 County Council and they move forward with it then architectural review will continue for the
37 project.

38
39 So benefits to the Hui of these changes. First off, it acknowledges the Hui's contribution to the
40 community in historic preservation and arts advocacy and instruction. It also secures the future
41 of the Hui. It relieves the burden of them coming in repeatedly for permits every time they want
42 to construct a new building or to you know amend a permit that is expiring. It helps them move
43 their bottom line because it assures the patrons and the donors and the grant writers that the
44 money that they're giving is going to last. It's going to endure as part of a project. One last
45 thing which I just mentioned it provides flexibility for the Hui to site things where they want them
46 to be which for the purposes of historic preservation is important to be able to relocate certain
47 things that weren't part of the original campus like parking, you know relocate that away from

1 the historic Baldwin House and the historic entry.

2

3 I'm gonna conclude this portion of the presentation by noting that the proposed rezoning actions
4 have been sent to review through the unanimous decision of the Council and during the review
5 of the project we had no agencies that commented, had any concerns about the project. We
6 haven't had any community concerns about the project and you've received a number of letters
7 in support. I apologize for not bringing you something controversial. The biggest controversy
8 the Hui has faced was in 2004 when a private party contracted with Maui Land and Pine and
9 was in agreement to buy the Hui, buy the Kaluanui Estate. And at the time, the resources of the
10 Hui were not in jeopardy. No one was proposing to tear down but the community felt this
11 intangible loss that was about to happen and about 1,800 entities, businesses and persons got
12 together and raised over \$5 million to save the Hui. Since then as an owner of the 25 acres of
13 the property the Hui has done an amazing job in restoring the beauty of the campus and
14 developing its programs. Rezoning this property is an important step in acknowledging the
15 contribution of the Hui's past and ensuring the future. I thank you for your consideration today.
16 I, Caroline, the staff, and board are here to answer any question you have. Thank you very
17 much.

18

19 Mr. Robinson: Thank you. At this time, we'll move onto public testimony. I'd like to call up
20 Keoki Freeland. Good morning. Please introduce yourself, you have three minutes.

21

22 Mr. Keoki Freeland: Good morning Members of the Planning Commission. My name is
23 Keoki Freeland and I'm speaking in regards to the first item on today's agenda Hui No`eau's
24 Visual Arts Center of which I am a member of the Board of Directors. I have been involved in
25 profit, in nonprofits around the island. One stint as Executive Director to the Lahaina
26 Restoration Foundation for 14 years retiring in 2009. Hui No`eau and its arts education and
27 historic preservation mission speak to my heart. I have a daughter that conducts kapa making
28 classes at the Hui. I have a wife who is an oil painting artist who participates regularly in
29 exhibitions at the Hui. On behalf of the Board of Directors, I'd like to say thank you to the
30 Commissioners for volunteering your time to review the project and to the County Staff for your
31 hard work and presence. Also, I'd like to thank Robb for doing a great job in giving you
32 background about the whole project. Today's recommendation is an important step to the
33 rezoning process. Mahalo.

34

35 Mr. Robinson: Thank you. Commissioners any questions? Thank you Keoki. Next
36 Caroline Killhour please.

37

38 Ms. Caroline Killhour: Good morning, I'm Caroline Killhour.

39

40 Mr. Robinson: Good morning.

41

42 Ms. Killhour: I'm the Executive Director of Hui No`eau and I've worked with the Hui for 12 years.
43 Thank you Commissioners for taking the time today to review this issue and thank you to the
44 Staff Planners and Planning Director for your work on this project, and thanks to my awesome
45 Board of Directors here, who are all volunteers and have worked on this project with us.

46

47 As a nonprofit visual arts center, Hui No`eau is a place that fosters creativity and

1 self-expression. The Hui's art studios and the beautiful ground, the Kaluanui inspire 25,000
2 people a year. We're open seven days a week and we have free access to the grounds and the
3 galleries each day. Our mission unlocking creativity through exceptional visual arts education
4 and enhancing the endeavor through preservation of the historic Kaluanui Estate is near and
5 dear to our hearts and to the community's hearts as Robb pointed out in their series of support
6 for purchasing the estate.

7
8 In addition to Hui No'eau regular programming the Hui collaborates with community
9 organizations, schools and educators to serve at-risk special needs youth and those without
10 adequate arts education funding. The Hui offers a robust scholarship program that enables
11 students in need of financial assistance to participate in Hui classes, camps, fieldtrips, and
12 outreach programs year round. Students range from two and a half on up. A total of 1,115 low
13 income children received financial assistance to attend classes, camps, workshops and art
14 opportunities in 2018. You've heard from Robb our collaboration with the conservationists and
15 other community organizations. We do this on a regular basis. It's part of our programming.
16 They come into the Hui and we go out to the schools. Our Explore and Discover Program
17 brings Maui at-risk and in need youth to the Hui to participate in art projects lead by professional
18 teaching artists like the gentleman that you saw that we brought from Mexico City we had over
19 150 youth from Maui's different schools come up and work with him and be part of that project.
20 This program serves 500 youth annually from Maui's public schools, preschools and community
21 organizations including Maui Economic Opportunity and Maui Youth and Family Services. Your
22 recommendation is important so that we can spend more time doing what we do and being
23 involved in the community and arts education versus coming to see you folks for our Special
24 Use Permits. So thanks very much and we appreciate your work on this today. Thank you.

25
26 Mr. Robinson: Thank you Caroline. Next on the list we have William Spence, and I know you
27 were first but I thought you could bring it home for us and tell us why we're here and what we're
28 gonna do and kind of tie a bow on it.

29
30 Mr. William Spence: Good morning Mr. Chairman, Commissioners, Director. My name is
31 William Spence and I'm speaking on my own behalf this morning. I first became aware of the
32 Hui No'eau when I was Staff Planner and we were doing the Upcountry Community Plan and
33 there was a lot of discussion about the programs and the arts that was being conducted there
34 but we're talking mid 90's. After we completed the community plan I took a couple classes,
35 became very impressed with the teaching, the facility itself, the historic preservation, the quality
36 and of what this place represents in terms of art.

37
38 The most important, well maybe not most important but the collaboration with the community
39 that this place represents it was quite amazing to the point where they asked me to become a
40 board member and I accepted. I was there, Robb spoke briefly about the...when Maui Pine was
41 trying to sell the property, I was a board member at that time, it was a very tense time so I can
42 attest to the community participation and interest in preserving this institution. Quite an uproar,
43 quite an intense involvement by the community to preserve the Hui No'eau.

44
45 I think one thing towards the zoning of it when I was board member I did, I did approach some
46 foundations. I approached people about not only fundraising to help, you know, let's preserve
47 this place but they were also...were also thinking about not improvements to the Hui but the

1 preservation of the building itself and I had foundations ask me, so you know how does it
2 operate, how does it...well, we operate on Special Use Permit. We've had a whole series of
3 Special Use Permits. And they go, well what's that? And once you explain that it's a temporary
4 permit they're like I'm sorry, we can't risk our foundation's funds on a temporary kind of facility,
5 something that may not be there tomorrow. If you have...if you had a more permanent kind of
6 thing like zoning then we would be more apt to participate and contribute towards this institution
7 and so I think that's really important. This property has been used for the arts for a better part of
8 a century. We want it to remain. We want it to continue and zoning of this property will help
9 bring that about and provide certainly additional financial security for the nonprofit. Members
10 thank you very much. I'm very, very excited about finally getting this place zoned for what it
11 should be. Thank you.

12

13 Mr. Robinson: Thank you. Commissioners any questions? Seeing none...

14

15 Mr. Spence: Okay.

16

17 Mr. Robinson: Thank you Will.

18

19 Mr. Spence: Thank you.

20

21 Mr. Robinson: Tara could we please have the Planning Department's recommendation?

22

23 Ms. Furukawa: Okay, the Department is recommending approval with no conditions for the
24 change in district boundary for both parcels from Agricultural to Rural. The proposed action is
25 consistent with the criteria of a DBA as stated in the Hawaii Administrative Rules, Title 15,
26 Subtitle 3.

27

28 The Department is recommending approval with no conditions for the community plan change
29 for the Portion of Parcel 006 from Agriculture to Public/Quasi-Public. It's consistent with
30 Chapter 2.80B.100 of the Maui County Code.

31

32 Finally the Department is recommendation approval for the change in zoning for the Portion of
33 Parcel 006 from Agricultural to P1, Public/Quasi-Public and Parcel 011 from Interim to P1,
34 Public/Quasi-Public. The proposed action is consistent with the criteria for a CIZ in Title 19,
35 Chapter 19.510. We're asking for one condition to be imposed and it's as follows: That the
36 plans for any new buildings shall be reviewed by the UDRB and SHPD prior to building permit
37 approval. We want to give the Urban Design Review Board and State Historic Preservation
38 Division an opportunity to provide feedback on the new structures at some point in the future.
39 Typically our Department would have to review the building permit applications for the structures
40 and the Department would consider the feedback provided by UDRB and SHPD prior to our
41 approval on the building permit. Finally we're asking that the Commission authorize the
42 Planning Director to transmit said recommendations and record to the Maui County Council for
43 further action.

44

45 Mr. Robinson: Thank you Tara. I gotta do a little housecleaning here. I didn't close public
46 testimony. Anybody that wasn't signed up on this sheet, did anybody want to testify? One
47 second, I'll call you. Aloha, you have three minutes, please state your name.

1
2 Ms. Francine Aarona: Aloha Planning Commission Members, Mr. Chairman. My name is
3 Francine K. Aarona also known as Aunty Mopsey, Protect Paia and I am for the presentation.
4 It's beautiful the visuals. I just want to, and I'm sorry to throw a curve, I'm particularly interested
5 because I heard financial assistance and scholarships and I wanted to know where that avenue
6 went. If there was a price tag on being a part of this whole venue because I hear Waldorf
7 School and I hear visual arts center and I know that the groups, educational groups come
8 together. My input on the community level is who gets to choose these groups, how do they
9 come about? I know it's a nonprofit, but is there a price tag that is put toward these groups that
10 they have to present something or give something to be a part of this whole thing. And I know
11 you thought about all of it, but just for me hearing what the presentation was about I really would
12 like to know that financial aspect of where our children come and if they have to put out anything
13 to start with. But as far as the project I'm glad that my whole recommendation is to go with what
14 the presentation, it's just that I...sorry like to throw that curve Mr. Spence. Mahalo.

15
16 Mr. Robinson: Thank you and maybe after the meeting they can talk to you after and let them
17 know if there's opportunities.

18
19 Ms. Aarona: Yeah, Okay, aloha.

20
21 Mr. Robinson: Thank you. Next, yes please. Please state your name, you have three minutes.

22
23 Mr. Charles Jencks: The name is Charles Jencks. I was asked by John Hoxie and
24 Johnny Baldwin in about 2003 to spend some time at the Hui to do some master planning work
25 and my recollection is there were a number of people who wanted to invest, wanted to build
26 things on the grounds but we had issues with entitlement, with the community plan, and zoning.
27 And it's great to see finally that this is going to happen because there is a great opportunity to
28 expand and improve the facility but for the entitlement issues on the property, those will be
29 resolved through this action. I think your recommendations are great from the Department and I
30 certainly recommend you guys go ahead with this and make a positive recommendation
31 because it really fulfills that vision that was set out in the early 2000's by the Hui. Thank you.

32
33 Mr. Robinson: Thank you. I believe we have somebody in the back that wanted to testify?

34
35 Unidentified Speaker from Audience: I wanted to testify on another item.

36
37 Mr. Robinson: Another item is that it?

38
39 Unidentified Speaker from Audience: Yes.

40
41 Mr. Robinson: Okay, thank you. Seeing none, public testimony is now closed. Commissioners
42 do we have questions for the applicant? Commissioner Carnicelli.

43
44 Mr. Carnicelli: Thank you Chair. So a couple of questions. I'll direct this at you Robb. Is in the
45 DBA you're leaving that one portion Ag. Why not just make it all Rural now because you can
46 still do ag in Rural. I mean I get that you know real property taxes would be different, water
47 would be different, but other than that is why not just make it all Rural and then you know if you

1 did sometime in the future want to do something you've already got it.

2

3 Mr. Cole: You know I think in the master planning process the Hui did look at you know
4 converting the additional ten acres. Part of the problem is you know there is a resistance to I
5 would say doing exactly what you're asking ahead of time without justification. It would put us in
6 a different category. We would be working Land Use Commission. They typically resist that
7 type of future planning.

8

9 In addition, the area, the ten acres that's being reserved for ag has historically been ag whereas
10 the estate has never really been, you know for a 100 years has not been used for agriculture.
11 So it is miszoned while the front ten acres has historically been horse pasture during the tenure
12 with...I would say in the interim period between the Baldwins and Hui No'eau's purchase it was
13 in pineapple for a while and now it has returned to horse pasture. I think there was some
14 community you know...there was thoughts to you know what the community would like at the
15 time being to do this as well.

16

17 The other consideration was you know could we use this for another school someday but the
18 project doesn't have the water to support something like a other project for Waldorf or another
19 school. So the decision was made to focus on what the Hui is looking at which is kind of a
20 refinement project not an expansion and save the rest for later possibly another agricultural use.

21

22 Mr. Carnicelli: Thank you that makes it clear. Just on a note, Interim zoning can we get rid of
23 all of it please? It's like, oh God, Interim zoning again. You had mentioned the restrictions that
24 currently exist via the Special Use Permits and just as someone that part of what our role is to
25 put conditions on Special Use Permits, you know, because of concerns, things like that is I don't
26 know what those...and maybe this is a question for Tara, you, whatever it is, is you know, is
27 there something 'cause I didn't see it in my packet as far as like what the current SUP is and
28 what those conditions are because if there was something that was put there for a reason and
29 now suddenly goes away...I mean, I don't want to hold up the project because of that but I'm
30 just...you know, as part of what our role is here is to make sure that those things...there's not
31 something that was put there that suddenly just gonna go poof and go away, but had an intent.

32

33 Mr. Cole: Very relevant question. I believe the last permit is in your packet. I wouldn't be able
34 to point it out what page it is on right now.

35

36 Ms. McLean: Exhibit 9.

37

38 Mr. Cole: All right, Exhibit 9. And relating to Waldorf the limitations currently are a time limit,
39 you know which is standard for these type of permits. I believe it's June 2021 in which they are
40 permitted to have the pilot high school on campus until that time. And the other condition I
41 believe is a maximum student enrollment of a hundred students. The Waldorf enrollment has
42 not been growing exponentially, it's been very slow and right now they're under 50. So I think
43 you know at the current rate with the couple years they have left they're not going to exceed the
44 hundred students. And should we move forward and they need a little bit more time, if they do
45 it's probably for a very good reason, they're still probably not gonna get up to a hundred. So as
46 is under the current scenario the two limits are 2021, June as a termination of the existing
47 permit or the expiration I would say of the existing permit and a hundred student cap.

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Mr. Carnicelli: Right. Okay, thank for that and then just one last thing Chair.

Mr. Robinson: One last thing.

Mr. Carnicelli: This is it. It's my third thing. Is the recommendation Tara it says that it needs to be reviewed by SHPD and UDRB but it doesn't necessarily say that those recommendations have to be... 'cause you know when SHPD sends us something it's just like oh, this is what we said, but we don't necessarily have to put those in. So I don't know if we want to put more teeth to it other than just saying it has to be sent to them other than you know, if they come back with a recommendation we would advise that those recommendations are followed.

Mr. Robinson: Commissioners any other questions? Okay so Commissioners I think we can, unless there's anything, any objections I think we can do the CPA, we can do the DBA, and we can do the CIZ all at one time. Do I have any, any objections to that? No? Okay, Director.

Ms. McLean: Thank you Chair. The recommendation is to recommend approval to the Maui County Council of the Community Plan Amendment, the State Land Use Commission District Boundary Amendment and the Change of Zoning with a condition on the Change of Zoning that reads in its entirety, "That plans for any new buildings shall be reviewed by the Urban Design Review Board and the State Historic Preservation Division whose comments shall be considered by the Planning Department prior to approving any building permit for any new building."

Mr. Robinson: All those in favor.

Ms. McLean: Oh, need a motion.

Mr. Carnicelli: Got to get a motion.

Mr. Robinson: I'm sorry. I apologize. It's a I guess a motion for recommendation, yeah. And again, and again, is we're not the final party. We're just recommending to Council. Do I have a motion for recommendation?

Mr. Hudson: So move.

Mr. Robinson: Okay, second?

Ms. La Costa: Second.

Mr. Robinson: Second by Commissioner La Costa. All those in favor of the recommendation? All right, that's six ayes. Thank you.

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

1 **VOTED: To Recommend Approval of the Community Plan Amendment,**
2 **District Boundary Amendment, Change of Zoning to the County**
3 **Council as Recommended by the Department.**
4 **(Assenting – L. Carnicelli, P. D. La Costa, A. Hill, K. Pali, L. Hudson,**
5 **C. Tackett)**
6

7 Mr. Robinson: Thank you. We'll take a five-minute recess.
8

9 A recess was called at 10:00 a.m., and the meeting was reconvened at 10:09 a.m.
10

11 Mr. Robinson: Next item on the agenda, Director.
12

13 Ms. McLean: Thank you Chair. This is your second public hearing item. It is request from
14 Nhat Dam representing the Duc Vien Buddhist Community Pagoda, a non-profit religious
15 institution based in San Jose, California for a State Special Permit to develop and operate a
16 spiritual intensive retreat center for up to twenty Buddhist nuns. Construction of two additions to
17 the existing residential dwelling are proposed: Addition A will consist of an approximately
18 1,930 square foot multipurpose room for assembly, worship and meditation. Addition B will
19 expand the existing dwelling by approximately 2,736 square feet, and will contain bedrooms,
20 one kitchen relocated from its present location in the dwelling, restrooms, and a two-car garage
21 and this located at Maui Tax Map Key: (2) 3-3-017:122 at 2116 Mahinakea Street in Wailuku,
22 and Livit Callentine is the project planner.
23

24 **2. NHAT DAM representing the Duc Vien Buddhist Community Pagoda, a non-**
25 **profit religious institution based in San Jose, California, requesting a State**
26 **Special Permit to develop and operate a spiritual intensive retreat center**
27 **for up to twenty Buddhist nuns. Construction of two additions to the**
28 **existing residential dwelling are proposed: Addition A will consist of an**
29 **approximately 1,930 square foot multipurpose room for assembly, worship**
30 **and meditation. Addition B will expand the existing dwelling by**
31 **approximately 2,736 square feet, and will contain bedrooms, one kitchen**
32 **relocated from its present location in the dwelling, restrooms, and a two-**
33 **car garage; located at Maui Tax Map Key: (2) 3-3-017:122, 2116 Mahinakea**
34 **Street, Wailuku, Island of Maui (SUP2 2017/0021) (L. Callentine)**
35

36 Ms. Livit Callentine: Thank you Michele. So with Item B.2 you as Michele said, you're
37 reviewing a State Special Permit for a spiritual intensive retreat center. The applicant is the
38 Duc Vien Buddhist Community Pagoda headquartered in San Jose, California. The Pagoda
39 purchased the property at 2116 Mahinakea Street in the Wailuku Country Estate Subdivision in
40 August of 2016 in order to farm the land and to provide for deepening spiritual practice and
41 renewal for up to 20 nuns.
42

43 This is a photograph of some of the nuns and we have some of the nuns in the audience as well
44 and that's in front of the existing farm dwelling.
45

46 This is a location map. The property is about a mile and a half from where we are right now.
47 This is a regional location map and although it's very difficult to see I'd like to just point out

1 the...the Wailuku Country Estates is a subdivision of approximately two-acre parcels and it's
2 sorta when you look at the regional map it's sort of looks like it's a transitional zone. There's
3 many large ag lots to the east...sorry to the west of this property and of course, then our
4 intensive, more intensive urban environment to the south and north.

5
6 The property is just over two acres in size and is designated Agriculture by the State, the
7 County and the community plan. There is one existing farm dwelling and two-car garage on the
8 property along with several agricultural buildings for working the land and storage. This is an
9 aerial photograph of the immediate neighborhood highlighting the subject property and also I'd
10 like to point out that the similarity of the sizes of lots in the subdivision at least those we can see
11 now.

12
13 The purpose of the project is to establish a spiritual retreat center in a quiet, serene location
14 close to nature. Spiritual practices include meditation, assembly, worship and study which
15 complement the primary agricultural focus of the land. There will be no public access to
16 services within the retreat center. There will be no gongs, bells, chanting or other loud noises
17 outside the dwelling. Over 50 percent of the land is used for cultivation of vegetables, fruits and
18 herbs. The Pagoda impressively is able to meet 90 percent of the food requirements with plants
19 grown on the property. All they have to purchase is rice, milk and sugar. Exhibit 7 in your staff
20 report lists over 35 varieties of fruits, vegetables and herbs being grown on the property.

21
22 This is an aerial photo of the property taken in 2015. You'll note that there's not a lot of seems
23 to be happening beyond the...beyond the landscaping. I don't have a more recent satellite
24 image of the property as it is now...well, I'll show you in subsequent photographs the fields and
25 orchards.

26
27 Now this is the site plan for the property and I just wanted to note this...the shaded area here
28 that's the existing footprint of the building. This is the new Addition A and this is the new
29 Addition B and of course all around it is the plantings and landscaping and so forth. Addition A
30 will house the assembly, worship, meditation hall and will also provide storage for processed
31 agricultural products. Addition B will contain one kitchen, restrooms, laundry, sleeping quarters
32 and more storage plus a two-car garage.

33
34 This is the first floor plan, the proposed first floor plans of the proposed structures, again with
35 the existing exhibit...existing building here with Addition A and Addition B. And then only
36 Addition B will have a second floor and so this shows your second floor plan. This is an
37 elevation of Addition A, the worship hall which looks very similar to that frontage you saw in one
38 of the earlier photos with the details similarly placed.

39
40 On the plans and on this application several County agencies responded to our requests for
41 comments notably the Department of Public Works, Department of Water Supply and
42 Department of Environmental Management and the applicant provided responses to each of
43 these acknowledging and agreeing to their conditions that was provided in the addendum report
44 that you received some time in the last week I'd say.

45
46 Now as far as the existing land uses on the property I've enlarged the legend so that you can
47 actually see it. It was pretty small on there but you'll see predominantly they're showing the

1 structures on the property, the vegetable garden, the lawn and landscaping and the orchards
2 and then there's also a public drainage way required to be maintained and that's number 5
3 bordering the property on two sides.

4
5 Now the proposed land uses get a little more detailed. Section 6 depicts the vegetable gardens,
6 Section 7 depicts the herb gardens and Section 8 represents the fruit orchards. So they've got it
7 pretty well planned out. I'm gonna show you...this is a photograph of some of their typical
8 spiritual practices. And now I'm gonna show you several slides that just illustrates the intensive
9 agricultural uses on the property. I won't read them to you. I think you can see them but just to
10 go through a few of the varieties they're planting. Ginger, lemongrass, broccoli and cabbage
11 seedlings, cassava, banana and annona which is sugar apple, bitter squash, coriander, corn,
12 beans, peanut field, and...okay, and peanut field. Okay.

13
14 So there's seven properties that were notified because with the State Special Permit they're
15 required to notify everyone who's adjacent and across the street from the property. There were
16 seven of them and those are represented, it's very hard to see but they're blue circles, at least I
17 made them different shape so you can tell that. So they're the blue circles. The Department
18 received two letters of support from neighbors within this group and they're shown by the
19 properties in the green squares that are both very close to the property. And then the Wailuku
20 County Estates Association reviewed this project and it took a while to come back to you. It was
21 supposed to go to you some time last year but the association raise concerns and so the
22 applicant decided it would be best to withdraw the project at that time and work with the
23 association to come to an agreement. So as you see in our exhibits there's a couple of letters
24 from the association laying out the conditions. This is a summary, the first five I'm not gonna
25 read them all unless you want me to but then this is the second, second set of them. And this
26 morning on your desks you were provided with a letter dated January 19th from the applicant to
27 Mr. Joe Blackburn who's the managing director of the...well, I'm...he's the...I think he's the
28 property manager of the Wailuku Country Estates but in this letter they simply acknowledge all
29 of the conditions and agree to comply with them. Now the County has not installed these
30 conditions, recommended this conditions as part of the conditions of the State Special Permit
31 because this is a private association and these are private covenants, conditions and
32 restrictions which the County cannot enforce and cannot be bound by. So we have the
33 association providing this requirement, we have the applicant agreeing to abide by these
34 conditions.

35
36 And with that, okay, there's harvest time. The applicant...this concludes my presentation. The
37 Abbess and President of the Duc Vien Pagoda, Nhat Dam is here to answer any questions you
38 may have and her architect, Thuyen Nguyen Phuc is here today as well. Thank you.

39
40 Mr. Robinson: Thank you. Before public testimony, applicant you have a opportunity to give a
41 presentation or just be here for questions from the Commission. Just want to make sure you
42 know you're waiving your right for a presentation.

43
44 Ms. Callentine: She doesn't want.

45
46 Mr. Robinson: She's fine. Okay, thank you. With that we're gonna go into public testimony.
47 Mr. Joseph Blackburn.

1
2 Mr. Joseph Blackburn: Good morning Planning Commissioners, Planning Director, I'm Joseph
3 Blackburn. I'm the managing agent for Wailuku Country Estates. I'm also a homeowner there.
4 I'm gonna give you an overview of what occurred. We are in favor of this with our conditions. It
5 had been a pretty difficult and arduous process that could have been played out before the
6 planning commission but nuns and the homeowners association took it upon themselves to play
7 it out internally.

8
9 After the first SUP permit which we had no knowledge of, we were actually sent by an owner in
10 the area saying what's going on. We contacted the Planning Department and basically their
11 stance was the nuns are cute, it's an agriculture use, thank you very much. I wasn't comfortable
12 with that answer and neither were a number of homeowners. I got a lotta emails that weren't
13 very nice. I forwarded some of those to the nuns and met the nuns right when they first came in
14 the subdivision. We established a relationship. The taro you see on the picture was from me. I
15 told her you know you might want to withdraw that application and meet with the home owners
16 first 'cause they're upset 'cause they feel like we've been circumvented. The nuns to their
17 extreme credit decided to do that. I called an informal meeting and about 20 home owners
18 came. The majority of them were not happy. They voiced very critical opinions but the nuns to
19 their credit presented what they had and said okay, we'll work with you and that's I think what
20 the owners wanted to see. And what you see before you is what we came up with. So this was
21 not only a design review committee but our board of directors, our nuns and our homes.
22 There's still a couple homeowners who weren't very happy but that's to be expected. What we
23 were concerned about and what the homeowners said was well, what's gonna happen next?
24 What other commercial "activities" can come into our agricultural subdivision. So that was kind
25 of the concern. But I happy, I have a great board, the nuns are great neighbors and we've
26 come to a situation where we've agreed now.

27
28 I was a little taken back that our conditions couldn't be part of anything because we feel like
29 we're part of the community and the nuns are part of our community and we both agreed to
30 these conditions. Be as it said, the plans that were presented are correct. What they're doing is
31 correct. They've been wonderful neighbors to everybody around them but our homeowners
32 were just concerned 'cause the original plans were quite a bit larger and we were able all to sit
33 down and reach a compromise. I wished that our association had been part of the process that
34 I would have gotten an email about this hearing. I got it again from a neighbor who was notified
35 in the area. I wish I had been set the whole packet. I got it from our attorney because I felt like
36 we were trying to save the planning commission time and effort by working it out internally and it
37 just felt like the planner wasn't really concerned about us, she was just concerned about what
38 she felt was a good thing and it is a good thing, alright, but we had concerns. And so anyway
39 that's all I have. We're in favor of it. We would like the process someday in the future to say
40 hey, an HOA is part of the community and maybe they should be part of the process. Thank
41 you.

42
43 Mr. Robinson: Commissioners do you have any questions for the testifier? Mr. Blackburn, I got
44 a question for you. Did your attorney have any comments on your guys conditions as far as
45 relating to religious practices and what the HOA is allowed to ask?
46

1 Mr. Blackburn: You know for us it was more structural that the original plans had a very large
2 structure in the middle and it just felt like it was kinda overwhelming for an agricultural
3 subdivision and that was more our concern. As far as the religious side they've been very
4 accommodating to everything we've wanted and something she said to me...(inaudible)...when
5 we, you know, when I talked to her after that contentious hearing with the owners she said when
6 she walked into our neighborhood she felt a sense of safety and security and that was big for
7 me 'cause that speaks to our neighborhood. So anyway to make a long story short, we're at
8 peace with each other.

9
10 Mr. Robinson: And you're comfortable with them using 50 percent of their property for
11 agriculture use?

12
13 Mr. Blackburn: Oh absolutely. I wish more of our owners would.

14
15 Mr. Robinson: Thank you. Thank you sir. Next Kathleen Brown.

16
17 Ms. Kathleen Brown: Good morning. I'm a homeowner at 622 Anakona Street. My property is
18 a half mile away.

19
20 Mr. Robinson: Please introduce yourself Kathleen.

21
22 Ms. Brown: I'm Kathleen Brown.

23
24 Mr. Robinson: Thank you.

25
26 Mr. Robinson: And my property is a half mile away and I do hear the gonging. It happens on
27 Sunday morning at 6:54 a.m. and can go for 25 gongs. I've counted. They had assured us at
28 this homeowners meeting that they wouldn't do anything that would be disturbing and so they
29 would do their gonging at appropriate hours that would be disturbing to the neighborhood. It
30 goes on again at 9 o'clock in the morning and then again at noon. So the things that they tell us
31 that they're not gonna do is not truthful. Even if they put it indoors I'm sure they're gonna have
32 their windows open and the gonging noise is going to go out and we'll still be able to hear it.

33
34 At that homeowners meeting, and by the way it was Friday that I received this email that this
35 meeting was happening today. So I don't know what owners are saying that they're all on board
36 with this but at that meeting I would say about 95 percent of the people were against this whole
37 retreat being built in our neighborhood. And part of the reason was, is we...people were stating
38 that they felt that this was a commercial enterprise and that this was going to completely change
39 the whole nature and landscape of this nice neighborhood community. And once you bring in a
40 enterprise like this what next business is gonna be coming in because now we're no longer
41 going to be a neighborhood we're going to be...having to allow more commercial businesses
42 into this neighborhood and this is supposed to be a neighborhood. Not allowing businesses is it
43 going to be a auto dealership, what else is gonna come in because once this comes in and this
44 is almost like a TVR are we gonna have to allow those to come in. So this is changing the
45 whole landscape and purpose of what our neighborhood was supposed to be. I haven't talked
46 to any neighbors who feel like they're for this and like I said 95 percent of the neighbors at that

1 meeting I think it was back summer time or whatever were against it. So I'm still against it and I
2 don' believe that this is what we need in our neighborhood.

3
4 Mr. Robinson: Thank you. Commissioners, Kathleen one second. Commissioner Carnicelli
5 has a question for you.

6
7 Mr. Carnicelli: Thank you Kathleen. You live in the neighborhood, yes?

8
9 Ms. Brown: Yes

10
11 Mr. Carnicelli: And what's the zoning of your parcel that you live on?

12
13 Ms. Brown: Residential, Agricultural.

14
15 Mr. Carnicelli: So it's Agriculture.

16
17 Mr. Brown: Yes.

18
19 Mr. Carnicelli: Do you personally do ag farming?

20
21 Ms. Brown: Yes, yes.

22
23 Mr. Carnicelli: You do. Okay. And so you're very aware of like the things that can happen in
24 Ag, the noises. That somebody could be mowing their lawn, they could run their tractor, things
25 like that, you're aware of that?

26
27 Ms. Brown: Uh, hm.

28
29 Mr. Carnicelli: Okay, thank you.

30
31 Mr. Robinson: Kathleen, I apologize we have another question for you. A little slow on the
32 draw. Thank you. Commissioner Pali.

33
34 Ms. Pali: Hi, thank you for your testimony. If there was a way that you would be able to
35 continue to work with the association and the applicant in revisiting maybe new complaints that
36 you feel were outside of what was agreed on would it change your mind about how you felt or is
37 your position just to clarify that you prefer I think I heard you say that you feel like this could be
38 more of a nonresidential agricultural activity so you don't want those type of activities in the
39 neighborhood? I just want clarity on that.

40
41 Ms. Brown: Yeah, the people at the meeting, a lot of them voiced that...voiced their feeling that
42 this was a commercial enterprise, a big commercial enterprise and a TVR, and bringing in, you
43 know people over and over again to come in, you know to come in and leave it's not, it's not
44 people who live there. So it's becoming people renting, you know, short-term rentals and that
45 type of thing and that's not what this neighborhood wants.

46
47 Ms. Pali: Got it. Okay, thank you.

1
2 Mr. Robinson: At this time, would anybody else like to testify on this item? Welcome, please
3 state your name, you have three minutes.

4
5 Mr. Mark Marchello: Mark Marchello. I work with Whaler's Management. I've been a property
6 manager for 31 years and our company manages four legal short-term permitted vacation
7 homes in Lahaina and I'm here to explain why we have no neighbor complaints.

8
9 Mr. Robinson: You might be on the wrong item sir.

10
11 Mr. Marchello: Oh, I'm sorry. Well, I'll be back.

12
13 Mr. Robinson: I am gonna count that 30 seconds as a penalty. Is there anyone else? Seeing
14 none, public testimony is now closed. Livit if you'd like to give us the recommendation of the
15 Planning Department please.

16
17 Ms. Callentine: Yes, I would. Thank you Chair. And just for point of clarification, the nuns that
18 will stay at this facility will be there for no less than one year at a time so it does not look like a
19 TVR at all. It's not a vacation.

20
21 The Maui County Planning Department recommends approval of the project subject to six
22 standard conditions and one project specific condition and that is Condition No. 7 which was
23 recommended by the Department of Water Supply. Would you like me to go through these
24 conditions at all?

25
26 Mr. Robinson: I think, I think we're good.

27
28 Ms. Callentine: Great. Thank you.

29
30 Mr. Robinson: Go ahead Livit.

31
32 Ms. Callentine: Sure. So the conditions of the State Special Permit will be enforced pursuant to
33 Sections 205-12 and 205-13 of Hawaii Revised Statutes. In consideration of the foregoing the
34 Planning Department recommends that the Maui Planning Commission adopt the Planning
35 Department's report and recommendation prepared for January 22, 2019 meeting as the
36 findings of fact, conclusions of law and decision and order and authorize the Director of
37 Planning to transmit said written decision and order on behalf of the Planning Commission.
38 Thank you.

39
40 Mr. Robinson: Thank you Livit. Commissioners at this time because this is a religious retreat I
41 want to get our Corporation Counsel to comment on what liberties that they have that normal
42 people don't, thank you counselor.

43
44 Mr. Galazin: Thank you Chair. And so some of you who have been on the Commission for a
45 while are probably familiar with the RLUIPA Religious Land Use and Institutionalized Persons
46 Act of 2000 which was enacted by Congress after they first enacted the RFRA Religious
47 Freedom Restoration Act. But RLUIPA was specifically aimed at two things one was religious

1 rights of incarcerated people and the second one was local land use zoning. You may wonder
2 why those two are lumped together I've often wondered it myself. However, as it applies to you
3 you only need to focus on the second part, the land use.

4
5 It basically requires that you not subject through the land use process the sincerely held
6 religious beliefs of a group or you know or people to conditions that would be...that would put a
7 burden, a substantial burden on their free exercise and that's a...based on the First Amendment
8 right to free exercise of religion. This was designed to bring in the local municipalities like the
9 County because it had been the original Act, the RFRA was only applicable at the federal level
10 so this came in to apply to states, counties, cities. In your case, as the board what you want to
11 look at is okay, if we are viewing this as any other kind of land use you've gotta not put
12 conditions on that would substantially interfere with the sincerely held religious beliefs. If there
13 is some burden that you put on there, there has to be a compelling government interest that's
14 clearly identified. So what this means for, you know, the neighbors isn't necessarily that hey, if
15 somebody's a church they can do whatever they want. It's that as a body when
16 you...somebody comes to you for permission to do something whether it be, you know a
17 change in the zoning or a permit, you cannot put conditions on there that would substantially
18 burden their...if it would substantially burden their free exercise of religion and you do have to
19 consider that as part of your analysis. So it's not that that people are getting a free pass to do
20 things, but you are taking that into consideration and you know, here as a look though it you
21 know the conditions that are recommended by staff would not seem to put a undue burden on
22 the exercise of the religion as it's been presented in this packet. You know, of course if the
23 applicant wishes to state otherwise or have any comments you would certainly want to consider
24 those, but I'm glad the Chair's brought up the subject because every time that a land use comes
25 up and there is some kind of function that you have discretionary power over and you're talking
26 about something that it's a religious based land use in part there are certain things that you want
27 to keep in consideration. So you can put conditions on there, ones that you would put on for
28 anybody else, but if it's something that would substantially burden their exercise of religion
29 you've gotta thing okay, can I balance that out some other way. So if I haven't heard any
30 objections raised so for this particular one I'm not so concerned, but still it's good to be
31 cognizant of it. I appreciate the Chair for the opportunity.

32
33 Mr. Robinson: You know and Commissioners I think that's where we have the...we have what
34 the conditions they agreed to the HOA compared to what we can do and what the law is and
35 what's fair. And like Commissioner Carnicelli pointed out what's the difference between a gong
36 and a triangle calling everybody in for dinner. You know it's a...it's agriculture, there's a lot of
37 noise in agriculture and as we've seen in the last month, there's some things that we thought
38 there's no way would be allowed in agriculture, and yet we have people zipping all over the
39 place. So you know, it's, you know it's having a person in the community you know, working
40 with their HOAs different than us putting conditions on them, you know, and I think that's a great
41 thing and I think it's been positive, but Director do you have anything that you'd like to share part
42 of this?

43
44 Ms. McLean: Thank you Chair. One of the standard conditions recommended by the
45 Department is that the applicant shall develop the property in substantial compliance with the
46 representations made to the Commission and if there are any of those that are very specific it
47 would be preferable to include those in the condition because if there's an enforcement question

1 five years from now or ten years from now let's say and our enforcement folks look at the
2 conditions if there isn't something specific then we need to go and dig back farther. So there
3 are a couple of these that I noted and if we could check with Corporation Counsel if these would
4 be appropriate if they do infringe into RLUIPA territory if they should be excluded.

5
6 Mr. Robinson: And the question I have on that and Commissioners is so we have Mr. Blackburn
7 that with HOA says they agreed to these conditions so therefore they have our support so if they
8 didn't agree to these conditions would then have the support of the HOA and the neighbors and
9 you know would that be then fall under our consideration you know and I think that's where
10 you're trying to reach towards of the compromise and try to...(inaudible)...so we don't have
11 complaints of their compromise for their support.

12
13 Ms. McLean: Thank you for that. One is the limitation of adding a 1,930 square foot
14 multipurpose room and a 2,736 addition to the main farm dwelling.

15
16 Mr. Galazin: Yeah, thank you. So thank you Chair and Director and that would be fine to add
17 on as a condition. If there's to be something that they've already agreed to so if it meets their
18 purposes that would be fine to include as a limiting condition if you wanted to, you wouldn't
19 necessarily have to.

20
21 Ms. McLean: And a restriction on any new structures I would actually amend that to be a
22 restriction on any new non-agricultural structures because there could be agricultural needs
23 down the road.

24
25 Mr. Galazin: Thank you and again Chair I would probably have the same response for that one
26 too.

27
28 Ms. McLean: Okay. A prohibition on exterior signage.

29
30 Mr. Galazin: I wouldn't see a problem with that one.

31
32 Ms. McLean: A limit on the number of occupants to 20 people.

33
34 Mr. Galazin: ...(inaudible)...that says represented as the meeting the needs then that would be
35 fine.

36
37 Ms. McLean: And the last one I noted is a restriction on no outside gongs, bells or chanting.

38
39 Mr. Galazin: Now Chair that might be the one where you would start to sort of dip your toe into
40 that pool. I wouldn't want to say how far you want to get down. I would note as the Chair and
41 you know Commissioner Carnicelli have already pointed out there's a fair amount of noise that
42 is to be expected in the agricultural zone anyway and I would just recommend that the you know
43 the noise restrictions that are already inherent in there would be applicable. Any private
44 covenant that they've voluntarily agreed to with the homeowner's association would be privately
45 enforceable if that's an issue the homeowner's association feels that they can take up, but I
46 would suggest as a body you probably not single that out that would appear to be something

1 that would be essential to the exercise of religion that you'd probably want to avoid as a limiting
2 condition.

3
4 Mr. Robinson: Commissioners do we have questions anyone? Commissioner Pali.

5
6 Ms. Pali: I would like to just maybe reword that last one from the Planning Director maybe just
7 to include a condition that they would continue to observe the quiet hours as set by the
8 association for the neighborhood because if the neighborhood association already has quiet
9 hours to this to that then we're not singling out a particular noise or making it specific to the
10 religion but that they understand the quiet hours and that they're observing that.

11
12 Mr. Robinson: And I think that's where Corporation Counsel was saying that it has to be just
13 applicable to every property. You know, we can't, we can't single it out.

14
15 Ms. Pali: Right.

16
17 Mr. Robinson: So it should be part of the HOA and part of their regular fines. But let's, you
18 have another...you have a question Kahu Hill?

19
20 Kahu Hill: I do have a few questions. Mahalo. I wanted to know the gongs are they presently
21 outside or are they inside, your gongs? Come, come, come.

22
23 Mr. Robinson: Welcome. Please introduce yourself.

24
25 Master Nhat Dam: Yes, my name is Nhat Dam and I'm the Master of the temple, and I'm very
26 thank you for your time today. I think our neighborhood misunderstand. I heard that he say the
27 bell time at night, a.m. and something at the evening, but we really don't hit the bell at that time
28 at all. At that time, we work in the farm and we have the bell, it's under the lanai and we only
29 ...(inaudible)...the bell at 6:00 a.m. and I think one minute just like you say when we want
30 everyone gather we hit the bell. In our property early in the morning when the people walking
31 they talking, we still hear their voice, so it's just like a normal and we try the best to not bother
32 the neighborhood. What our neighborhood tell in the first meeting I think because the
33 neighborhood misunderstand us. They thought that we pass by the HOA and we want to go
34 directly to the County, but the thing is because we are very new in this county and when we go
35 to the tax ...(inaudible)...they told me that I need to get the special use permit from the County,
36 so I go to the County. I ...(inaudible)... mean that I want to, to have a new construction in this
37 project. We just want to have a special use permit so we legally to have our activity.

38
39 Kahu Hill: And Master Nhat Dam another question for you. I was wanting to know about how
40 many beds there are to support the nuns there.

41
42 Master Nhat Dam: How many beds?

43
44 Kahu Hill: Beds. How many bedrooms and bedrooms to have the maximum there.

45
46 Master Nhat Dam: Right now in the existing house we have four. So that is why we want to
47 have more restroom.

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Kahu Hill: Mahalo.

Master Nhat Dam: Thank you.

Mr. Robinson: Any questions for the Master while we have her? I have a question. There was a concern from one of the neighbors regarding people coming and going as overnight stays and the concern of being maybe a commercial enterprise instead of a religious enterprise and of course with tours that are free, with festivities that are free it's a different category than it is for money. Is...do you folks offer at all any accommodations for people coming in with a fee?

Master Nhat Dam: No, no, no.

Mr. Robinson: So people can't come from other temples and they can stay and go and around it but you guys do not charge people to come and stay at your place?

Master Nhat Dam: Yeah, we never, we never cost anything.

Mr. Robinson: Okay. They work in the vegetable garden for trade. Any other questions? Another one from Kahu Hill.

Kahu Hill: Not for Master Nhat Dam but for Livit when we're done.

Master Nhat Dam: Okay, thank you.

Mr. Robinson: Thank you Master.

Kahu Hill: Mahalo.

Ms. Callentine: Livit Callentine again.

Kahu Hill: Yes, aloha. I just wanted to know on the Exhibit 19 per the letter from SHPD on 1/29/18 that said that there was insufficient information provided to make a determination. So I just wondered if the applicant received any response from SHPD and since submitting of the paperwork has been requested.

Ms. Callentine: No, I actually did try to contact Susan Libo and I could never get a response from her. I did forward her the applicant's response which is provided in Exhibit 20 and did not hear back from SHPD although I did give them an opportunity to reply.

Kahu Hill: Okay, mahalo.

Ms. Callentine: Yep.

Mr. Robinson: I have a question actually for Mr. Blackburn, from the HOA. Aloha, thank you for still being here. So I assume you've been following along with the religious practices and what we're allowed to ask and what not allowed to ask.

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Mr. Blackburn: Yes.

Mr. Robinson: With that being said, is hearing the conditions that we are gonna keep as part of your recommendations also with the HOA within your own bylaws having rules of certain for noises and you know commercialism you know I think some of those can be you know taken up with your folks internally is do you guys still support this project as it now newly stated with these conditions not being part of the Planning Department's conditions?

Mr. Blackburn: Okay, so can we kinda walk through them?

Mr. Robinson: Yes.

Mr. Blackburn: So I saw no additional structures and no additional agricultural structures, right?

Mr. Robinson: So is let me help. So we have no additional structures.

Mr. Blackburn: Well, we changed it to no additional agricultural...no, no ag...you can have agricultural structures.

Mr. Robinson: No nonagricultural.

Mr. Blackburn: Right.

Mr. Robinson: Right, no nonagricultural. Limit of occupants is still there.

Mr. Blackburn: Yes.

Mr. Robinson: No exterior signage.

Mr. Blackburn: Right.

Mr. Robinson: Number 8, multipurpose is still there.

Mr. Blackburn: Yes.

Mr. Robinson: Number 9 is still there.

Mr. Blackburn: Okay, what about Number 2 and Number 3?

Mr. Robinson: Number 2, soundproofing it's gonna fall as anybody else as far as noise volumes and decibels for any other neighbor. It's we can't specifically target them.

Mr. Blackburn: Okay, so we can just request it which we have done in the DRC review that they soundproof.

Mr. Robinson: Yes.

1
2 Mr. Blackburn: Okay. And the soften of view that's something they've also agreed too also.
3
4 Mr. Robinson: That's part of HOA, yeah, that's part of HOA but it's not us.
5
6 Mr. Blackburn: All right. At this point, I would say, and again, I'm just a managing agent I could
7 go back to the board meeting and have a bad day but I would say yes.
8
9 Mr. Robinson: Thank you Mr. Blackburn. Any questions for Mr. Blackburn anyone? Okay,
10 thank you. Do we have any more questions for Livit or Corporation Counsel or the Director?
11 Having seen none, do we have a motion and maybe with the motion we can add that conditions
12 that you asked for.
13
14 Ms. Pali: ...(inaudible-not speaking into the mic)...
15
16 Mr. Robinson: But you don't want to make a motion.
17
18 Ms. Pali: ...(inaudible-not speaking into a mic)...
19
20 Mr. Robinson: You just want to add the conditions?
21
22 Ms. Pali: Yeah, why not?
23
24 Mr. Robinson: 'Cause it's easier...'cause it's easier if you make the motion with your conditions
25 than having somebody have to vote the conditions in.
26
27 Ms. Pali: But I think I ...(inaudible)...because that's covered in the—
28
29 Mr. Robinson: Oh, so you're going to withdraw that.
30
31 Ms. Pali: Yeah.
32
33 Ms. McLean: I can read them again.
34
35 Ms. Pali: Oh, thank you.
36
37 Mr. Robinson: Okay, all right. We don't have a motion yet though.
38
39 Mr. Carnicelli: So Chair I would like to make a motion.
40
41 Mr. Robinson: Fantastic.
42
43 Ms. Pali: Thank you.
44
45 Mr. Carnicelli: To approve as recommended by Staff including the representations that the
46 Director made in discussion.
47

1 Mr. Robinson: Do we have a second?

2

3 Mr. Tackett: Second.

4

5 Mr. Robinson: Second by Commissioner Tackett. Director.

6

7 Ms. McLean: Thank you Chair. Condition 6 is the second is the standard condition that talks
8 about the applicant having to develop the property in substantial compliance with the
9 representations made to the Commission. An additional sentence could be added to that
10 condition that reads, as agreed to by the applicant this includes but is not limited to approval to
11 add a 1,930 square foot multipurpose room and a 2,736 square foot addition to the main farm
12 dwelling, a restriction on any new nonagricultural structures, a prohibition on exterior signage, a
13 limit on the number of occupants of 20 people and observation of quiet hours established by the
14 Wailuku Country Estates Community Association.

15

16 Mr. Robinson: Is that, is that your motion, sir?

17

18 Mr. Carnicelli: Yes Chair.

19

20 Mr. Robinson: Thank you. Discussion on the motion? Kahu Hill.

21

22 Kahu Hill: I would agree with that I just really would like to have the SHPD response for all of us
23 to look at what they say.

24

25 Mr. Robinson: Corporation Counsel.

26

27 Mr. Galazin: Thank you. I'll make one comment first and then I just need to address your
28 comment as well. The only concern I might have if you're talking about something as
29 established by another body then you're certainly putting it into somebody else's hands under
30 the ...(inaudible)... of County authority. So you're saying okay, well you've got to follow these
31 quiet hours established by the association. Well, what if next year the association says no noise
32 before 10:00 a.m. but they need to have their bell at 9:00 a.m. I would probably just be better
33 off to leave that one out. That's something that again if there is an issue they have an
34 agreement with the...by virtue of owning it, they've got you know a contractual arrangement with
35 the homeowner's association, there's you know availability of whatever they've contractually
36 agreed to separately regarding the specific application. There's other kinds of areas that they
37 could pursue. So I would suggest probably leaving that one off.

38

39 Regarding Commissioner Kahu Hill's comment about hearing back from SHPD there's really not
40 much more we can do than you know send them back the comment to what they've requested
41 and then give them another opportunity you know nine, ten months, a year later to say, hey we
42 still haven't heard from you do you still want to comment on this, but it's not really fair for you as
43 a body to hold this up because again, another outside agency isn't doing, wasn't responding. I
44 don't know what their own problems may be you know if it's staffing or whatnot, if they don't
45 think that this one's significant. I didn't hear anybody raise any specific archaeological concerns
46 that would cause me to say hey we really need to have this. They asked for some answers, it
47 looks like the applicant provided them. According to the Staff Planner that was presented back

1 to SHPD that's really all that Planning can do at this point. So those are my two comments.
2 Thank you Chair.

3
4 Mr. Robinson: Kahu Hill is there any knowledge that you have or concerns regarding the State
5 Historic Preservation that would give us positive... 'cause they already have a home, they
6 already have the construction there so it's not a new property or new development it's just that
7 they're to add on if you think that there's something that they might have missed or something
8 going on there?

9
10 Kahu Hill: Mahalo Chair. I actually don't. I had noticed that when the land was subdivided for
11 Wailuku Country Estates in 1996 they had found no historical properties and discovered at this
12 time. I just thought maybe we needed to have a response. So if everyone feels good with that I
13 would support this.

14
15 Mr. Robinson: I think if we had a more responsive SHPD it would be better.

16
17 Kahu Hill: Yes,(inaudible)...respond.

18
19 Mr. Robinson: But volunteers right?

20
21 Kahu Hill: Yes, volunteers.

22
23 Mr. Carnicelli: Chair?

24
25 Mr. Robinson: Yes.

26
27 Mr. Carnicelli: If I could, if my second would agree to it I will make a friendly amendment to the
28 motion and delete the condition—

29
30 Mr. Robinson: Sound.

31
32 Mr. Carnicelli: --that Corporation Counsel had addressed. So if the second is, I will—

33
34 Mr. Robinson: Regarding the sound?

35
36 Mr. Carnicelli: Regarding the sound, and the homeowner's association.

37
38 Mr. Tackett: Yes.

39
40 Mr. Robinson: Okay. So move. And at this time I will have the Director read that once changed
41 condition one more time before we vote. Okay, thank you.

42
43 Ms. McLean: Thank you Chair. A second sentence would be added to Condition 6 to read, as
44 agreed to by the applicant this includes but is not limited to approval to add a 1,930 square foot
45 multipurpose room and a 2,736 square foot addition to the main farm dwelling, a restriction on
46 any new nonagricultural structures, a prohibition on exterior signage, and a limit on the number
47 of occupants of 20 people.

1
2 Mr. Robinson: All those in favor—

3
4 Mr. Carnicelli: Or wait, if I could speak to the motion Chair, sorry.

5
6 Mr. Robinson: Yes, please speak to the motion.

7
8 Mr. Carnicelli: So obviously I made the motion. I'm in favor of it. You know this is one of those
9 ones just to the Department. I know that we have our 500-foot neighbor thing. You now
10 Mr. Blackburn brings up something I think that I'm not certain that the neighborhood would have
11 been as upset if the HOA would have been notified ahead of time. You know, it's just like wait
12 we found out, oh my God, you know and then they you know all of sudden...is would the
13 backlash have been as much so that's just as a note on the fact that you now the nuns had
14 agreed to these you know fine, that's great.

15
16 And then the other thing that I do want to just make a note of is when this first came my red flag
17 went up like okay is this a new way around vacation rentals, is like oh okay you know,
18 everybody is like oh you know I'm Scientologist and I need you know whatever it might be. So
19 the fact this is truly a real religious practice, this is legit that's something that goes into weighing
20 and then the other part of this that I think that we do need to be aware of, the community needs
21 to be aware of, when you buy into an ag subdivision it's not residential ag, it's ag and this could
22 be a pig farm and there's not anything anyone could say and I've been near a pig farm. I've
23 never lived near a pig farm but pig farms are gnarly and this is some nuns banging some gongs
24 and I guess if that's an irritant to you I hear you and I get it but what it actually could be in ag is
25 something way in my you know my estimation way worse. So I'm in support of the project. I'm
26 in support of the nuns and what it is that they do and keep healing the world.

27
28 Mr. Robinson: Commissioner La Costa.

29
30 Ms. La Costa: Thank you Chair. So my question is about the wording on the restrictions for
31 non-ag. What kind of restrictions might that be?

32
33 Ms. McLean: That would mean no nonagricultural structures.

34
35 Ms. La Costa: But the wording to me said there were restrictions on what is there. Does that
36 mean no non-ag buildings, what does that mean? So that was nebulous to me.

37
38 Ms. McLean: Yes, it would mean no, no nonagricultural structures.

39
40 Ms. La Costa: I want to just...what—

41
42 Ms. Callentine: That would be, that would be only without the approval of the design review
43 committee and the board of directors.

44
45 Ms. McLean: No.

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47 Mr. Robinson: No.

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Ms. McLean: No. No additional nonagricultural structures.

Mr. Robinson: We're approving this structure and that's it.

Ms. McLean: Other than the two additions to this structure.

Ms. La Costa: Okay, because you talked about specifications but those weren't delineated so that's what I was...I needed clarification.

Mr. Robinson: You're good?

Ms. La Costa: I'm okay.

Mr. Robinson: Okay. All those in favor...you still going...all right, Commissioner Pali, sorry.

Ms. Pali: Sorry you were looking that way. I just, just speak to the motion. I would just respectfully disagree with my co-chair whom I adore. I think a pig farm couldn't go there because there is an association that all the owners bought into making the feel and the environmental residential even though it's ag land and so I would say that that's not really a fair comparison although I do appreciate the fact that it looks like these...the applicant will be really good, great new neighbors but I do want to sensitive to a lot of different families who I know personally that live in that area and their intention to be able to farm and raise their family in a safe environment that's important and so I just want to have that on the record.

Mr. Robinson: Are we good? All those in favor of the motion please raise your right hand. That five ayes. All those opposed? And another no vote from Commissioner Pali. She's consistent. All right, motion passes.

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

VOTED: To Approve the State Special Permit as Recommended by the Department with Conditions as Amended by the Commission.

**(Assenting – L. Carnicelli, C. Tackett, A. Hill, K. Pali-Abstain,
L. Hudson, P. D. La Costa)**

(Excused – S. Castro, T. Gomes)

Mr. Robinson: Thank you. We have a five-minute recess.

A recess was called at 10:00 a.m., and the meeting was reconvened at 10:09 a.m.

Ms. McLean: Thank you Chair. This is your last public hearing item. It is a request from Mr. Abram Steve Horst for a State Special Permit in order to operate The Seahouse, a four-bedroom short-term rental home located in the State Agricultural District at 200 Pua Niu Way, TMK: 4-7-009: 006-00001 in Launiupoko and Ryan Quigless the Project Planner.

1
2 **3. MR. ABRAM STEVE HORST requesting a State Special Permit in order to**
3 **operate The Seahouse, a 4-bedroom short-term rental home located in the**
4 **State Agricultural District at 200 Pua Niu Way, TMK: 4-7-009: 006-00001,**
5 **Mahanalua Nui, Launiupoko, Island of Maui. (SUP2 2017/0012)**
6 **(R. Quigless)**
7

8 Mr. Robinson: Aloha Ryan.
9

10 Mr. Ryan Quigless: Good morning Commission. Ryan Quigless with the Maui County Planning
11 Department, planner on the project. We meet today as mentioned earlier to obtain State Land
12 Use Commission Special Permit to operate The Seahouse, a four-bedroom short-term rental
13 home in the State Agricultural District on approximately 3.66 acres of land located at 200 Pua
14 Nui Way, Lahaina, Maui, Hawaii, TMK: (2) 4-7-009: 076-001. At this time I'd like to pass the
15 presentation to the consultant to continue.
16

17 Ms. Debbie Mitchell: Good morning Commissioners.
18

19 Mr. Robinson: Good morning.
20

21 Ms. Mitchell: My name is Debbie Mitchell and I'm here representing Mr. Steve Horst and his
22 family in their Special Use Permit and Short-Term Rental Home Permit applications today. The
23 location of the home is in the Launiupoko neighborhood as you see south of Lahaina. Coming
24 in closer you'll see it's straight up the hill from what is now the bypass, goes directly past it.
25

26 Taking you in here...could someone turn the lights down please? My slides will show up a little
27 better. Thank you. So as you can see the way the roads are laid out you'll see 200 Pua Niu
28 Way is at the very end of the cul de sac and down a significant driveway like so to separate it
29 from the rest of the homes to a certain degree.
30

31 Moving in, this is shows you a little bit more, the location right out at the end of the driveway.
32 And this slide shows in relation to the other owners of the CPRd lot which are directly at the top
33 of the delineation of the lot. Since there's a long driveway there is also ample parking as
34 required for a four-bedroom there are three spots parking including the garage and exterior
35 parking sites.
36

37 The house is laid out on one level with four bedrooms. It is three-bedrooms and a office in this
38 particular sketch, but the fourth bedroom will be...the office will be used as a fourth bedroom.
39 This is entry gate at the end of the cul de sac and as you can see the driveway precedes a long
40 way down to the house itself. These are the exterior of the house from all four sides. And then
41 the views from the house. And as you can see he's significantly down terrain from the
42 neighbors up above and the bottom right-hand photograph is the view directly from the house
43 up the hill to where the next nearest neighbors are located. As you can see there's a lot of
44 foliage and ground itself between the two. The parking again is ample.
45

1 Taking you into the house, the entry both exterior and interior. Kitchen and dining area, living
2 room, the four bedrooms again, as I've mentioned, the fourth bedroom is...was an office in this
3 picture and it will be treated as a bedroom. The bathrooms. And the amenities, the lovely pool
4 which is also located at the front side of the property with the house and landscaping in between
5 the...that acts as a buffer for the...any sound that would come from there.
6

7 Again, showing you...the red areas is kind of hard to see in this photograph but this is the
8 agricultural product. There was a significant farm plan in place already by the previous owners
9 and the Horsts have expanded upon that quite significantly by adding several original plantings
10 and they're currently the lower portion of the slide shows the currently producing crops there on
11 the property. In fact, he's brought a few samples for you if anyone care for fresh lemons or
12 limes, also a very nice coconut. So that shows you how much he has put into the production of
13 ag and continuing the agricultural production on the property. He's also made contact with
14 several local restaurants to sell his product and has actually done so through a health café
15 which is A`a Roots in Napili. So he's already made several deliveries to her and they have that
16 ongoing. So they really wish to continue with the agricultural portion of the zoning on their
17 property.
18

19 The Horst Family are Steve and Amy and their children, Faith, Lucas and Anika. Faith is a very
20 talented artist and has brought several of her, done several of her artworks there at the
21 property.
22

23 That's the end of our presentation. Mr. Steve Horst is here and would like to address you as
24 well. All right, thank you.
25

26 Mr. Robinson: Thank you.
27

28 Mr. Abram Steven Horst: Good morning.
29

30 Mr. Robinson: Morning.
31

32 Mr. Horst: My name is Abram Steven Horst. I go by middle name which is Steve. Thank you
33 for having me and my application.
34

35 Mr. Robinson: Mr. Horst because you're the applicant and because we're going to do this we're
36 gonna ask you that everything that testify to us will be truthful today?
37

38 Mr. Horst: Yes.
39

40 Mr. Robinson: Thank you. That's good.
41

42 Ms. La Costa: Could you please pull the microphone closer to you?
43

44 Mr. Horst: Sure.
45

46 Ms. La Costa: Thank you.

1 Mr. Horst: Can you hear me okay now?

2

3 Ms. La Costa: Yes, thank you.

4

5 Mr. Horst: So five years ago I was diagnosed with thyroid cancer. I had a total thyroidectomy
6 and a big scar here to remove a walnut size, Stage 2 tumor from left thyroid. Following surgery
7 I receive radioactive iodine to hopefully wipe out the cancer permanently. My wife also has a
8 thyroid problem it's called Hashimoto's Disease and causes her thyroid to not function. So why
9 am I telling you all this? Because this is the reason why we set off on this journey to find a
10 place where we can escape the harsh weather we experience in our home state in
11 Pennsylvania. I live with the real possibility that cancer could return at any time. I have
12 frequent follow up, you know, examinations and tests to see if it has returned. So while I have
13 an active career in real estate business I own and manage back in Pennsylvania I'm not ready
14 to retire and move here permanently yet. When I come here and spend time here it's kinda like
15 I'm taking an advance on a retirement that I may never actually live to enjoy. The point I'm
16 getting to is that we purchased the home in Launiupoko for our use with only the secondary idea
17 of having some guests come and pay to stay in the home and enjoy it while we aren't there. In
18 nearly two years since we purchased the home I've learned and experience much here and
19 believe I've only scratched the surface of what this amazing land has to offer.

20

21 I read from the website part of the purpose of the short-term rental home ordinance is to allow
22 for varied accommodations and experiences for visitors. I believe my home in particular has
23 some truly unique features. First is a feature that took significant time for me to discover. At
24 winter solstice the sun sets perfectly just off the east coast of Lanai with a sweet view of
25 sweetheart rock. At summer solstice the sun sets just off the west coast of Lanai and
26 Shipwreck Beach. Believe it or not Shipwreck is actually visible from my house. It's far but I
27 can see it. So from my perspective the whole island of Lanai creates an annual calendar with
28 the sun. On a clear day I can see the Big Island as well as Kahoolawe, Molokini, Lanai and
29 Molokai.

30

31 On a recent visit with my wife's parents they arrived at night and I picked them up at the airport.
32 They had traveled to Maui once before and stayed at a bed and breakfast in Lahaina. The first
33 morning of their stay when I woke up they were already out enjoying the view. When I walked
34 to join them I noticed that my mother-in-law was crying. She told me that this is the most
35 beautiful place she's ever been. Yes, she had been to Maui before and stayed in Lahaina but
36 this spot blew her away. I feel very fortunate and blessed to be the current caretaker of this
37 property. Eventually someone else will have that privilege.

38

39 I know I have some neighbors who fear for the worst, but I am confident that I can manage for
40 the best outcome. I respectfully request the opportunity to prove myself in doing some rentals
41 of this very special place to qualified and carefully selected guests. I believe I can do this
42 without any adverse impacts to my neighbors. I'm not looking to do a lot of rentals. One a
43 month would be more than enough to satisfy me that someone got to enjoy the place instead of
44 just sitting empty.

45

46 I thank you for your time and consideration of this request.

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Mr. Robinson: Thank you.

Mr. Horst: Any questions for me?

Mr. Robinson: Not at this time, we might come back to you. And Commissioners before I got to public testimony because I was just asking the Director this is we have SUP2 and we have STRH, but what it is, it's a procedural so we're gonna go SUP first and if this gets past SUP then we would then take on...they would apply for the STRH. Is that correct Director? So there's not a application for a short-term rental today. It's a application for a Special Use Permit. So if...

Mr. Carnicelli: It would be a whole separate thing.

Mr. Robinson: Because there's not a application for that yet. So just wanted to let you guys know because I was looking through the packet saying how come we don't have the criteria for the STRH and things and that's the reason why it's not in our packet. We just have the criteria for the Special Use Permit 2. Okay. And hopefully that...Ryan am I correct Ryan? Okay, that's correct. And hopefully the audience heard that too. So we are not here today for a STRH. We are here today for a Special Use Permit 2. So please be cognizant of that when you're testifying.

At this time, I'm gonna open up public testimony. I am going to be strict on our time lines today. We have a lot of testifiers. Please do not go over. It will not go well with this Commission. So at this time, Mr. Gordon Firestein. Could you please introduce yourself and you have three minutes sir. And oh, is...do you swear everything you say today will be truthful?

Mr. Gordon Firestein: Yes.

Mr. Robinson: Thank you.

Mr. Firestein: My name is Gordon Firestein and before I begin my remarks maybe I should ask a question because I'm not clear whether my remarks pertain to the SUP or to the vacation rental. Can you clarify for us what the differences between these applications?

Mr. Robinson: Corporation Counsel would love to.

Mr. David Galazin: Thank you so much Chair. These are the moments I live for. So because this is an Agricultural District, and thank you Chair for allowing me to address the testifier. The applicant's required to obtain a Special Use Permit before they can even apply for a Short-Term Rental Home Permit which is ultimately the desired use of the property. So you can make your comments about what is ultimately desired which is to use the home and short-term rental. But the criteria that the Commission is going to look at today for a Special Use Permit has its own specific criteria. So you would be...the difference is you would speak to those and not to the short-term rental home criteria which have their own unique characteristics but you can certainly

1 provide your opinion and answer any questions and by either the commissioners here or
2 whether the applicant has a question for you himself.

3

4 Mr. Firestein: Okay, thank you.

5

6 Mr. Robinson: Thank you. And that goes for everyone. So you know, and please continue
7 'cause you will have another opportunity if this were to pass when it came in front again. So you
8 could testify today or you could waive your testimony to find out if it's going to be moot or not.
9 Would that being said would you like to continue?

10

11 Mr. Firestein: Yes, I would thank you.

12

13 Mr. Robinson: Okay.

14

15 Mr. Firestein: And aloha Commission Members and Staff. I'm here today to oppose the
16 application. I live in Launiupoko and have experienced firsthand the nuisance of short-term
17 vacation rentals near us. And I'm sure you're all aware of the long list of potential negatives
18 associated with these businesses in residential and agricultural area.

19

20 I've tried hard to imagine what the positives might be and can really only think of two. There's
21 profit to the owner and tax revenues to the County and the State both of which are fine. But
22 only if the business is located in the business zone. Launiupoko is an Ag zone and
23 inappropriate for this sort of business. These resort oriented businesses should be located in
24 resort areas not in close proximity to full time residents who choose to live here because they
25 value the quiet low density, low traffic quality of life that is exactly antipodal to a resort area.

26

27 And the people most affected by a vacation rental are the immediate neighbors and among
28 those, the ones whose viewpoints ought to count most heavily in this decision are the co-owners
29 of the CPR property under consideration. So Mark and Suzanne who you'll hear from later are
30 friends of ours. They're owners of Unit B of this property and they would be severely impacted
31 by a large vacation rental next door. It would be completely unfair to them to approve this
32 application. There's no benefit to the neighborhood and only negative impacts to be endured by
33 the neighbors. So I respectfully urge you to reject the application.

34

35 Mr. Robinson: Thank you. Next we have Doris...

36

37 Mr. Galazin: ...(inaudible)...

38

39 Mr. Robinson: I think our Commission understands our...oh, the applicant gets to. I apologize
40 sir, it's because it's a contested case the applicant gets to ask you question if he so chooses.
41 And I need to ask that every single time. Mr. Horst do you have any questions for the testifier?

42

43 Mr. Horst: I have no questions.

44

1 Mr. Robinson: Thank you. And Mr. Horst is maybe if you could just raise your hand if do you
2 have one in the future and then we can get through this, that's all thank you so much. All right,
3 next we have Doris Lang please. Please introduce yourself you have three minutes.
4

5 Ms. Doris Lang: My name is Doris Lang and thank you all for being here and listening to us. I
6 need my glasses sorry. Okay, start again. I'm Doris Lang. I'm testifying against this application
7 for the reason that I think it's just wrong. Six neighbors within the 500-foot radius will be most
8 affected and they've stated in letters of opposition. And 15 residents in Launiupoko have
9 opposed via Next Door social media the proposed vacation rental.
10

11 It doesn't matter how well vetted guests will be no how many rules posted. One cannot control
12 the behavior of others. Surveillance cameras, property managers living elsewhere are
13 ineffective. In the 10 years in Launiupoko we have had TVRs off and on next to us. They don't
14 work and they're a detriment to all of us that live near them. The only person who will benefit is
15 the owner of the TVR. They make quick money on vacation rentals while at the same time
16 contribute to the many problems that come with vacation rentals in a quiet neighborhood and to
17 mention taking away much needed housing for long-term renters on the west side.
18

19 Their property can be sold easily whereas nearby neighbors have to disclose a TVR
20 consequently losing potential sales. There are numerous places on Maui where tourist can
21 stay. Launiupoko ag land neighborhood is not one of them. There have been many letters
22 written to the Planning Department opposing Mr. Horst's application. If passed all of the
23 opposing neighbors 500 feet near the TVR lose while one owner who resides on the mainland
24 wins. Please deny this permit request.
25

26 Mr. Robinson: Thank you. Mr. Horst any questions?
27

28 Mr. Horst: I don't think so.
29

30 Mr. Robinson: Okay, thank you. Next we have up Suzanne...it is...sorry I can't pronounce your
31 last name.
32

33 Ms. Suzanne Albers: Albers.
34

35 Mr. Robinson: Albers.
36

37 Ms. Albers: Good morning Commission.
38

39 Mr. Robinson: Aloha. You promise your testimony will be truthful?
40

41 Ms. Albers: Under oath.
42

43 Mr. Robinson: Thank you. You have three minutes.
44

45 Ms. Albers: Aloha everyone. My name is Suzanne Albers. My husband Mark and I have been
46 permanent full-time residents at 204 Pua Niu Way since 2012 when we built our small 1,000

1 square foot cottage. It is our only home. We are here to give testimony stating our strong
2 opposition to this special use permit and a short-term vacation rental permit at 200 Pua Niu Way
3 known as Seahouse. We are CPRd with this large main home and we are in very close
4 proximity to it with our cottage being directly behind it. We are close enough to hear cars going
5 up and down the driveway, people talking at the front entrance and voices from the pool area.
6 We are over 65 years of age and building our cottage in 2012 was a 20-year dream of ours.
7 Now we are threatened to lose or serenity as well as significant value in our home if this
8 approved.

9
10 Today we have provided with you folders that have multiple copies of opposition letters from
11 each homeowner within the 500-foot radius of Seahouse. Also is a map showing the numbered
12 lots with corresponding names and addresses of all six homeowners opposing this application.
13 Six are here to testify here today. There is also a map showing the location of our home in
14 relation to Seahouse. It is within the 3.66 acre parcel and I was wondering why it wasn't shown
15 on the map. It was omitted in one of those maps on the screen. Also included is an official
16 document with the description of 3.66 acre parcel stating falsely that Seahouse is the only
17 structure on the parcel. Our home is completely omitted and ignored. Why the deception?

18
19 We were also informed that because we are CPRd with this home we could be liable if a renter,
20 child or adult was hurt on our property. For example if a soccer ball were kicked from their
21 driveway into the large boulders nearby in a gulch and someone tried to retrieve it, it would be
22 very difficult and dangerous and that area is on our property.

23
24 While Seahouse was in escrow in March of 2017 and I was going through radiation treatments
25 for breast cancer, the applicant contacted us pleading that we sign off on allowing his home to
26 be used as a short-term vacation rental. We politely but firmly said no, absolutely not. It would
27 ruin our serenity as well as our home value. We stated to him the many other reasons why we
28 objected and the reasons are obvious.

29
30 Mr. Robinson: Ms. Albers please conclude.

31
32 Ms. Albers: What?

33
34 Mr. Robinson: Please conclude.

35
36 Ms. Albers: Okay, it would be very disruptive in many ways. We have lived next to a short-term
37 rental vacation before. We asked him why not rent out for six months at a time which is
38 allowed. So it's a nightmare to live next to short-term vacation rental and Mr. Horst has only
39 been there out of a year and ten months this has been going on. He's only been to the home
40 two weeks every six months at the most.

41
42 Mr. Robinson: Thank you for your testimony. Is there any questions for the applicant...I mean
43 for the testifier? I'm sorry seeing none, Mr. Horst do you have any questions?

44
45 Mr. Horst: I don't.

46

1 Mr. Robinson: Okay, thank you so much.

2

3 Ms. Albers: Please do not...

4

5 Mr. Robinson: Next we have Sue Pepe. And folks I know three minutes doesn't seem like a lot,
6 but we do really read all the testimony that we get on paper and we see it all, so please don't be
7 discouraged. Hello, do you promise say everything today to be truthful?

8

9 Ms. Sue Pepe: Yes, I do.

10

11 Mr. Robinson: Thank you. Please introduce yourself you have three minutes.

12

13 Ms. Pepe: Good morning my name is Sue Pepe. My husband and I own the property at
14 153 Pua Niu Way. We've been there for 10 years. We've traveled 6,000 miles to come over
15 and enjoy our beautiful home, our wonderful neighbors and our peaceful neighborhood. We
16 bought on the cul de sac because it would be quiet with little traffic or so we thought. There are
17 now two short-term rental properties on Pua Niu, one at 122 which is an art gallery/six-bedroom
18 rental and also at 217 the Ocean Star Home by Greg Brown that rents up to \$10,000 a night. It
19 was represented by a company, Pure Maui that represents luxury rentals. The legality of either
20 one I don't know. It is a nightmare to live next to or close to this party house at 217. The noise
21 goes on all night long. The cars back and forth. Taxis and Ubers parked in the cul de sac,
22 beeping their horn because they cannot get in through the gate. This starts early in the morning
23 picking up people, coming back to get them. The propane truck twice a week going up and
24 down the driveway trying to keep up with the flow of people. It is a nightmare.

25

26 I've read through all the documents and there were numerous trigger points that are refutable
27 but with limited time I will say this, the objective for the goals stated are to enhance and protect
28 the visitor experience while attempting to protect the residents with good governance. We are
29 being exploited not protected. The idea this will provide increased employment is a moot point.
30 We all employ people to maintain our homes as Mr. Horst will have to do whether he rents or
31 owns. We use electricians, plumbers, landscapers.

32

33 The directed growth plan states it is to protect the island's lifestyle, needs of residents and the
34 aloha spirit. The aloha spirit is about respect, compassion, and consideration of others. The
35 permit totally defies that spirit. There is no common benefit, economic benefit to this other than
36 putting money in Mr. Horst's pockets.

37

38 Land Use Commission states in Ordinance 3941 that STRs are permitted on Ag land if they
39 assure the growth of crops and that the rental property will defray the costs. Well I would say
40 nicely to Mr. Horst if this is a hardship in watering your plants and you need the rental income
41 this is not a good fit.

42

43 Mr. Robinson: Please conclude.

44

1 Ms. Pepe: Okay. I just ask that you not approve this, that there's nothing to be gained. It will
2 adversely affect the residents who have lived here for many years, pay our taxes, our dues and
3 enjoy our neighborhood. Again, where is the aloha spirit.

4
5 Mr. Robinson: Thank you for your testimony.

6
7 Ms. Pepe: Thank you.

8
9 Mr. Robinson: Commissioners any questions? Mr. Horst any questions?

10
11 Mr. Horst: I have one question.

12
13 Mr. Robinson: Yes, please tell it to the mic Mr. Horst and please introduce yourself.

14
15 Mr. Horst: Yes, I'm Steve Horst. The question I have is that for my neighbor is if she can see
16 any difference or possible difference between a rental property that is managed well and one
17 that is managed poorly?

18
19 Ms. Pepe: Well, my response to that is people who rent rather than own have little regard for
20 those around them and unless you have a property manager on there 24/7 it's useless. People
21 who pay high amounts of money to rent a home are going to get their money's worth with total
22 disregard for others. Owners have respect for others in the neighborhood. Totally different.

23
24 Mr. Robinson: Thank you so much. Next testifying we have Yvonne McKernan.

25
26 Ms. Yvonne McKernan: Yeah, my name is Yvonne McKernan.

27
28 Mr. Robinson: Yvonne do you swear to say everything...everything is here today is truthful?

29
30 Ms. McKernan: I do.

31
32 Mr. Robinson: Thank you. You have three minutes.

33
34 Ms. McKernan: My name is Yvonne McKernan and my husband and I own a home at 197 Pua
35 Niu Way. Strangely enough I also have an autoimmune disease. I have rheumatoid arthritis
36 and my husband has a kidney transplant. And one of the reasons that we are planning on
37 retiring to Maui is exactly what Mr. Horst exhibited that it's very conducive to enjoying the
38 atmosphere and we feel better here as I think most people probably do.

39
40 The property under consideration today is three houses away from us at the end of a quiet
41 residential cul de sac. Large parties of people do not rent homes on Maui to sit quietly and
42 enjoy the ambiance. They are noisy. They usually drink heavily and strain services and
43 resources. These parties create large quantities of trash and strain services. Sometimes
44 require police intervention for noise and other complaints and often disregard local ordinances
45 and rules of the road. STVRs are essentially small hotels in residential neighborhoods.

46

1 Remote owners and managers see them as money makers, but those of us unfortunate enough
2 to live in the same neighborhood the cause concerns about safety, tranquility and property
3 values. STVRs can artificially drive up home prices making homes unaffordable to residents
4 when they're eventually curbed or banned property values plummet. Many city councils in
5 popular vacation areas have realized how disruptive STVRs can be to their community and are
6 now taking steps to ban them.

7
8 In July 2018, the San Diego City Council approved a city wide ban on second home vacation
9 rentals when the owner does not live on site as Mr. Horst would not. This ban will go into effect
10 in 2019. In December 2018, Las Vegas City Council voted to ban non owner occupied short-
11 term rentals and to severely restrict even hosted rentals. In January 2019, New Orleans City
12 Council ALso voted to restrict STVRs and so did Los Angeles in January 2019.

13
14 Second homes and investment properties cannot be rented on a short-term basis in many areas
15 that are equivalent to Maui as vacation areas.

16
17 Mr. Robinson: Please conclude.

18
19 Ms. McKernan: I guess that's all I have to say. Thank you for your consideration.

20
21 Mr. Robinson: Commissioners any questions? Seeing none, Mr. Horst.

22
23 Mr. Horst: I have no questions.

24
25 Mr. Robinson: Thank you.

26
27 Ms. McKernan: Thank you. Thank you.

28
29 Mr. Robinson: Next we have Lynn Fisher. And in the audience like I said you know it's...if you
30 know for your sake is we're gonna go into lunch so the testimony we have about ten more
31 testifiers. If they 10 testifiers, I'm not gonna say you can't testify but if you wanna...if it's the
32 same testimony I think we can get gist and you guys wanna be able to, you know, see through
33 our deliberations of having to come back at 1:15, 1:30 and go through that that's totally your
34 right. I just wanna let you know, you know, I just wanna put that out there for you. But next we
35 have Ms. Lynn Fisher. Please introduce yourself.

36
37 Ms. Lynn Fisher: Oh under oath on the bible. Thank you.

38
39 Mr. Robinson: Please introduce yourself?

40
41 Ms. Mary Lynn Fisher: Mary Lynn Fisher.

42
43 Mr. Robinson: Hi Mary Lynn you promise to be truthful with your testimony today?

44
45 Ms. Fisher: Under oath on the bible.

46

1 Mr. Robinson: Thank you. Is that a yes?

2

3 Ms. Fisher: Yes.

4

5 Mr. Robinson: Yes, okay.

6

7 Ms. Fisher: Aloha. Having had lung cancer, I guess we can all throw those things out here.
8 Having a lung removed I understand Mr. Horst's scaredness of not living long. And having it,
9 you know enjoy your life here. It's stinky having cancer. I have no two ways...I know it, I've
10 been it and done it. Anyway, just to add an additional comment to those who have been
11 expressed here today, I live at 183 Pua Niu Way which is across from Mr. Horst's new home
12 and right and above it. So everything I hear comes up towards the mountain. I can even hear
13 whales singing. So it always comes up towards the mountain via the wind.

14

15 Anyway, I would like...I thank you very much for listening to us. This decision will have
16 consequences that will not impact you as a committee at your homes, the committee at a whole.
17 It will impact Mr. Horst, the project management company and Maui County in a very good way
18 they make money. The only detrimental consequence will be to those who lives will be
19 impacted from then on, the families that have bought homes to live their lives in a family
20 neighborhood. We lose property value, lose our quiet neighborhood and the aloha that we as
21 our little cul de sac community have grown as neighbors to look out for one another and to take
22 care of one another. So ask you, each of you please remember your decision regarding
23 Seahouse and when closing your eyes to sleep at night that it will be a decision that will not
24 harm the residents that live there now which it will certainly do. Thank you very much.

25

26 Mr. Robinson: Thank you for your testimony. Mary Lynn we have a question for you. Over
27 here Mary Lynn. We have a commissioner. Commissioner La Costa.

28

29 Ms. La Costa: Thank you Chair. You mentioned that you live across the street and up the hill,
30 do you live on Lot 3?

31

32 Ms. Fisher: No, I'm 9.

33

34 Ms. La Costa: Nine. Okay, I see that. So you're at the back.

35

36 Ms. Fisher: I'm above yeah.

37

38 Ms. La Costa: Okay. Can you tell me has there been rental activity previous to the application?

39

40 Ms. Fisher: I can't tell you truthfully has there been people there prior to when the Horsts have
41 come, yes. In my opinion, yes, I can't tell you that truthfully. You'd have to ask the property
42 management group. But it looks like there have been there, but it's also...that could be going to
43 2017 which is Greg Brown's house which is to us a short-term rental which we hear from even
44 though it's beyond 500 feet, this one is probably 700 to 800 feet but we still get all the noise.
45 We've had bands, we've had chanting, we've had it all up there and you can hear it. It's just...it
46 travels via the air or the wind or whatever you all want to call it. It just travels.

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Mr. Robinson: Thank you.

Ms. La Costa: Thank you so much.

Ms. Fisher: Okay, you're welcome.

Mr. Robinson: Mr. Horst?

Mr. Horst: I have no questions.

Mr. Robinson: Thank you. Next testifier we have Mark Allans, Mark Albers, I'm sorry.

Mr. Mark Albers: I would like to defer to Bob please.

Mr. Robinson: It's either...well Bob will have his own three minutes if he wants.

Mr. Albers: ...(inaudible-speaking from the audience)...

Mr. Robinson: One person three minutes. Sorry there's no yielding somebody's time.

Mr. Albers: Yes, good morning.

Mr. Robinson: Please introduce yourself.

Mr. Mark Albers: My name is Mark Albers.

Mr. Robinson: You promise to be truthful with your testimony?

Mr. Albers: Yes.

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

Mr. Albers: A lot has already been said. I don't want to repeat it but we do live across the street or upwind of him. We are CPRd with him. We've been advised that we could be liable like my wife had said. Also I have PTSD, I'm a Vietnam Vet and I've struggled with that. I shudder at the fact of having strangers coming around and being around. We've lived next door to vacation rentals before and they have been nothing but trouble. This particular situation has caused so much stress for my wife. It's really hard for me to even watch and she shouldn't even be having to go through this. As a matter of fact, we feel like we're being you know on trial for some reason just so he can have his vacation rental. But there's a point well taken that I want to get in. We hear everything that goes on down there. There was a picture of a shower. We're very familiar with the property, we're good friends with the owners and we spend a lot of time taking care of the property, watching the property and visiting with them of course. She could holler up to me Mark bring down the shampoo and I'd be here it, bring it down, bring down some more drinks, ...(inaudible)...The way the whole situation is all the wind blows everything uphill. We

1 hear all the noise and the driveway goes right down our property line. We hear the cars go up
2 and down and well, I have to get this in also, we do have another vacation rental behind us. It's
3 Greg Brown, Ocean Star thing. I don't know if it has a permit or not. But his driveway is directly
4 behind us. It runs along the entire length of our property and there are cars going up and down
5 it. There's usually two or three with each group and it's probably rented 90 percent of the time.
6 So we're kinda stuck in the middle of it and our peace and serenity has just been greatly
7 impaired by that and to have this happen is a real nightmare for us. It's just a real nightmare. I
8 don't know if I can handle it. It's very detrimental to my wife. I could go on, and but I'd probably
9 be repeating all the things. And I want to defer to Bob because he has an appointment.

10

11 Mr. Robinson: I'll make sure he gets in before 12, but thank you. First of all, thank you for your
12 service. Commissioners any questions for the testifier? Mr. Horst, any questions for the
13 testifier.

14

15 Mr. Horst: I don't have—

16

17 Mr. Robinson: Oh, I'm sorry Commissioner La Costa.

18

19 Ms. La Costa: Yes, thank you for your service. And I have the same question to Mr. Albers.
20 Are you aware of any previous vacation rental activity on the property that you share the CPR
21 with?

22

23 Mr. Albers: I can't say that I have, no. But there's definitely a lot going on on the other side of
24 our property. And there's nothing to be gained here for any of the neighbors at all.

25

26 Mr. Robinson: Thank you so much.

27

28 Mr. Albers: And thank you very much. This isn't my forte.

29

30 Mr. Robinson: And the applicant will be under oath so that's a good you could ask him. Thank
31 you. Next we'll have Aunty Mopsy.

32

33 Mr. Albers: Oh I had one more thing.

34

35 Mr. Robinson: I'm sorry I apologize, I apologize.

36

37 Mr. Albers: Just one quick thing.

38

39 Mr. Robinson: Bob can do it in for you. We got 20 people here.

40

41 Mr. Albers: Okay, was gonna say people that are on his payroll, but...

42

43 Mr. Robinson: Aunty Mopsy thank you. Corporation Counsel wants to just say one thing Aunty.

44

45 Mr. Galazin: Thank you Chair. And for the Commissioner Members as well as for the members
46 of the audience. One of the reasons that we're hearing this today. This is a contested case

1 which means it's a proceeding in which the legal rights, duties or privileges of a specific party
2 are required by law to be determined after an opportunity for an agency hearing. This is the
3 agency hearing. If the Commission is going to rely on public testimony in order for it to be
4 reliable it must be given under oath. We've had a previous contested case where it did not
5 happen, the applicant didn't like the outcome, it went to court, and this body has been told by a
6 judge that we need to rely on if it is a contested case we need to rely on evidence that is sworn
7 testimony in order to be reliable and is subject to cross examination by the applicant if the
8 applicant so chooses. So I apologize for not being that clear to everyone up front. The reason
9 why we have this procedure for this particular hearing, why we didn't have it for the other public
10 hearing that wasn't a contested case and this is. Thank you Chair.

11

12 Mr. Robinson: Thank you. Please introduce yourself.

13

14 Ms. Francine K. Aarona: Aunty Mopsy. No, Francine K. Aarona and I—

15

16 Mr. Robinson: And you promise, testimony will be truthful today?

17

18 Ms. Aarona: Yes, I do.

19

20 Mr. Robinson: Thank you. You have three minutes.

21

22 Ms. Aarona: I know that on the agenda it does say Special Use Permit in order to operate The
23 Seahouse, a four-bedroom short-term rental. And whenever you mention short-term rental my
24 red flag goes up and that's why I'm here. Question that I would like to raise is was The
25 Seahouse license terminated in 2013? And if that was what business are they requesting
26 special use permit under?

27

28 Mr. Robinson: What...it's testimony not questions, sorry.

29

30 Ms. Aarona: Yeah I know. I would like to really bring that attention to the Planning Commission
31 that that is news for me that was given. And the amendment of the CPR was that amendment
32 done before or after the buildings were built. It's brought to my attention that it wasn't approved
33 when those building were built. And also, I would like to ask the Planning Commission to
34 oppose this special use permit especially on an Ag property because in the presentation I'm
35 looking at all of the things that they're producing in ag and I would have loved to see pictures of
36 the production or the groves. We just saw single pictures of what is happening on the prem as
37 an ag. And in specific subdivisions you know there's the Farm Act which this is area prohibits
38 that and it violates the Farm Act. So and my quest to you I would like to have the Commission
39 deny the special use permit because in the long run it is looking at a four-bedroom short-term
40 rental and we've been hearing this all along for ag. And short-term rentals should not be
41 allowed on ag property. Thank you very much.

42

43 Mr. Robinson: Thank you for your testimony. Any questions? Seeing none, Mr. Horst?

44

45 Mr. Horst: I have no questions.

46

1 Mr. Robinson: Thank you Mr. Horst. Next we have up is Moksha McClure, did I say that right?

2

3 Ms. Moksha McClure: Yeah, that's correct.

4

5 Mr. Robinson: Hi, please introduce yourself.

6

7 Ms. McClure: My name is Moksha McClure.

8

9 Mr. Robinson: You promise that your testimony today will be truthful.

10

11 Ms. McClure: I do.

12

13 Mr. Robinson: Thank you. You have three minutes.

14

15 Ms. McClure: Aloha Honorable Members of the Planning Commission and community. I am a
16 realtor with Oceanfront Sotheby's International Realty. I had the honor of selling Steve Horst
17 and his family their home. Mr. Horst was a pleasure to work with. He was always kind, calm
18 and humble. He never swears or says unfavorable things about anyone. He is extremely
19 ethical and only speaks the truth. Hr. Horst has been very pleasant and he has a friendly
20 disposition and I encourage any neighbors that have not had the opportunity to meet him and
21 his lovely family to do so.

22

23 Selling a home to him was a unique experience. That's because Mr. Horst is very detail
24 oriented. He requested and reviewed almost every piece of paperwork imaginable related to
25 the home and his purchase prior to making an offer. He diligently researched everything and
26 asked questions if he didn't understand something. Hr. Horst truly cares about the laws, his
27 neighbors and the community as a whole which is why he reached out to his neighbors right off
28 the bat and started adding plants right away. I am sure he would hold any management
29 company to extremely high standards. I always felt that the community would be and ultimately
30 is lucky to have a respectful neighbor like him.

31

32 Additionally, the Horst family home is rather isolated geographically. It is on land that feels a bit
33 like a peninsula and juts out and away from his neighbors. The home is very well built and
34 faces makai away from the neighbors. The pool is furthest away. No impacts should be felt by
35 his neighbors or neighborhood.

36

37 Due to his personality and professional background I am sure Mr. Horst knows more about the
38 laws that govern vacation rental guidelines than most property owners would. He will also
39 follow them. Mr. Horst is an example of the kind of person we should grant stewardship of
40 vacation rental to. I sincerely found his character to be of the utmost caliber. I encourage the
41 Planning Committee to grant his petition.

42

43 Mr. Robinson: Thank you. Any questions? Seeing none, Mr. Horst?

44

45 Mr. Horst: No questions.

46

1 Mr. Robinson: All right, thank you. Next testifier is Molly, Molly McMillen.

2

3 Unidentified Speaker: She had to leave.

4

5 Mr. Robinson: She had to leave. Okay. Next would be Doyle, it is Shon?

6

7 Mr. Shon Doyle: Yes. Okay, thank you. Please introduce yourself.

8

9 Mr. Doyle: My name is Shon Doyle.

10

11 Mr. Robinson: Shon do you promise your testimony be truthful?

12

13 Mr. Doyle: Yes.

14

15 Mr. Robinson: All right, you have three minutes.

16

17 Mr. Doyle: I met Steve Horst about two years ago. He's the most honest person I think I've
18 ever met. He's obliged by every rule that has...is put out there to oblige him the proper facilities
19 to get his permit. He's never ever once even thought about renting it out to anybody. He takes
20 care of his property. He takes care of his neighbors as much as possible. I just...I take care of
21 two other vacation rentals down on the beach and this property is a very unique part of Maui.
22 It's truly aloha and he would be a great property owner and if he could have his permit the
23 people that came here would undeniably have the best time of their life. People follow rules
24 that's what the rules are for that were instated by committees so that they could do this and
25 that's all I have to say.

26

27 Mr. Robinson: Thank you Shon. Any questions? Commissioner La Costa.

28

29 Ms. La Costa: Thank you. So your relationship to Mr. Horst is what please?

30

31 Mr. Doyle: Oh, sorry. I do property management, work on the yard, do whatever he wants me
32 to do.

33

34 Ms. La Costa: And your real estate license with which company?

35

36 Mr. Doyle: I'm sorry, I'm not a property manager, I'm a property caretaker. I am a small
37 business, Maui Residential Services.

38

39 Ms. La Costa: Thank you.

40

41 Mr. Robinson: Thank you. Next we have Dave Jorgensen. That would have been a good
42 person to ask that question. Please introduce yourself.

43

44 Mr. Dave Jorgensen: Good morning Chairman Robinson, Members of the Commission and
45 Staff. My name is Dave Jorgensen.

46

1 Mr. Robinson: Dave you promise your testimony be truthful today?

2
3 Mr. Jorgensen: Yes.

4
5 Mr. Robinson: Thank you. You have three minutes.

6
7 Mr. Jorgensen: I'm appearing today on behalf of Dean and Becky Leffingwell who are building a
8 home on 118 Huanui Way which is the property immediately adjoining this property. It's
9 identified on the map that I was given as Parcel, as Parcel 11. They're unfortunately unable to
10 be here today so they asked me to attend. They are strongly opposed to this application. Their
11 property is the neighboring property immediately north of the subject property. Their front yard
12 has a direct line of sight to the subject property pool and entertainment area. There are no
13 barriers to noise. They would be subject to noise, pool parties, and disruption virtually every
14 weekend, sometimes during the week. They've experienced this before in Launiupoko and the
15 sincerely hope they won't be subject to it again. I'm summarizing the letter they had sent and I
16 guess I want to make sure...there was a letter sent January 9th to the Planning Department and
17 it was emailed again on January 15th, but the letter does not appear in the packet that I printed
18 out off the website, off the County website. This is the property immediately adjoining this
19 property.

20
21 Ms. La Costa: We do have a copy.

22
23 Mr. Jorgensen: You do have it?

24
25 Mr. Robinson: We have it in our packet.

26
27 Mr. Jorgensen: Okay, thank you. In addition to the potential reduction in quality of life at their
28 property there's a financial matter as well. They're concerned that the new home they're
29 building will be...will lose financial value if there is a short-term rental home next door and
30 again, they strongly oppose this application. There was some comments made before about
31 the procedure and the County permit process, but I just did want to make sure on Page 12, it
32 talks about that the Planning Department Staff could approve the County permit
33 administratively. I just want to make sure that that is not true.

34
35 Mr. Robinson: No, it's here in front of us for the SUP approval.

36
37 Mr. Jorgensen: But then if this is approved it will come back before you?

38
39 Mr. Robinson: Yes, it will come back before us.

40
41 Mr. Jorgensen: So the administrative approval would not be...

42
43 Mr. Robinson: It's...Director.

44
45 Ms. McLean: Given the information that we have today it's highly likely that the short-term
46 rental home permit would meet the criteria to come to the commission.

1
2 Mr. Robinson: Triggers. And you know there's triggers so if you have you know opposition, you
3 know, that type of stuff, in letters, then that of course that triggers it to come in front of us. If
4 there was no opposition then it might be granted internally but seeing the opposition, the
5 triggers will happen.
6
7 Mr. Jorgensen: And again, that's why I just want to make sure that my client's letter was
8 received because I think it wasn't at the time that initial determination might have been made.
9
10 Mr. Robinson: Is you do have any information regarding the SUP on why you think that they
11 don't qualify for SUP permit or it's just reserving for the short-term rental?
12
13 Mr. Jorgensen: Reserving mainly for the short-term rental permit.
14
15 Mr. Robinson: Okay, thank you. Commissioners, any questions for Mr. Jorgensen? Um...
16
17 Mr. Horst: I do.
18
19 Mr. Robinson: Applicant has a question for you sir.
20
21 Mr. Horst: Did you represent me—
22
23 Mr. Robinson: I'm sorry every time you have to introduce yourself again and ask the question.
24
25 Mr. Steve Horst: Steve Horst. And I'm wondering if Mr. Jorgensen had represented me in the
26 purchase of my home.
27
28 Mr. Robinson: Okay.
29
30 Mr. Horst: I know I spoke to him about it, but...
31
32 Mr. Jorgensen: I don't believe I represented Mr. Horst in the purchase of his home. He did call
33 me years ago, but I'm not aware of whether I represented him in this matter. I certainly didn't
34 represent him in the question of a short-term rental home.
35
36 Mr. Robinson: Okay, thank you so much.
37
38 Mr. Jorgensen: Thank you.
39
40 Mr. Robinson: Next we have Mr. Robert Sternhall. It's a virtue. Please introduce yourself.
41
42 Mr. Robert Sternhall: Yes, I'm Robert Sternhall.
43
44 Mr. Robinson: Robert do you swear that your testimony will be truthful today?
45
46 Mr. Sternhall: Yes sir.

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

Mr. Sternhall: Thank you folks for hearing me. My main concern and I'm not sure this is all under the special use permit but is the liability issue on a CPRd property. I live on a CPRd property and I've contacted the County in the past about some things that my neighbors wanted to do and what the County told me was that they consider the master lot. Anything you know between property owners is between property owners like setbacks or anything like that. So I'm not sure but I'm assuming that liability would be shared by everybody on that master lot. And this is what really concerns me if a special use permit is granted do the CPRd neighbors also fall under that special use permit. If a vacation rental is granted and there is a...some sort of a liability loss can they be subject to a lawsuit by a deep pockets lawyer who might want to go for the whole TMK, the master TMK. So that's my concern and because I have big questions about this I would really like it if you didn't approve the special use permit. Thank you.

Mr. Robinson: Thank you for your testimony. Questions? Mr. Horst any questions?

Mr. Horst: I do not.

Mr. Robinson: Thank you. Next we have Francis DeLorin. Please introduce yourself.

Mr. Francis DeLoria: I'm Francis DeLoria.

Mr. Robinson: Francis promise that your testimony today will be truthful?

Mr. DeLoria: Yes.

Mr. Robinson: You have three minutes sir.

Mr. DeLoria: I didn't plan to come here. Hello everybody. I'm just trying to gather it all in. I'm a homeowner in Launiupoko. As far as noise ordinances and all of this I've lived in Launiupoko for 17 years in and around long-term home owner residents and what may appear to be illegal vacation rentals and they're both guilty of noise. Homeowners, long-term homeowners have bands and parties and all kinds of things as well as maybe a rowdy group of visitors. My experience with them, the rowdy visitors is I walk out my yard and I go, hey turn it down, and they turn it down. I've lived there 17 years and not once have I called the police on anybody anywhere for you know, violations. Basically that's what I have to say. The impression I get of Mr. Horst he seems very calm and peaceful from hecklers coming from behind me back there. Also what would stop one of Mr. Horst's neighbors from selling their property to somebody that would be troublesome to Mr. Horst you know whether or not they're having functions or weddings or whatever on their property? Basically for now that's what I have to say.

Mr. Robinson: Thank you. Commissioners any questions? Mr. Horst?

Mr. Horst: I have no questions.

1 Mr. Robinson: Thank you for your testimony. Next we have Mark Marchello. Hey, there you
2 go. Please introduce yourself one more time.

3
4 Mr. Mark Marchello: Mark Marchello.

5
6 Mr. Robinson: Promise that your testimony today will be truthful?

7
8 Mr. Marchello: Yes, I do.

9
10 Mr. Robinson: All right, you have three minutes.

11
12 Mr. Marchello: Thank you Commissioners for letting me have a moment here. Basically, you
13 know I really want to...I feel bad for your guys that have had a lot of these noise and problems
14 from these illegal vacation rentals. I'm here basically, I'm a property manager, I've been
15 managing short-term rentals for 31 years in Lahaina. And I'm here basically to...'cause Steve
16 said hey Mark how are you doing it and still have all your hair on your head. So basically we
17 manage four, our company manages four legal permitted vacation rentals. And what we do, we
18 abide by the rules that the Council set up through a lot of work with the MVRA and the County
19 Council. And the guidelines that we have in place basically there's three things, basically you
20 have the description, the rental agreement and phone number posted and these really work.

21
22 Basically all our online advertising, all the advertising we do has the County rules spelled out
23 below the description. We have the you know, the permit, the legal permit numbers and we
24 have the County rules, quiet hours from 9:00 p.m. to 8:00 a.m. during which time the noise from
25 the short-term rental shall not unreasonably disturb adjacent neighbors. Number 2, amplified
26 sound is prohibited. Number 3, vehicles not to be parked on the street. Number 4, this is the
27 big one, no parties or group gatherings other than registered guests shall occur. Okay, so that's
28 the first thing they see when they go to rent one of our properties. Now those guys who are
29 looking for party, you know what they're gonna move onto somebody else. That's what we see
30 right away.

31
32 But then the next step is when they go to actually book the property the rental agreement. The
33 top copy of our...the first in bullet print of rental terms and agreement, no parties, pets or
34 smoking is allowed at any of our properties and then we spell it out there. The top paragraph,
35 occupancy, maximum occupancy limits, children included are strictly enforced. Our homes and
36 townhomes are located in quiet residential neighborhoods, excessive noise, parties and
37 occupancy violations may result in Maui County Police evictions and fines up to \$2,000 a day.
38 Whaler's Management reserves the right to terminate occupancy without refund should violation
39 of house rules or occupancy limits occur. That gets a lot of people's attention because they've
40 signed an agreement, their credit card is on file. We have their security deposit in place and
41 that really...that's the next step that they take in signing up with us.

42
43 Okay, then basically the other thing of course is we have the phone number posted on the front
44 of the home and for all the neighbors they know who to call or we have a office open 8-5, seven
45 days a week, we have 24/7 number that's posted on that sign also.

46

1 Mr. Robinson: Mark please conclude.

2

3 Mr. Marchello: Okay, so my last point is a lot of these other testimonies...(inaudible)...might be
4 included in this is that the ability ...(inaudible)...to be able to vacation rent home at some point
5 in your life may be important to you. At some point you may lose your job, at some point this
6 may actually help you keep your home which I've seen it do for other people. Thank you so
7 much.

8

9 Mr. Robinson: Commissioners any questions?

10

11 Mr. Carnicelli: I got one.

12

13 Mr. Robinson: Commissioner Carnicelli.

14

15 Mr. Carnicelli: Good afternoon Mark, so there's been a lot of testimony about the other two
16 "vacation rentals" in the cul de sac here. Are you aware if they are legal or not? Like the
17 infamous they call it the Greg Brown rental. Do you know if that's a legal one?

18

19 Mr. Robinson: And you, and you are I just remind you...(inaudible)...

20

21 Mr. Marchello: I don't know. I personally don't know that. I heard recently that he stopped
22 vacation renting since the \$20,000 a day was passed.

23

24 Mr. Carnicelli: Okay, if you don't know, you don't know.

25

26 Mr. Marchello: I don't know.

27

28 Mr. Carnicelli: Okay, thank you.

29

30 Mr. Robinson: Commissioner La Costa.

31

32 Ms. La Costa: Mr. Marchello, will you be the managing agent for that property if it is approved?

33

34 Mr. Marchello: Steve's approached me about that, but I haven't signed any agreement with him
35 at this point.

36

37 Ms. La Costa: Okay. Because you are giving us information about your rental agreement and it
38 may not apply to this.

39

40 Mr. Marchello: Yeah, I think it's important though for all, for...(inaudible)...as an industry, I'm
41 sure you guys get a lot of testimony in the other direction, but you don't hear from the homes
42 that aren't having problems. You don't hear about the permitted homes that have...are legally
43 maintaining...(inaudible)...eight people. Here's a four-bedroom home, eight's the max. There's
44 not going to be 16 people in that home. So it's really going to be...and who's running these
45 homes that have all these rules, fines, to encumber them, families are renting these homes. We
46 fill these homes up and it's actually it's the parents bringing their kids and grandchildren. They

1 want a quiet relaxing time to enjoy with their family, poolside, they want to cook their meals
2 together. They want to have a quiet relaxing experience. They're not looking to have a party,
3 they're not looking to hang out in the hotels. We have a five-night minimum. They can't come
4 in and just take it for one night or two nights and have a party. That's the clientele that coming
5 into these homes. These are families coming into a family neighborhood to enjoy quiet peaceful
6 vacation.

7
8 Ms. La Costa: Well I must disrespectfully disagree with you because I live next to a home that
9 is illegally rented and if I have to hear Marco Polo one more time I will take a net out to the pool.
10 So while that's the ideal, it's not, it's not quite the picture in everywhere in Launiupoko, but I was
11 questioning whether you were going to be renting it because your stringent rules may not be the
12 same as everyone else's that's why I wanted to get the clarification. Thank you.

13
14 Mr. Robinson: Mark while you're ...(inaudible)... I got a question for you.

15
16 Mr. Marchello: Sure.

17
18 Mr. Robinson: Do you represent any illegal vacation rentals?

19
20 Mr. Marchello: No, no I don't.

21
22 Mr. Robinson: Okay, does your...does Whaler's Realty represent any illegal?

23
24 Mr. Marchello: No we don't.

25
26 Mr. Robinson: So the illegal rentals are all non-professional real estate agents, you're under the
27 assumption, right?

28
29 Mr. Marchello: If they are yes. Right, they'll acting illegally managing those homes.

30
31 Mr. Robinson: And is when you guys hear about illegal rentals does Whaler's Realty report or
32 have a hot line to the County that they could say well since this is our profession we want to
33 have everybody to follow the law or are you guys don't ask, don't tell?

34
35 Mr. Marchello: We don't...basically the properties...I don't...(inaudible)...involve that. I don't
36 have time to go policing people, I don't. The neighbors can police their...

37
38 Mr. Robinson: Yeah, and you're right there should be no comments. Thank you for that. I
39 appreciate. At this time, there is nobody else signed up. Is there anybody here that want to
40 testify that did not sign up at this time please step forward? Thank you Mark. Mr. Horst, you
41 didn't have any questions for Mark did you?

42
43 Mr. Horst: I do not have.

44
45 Mr. Robinson: Okay, thank you. Aloha please introduce yourself.

46

1 Ms. Zanda Amaral Crouse. Zandra Amaral Crouse. I am a realtor, Aina Hawaii Z Properties.

2

3 Mr. Robinson: One moment, Ms. Amaral you promise your testimony will be truthful today.

4

5 Ms. Amaral Crouse: Yes sir.

6

7 Mr. Robinson: Thank you. You have three minutes.

8

9 Ms. Amaral Crouse: The one thing that concerns me about this application is the fact that the
10 applicant is a nonresident. And how often have we seen as realtors, as commissioners, as
11 professionals we should not displace the way of life for those in existing communities to satisfy
12 the dream of someone moving here to retire. Right now in North Kihei that's exactly what these
13 residents are going through. And these are residents that has lived here for generations on
14 end. But there's bulldozers going through their subdivisions running over dogs, cats, and all
15 because the developer decided that it was not relevant to take one day, one hour or even five
16 minutes out of his or her time to meet with the residents that it was impacting, the roads that
17 they were going to be using. Quality of life needs to be maintained commissioners for our
18 people and you are in that seats and I know most of you and I admire and I respect all of you,
19 but I do need for you all to realize that a fact in point is that quality of life needs to be maintained
20 within the existing residents that live in the County of Maui, State of Hawaii and it needs to start
21 here. And the realtors and purchasers need to know it is not okay not to talk to the people who
22 live there. It's not okay. And we embrace the aloha. We'd love to talk but unless you come and
23 let us know what's happening on and we need to find out on the umpteenth hour, we are going
24 to be insecure. We are going to be sad and we are going to retaliate because we want a place
25 in our homes where we can feel tranquility. In my neighborhood that doesn't exist right now and
26 unfortunately these are people who paid dearly for the houses and continue to do. I thank you
27 for your time Commissioners.

28

29 Mr. Robinson: Mahalo. Commissioners any questions? Seeing none...

30

31 Ms. Amaral Crouse: Oh one more point. I'm sorry, Code of Ethics. You asked about illegal
32 rentals, as a real estate broker and Denise probably could substantiate it, it is our duty to turn in
33 any illegal rentals that we find and that is governed by our Code of Ethics to be truthful and
34 honest. Thank you.

35

36 Mr. Robinson: Thank you. I hope they all feel that way.

37

38 Ms. Amaral Crouse: I do too. No I sincerely do. I thank you for the question.

39

40 Mr. Robinson: Mr. Horst do you have any questions for the testifier.

41

42 Mr. Horst: I do not.

43

44 Mr. Robinson: Okay, would anybody else like to testify? Seeing none, public testimony is
45 closed. We will take a lunch recess. We'll be back here at 1:15. Thank you.

46

1 A recess was called at 12:16 p.m., and the meeting was reconvened with Vice-Chair
2 Larry Hudson Chairing the meeting at 1:22 p.m.
3
4 Mr. Hudson: ...quorum before we continue. P Denise La Costa.
5
6 Ms. La Costa: Here sir.
7
8 Mr. Hudson: Christian Tackett.
9
10 Mr. Tackett: Present.
11
12 Mr. Hudson: Tina Gomes who joined us at about 11:40, welcome.
13
14 Ms. Gomes: Thank you for pointing that out Chair.
15
16 Mr. Hudson: Lawrence Carnicelli.
17
18 Mr. Carnicelli: Aloha Chair.
19
20 Mr. Hudson: Kahu Hill.
21
22 Kahu Hill: Mahalo Chair.
23
24 Mr. Hudson: Kellie Pali.
25
26 Ms. Pali: Here.
27
28 Mr. Hudson: Dave, Corp. Counsel and myself, Director. Guess we left off, we're on
29 Item Bravo.3. What we're gonna do is we're gonna read the recommendation then we're gonna
30 open it up to questions. Because there's gonna be a lot of questions, we're gonna go three
31 rounds of three with one follow up round. So I will roll one person at a time so we don't diss
32 anybody. Does everybody understand the directions? Good. All right.
33
34 Mr. Quigless: Good afternoon Commissioners, Ryan Quigless with the Maui County Planning
35 Department. Planner on the project. I'd like to note that the applicant did meet all the
36 requirements for the short-term rental and for the State Land Use Special Permit with the
37 exception of the location and the neighbor protests which resulted in the Maui Planning
38 Department having no recommendation.
39
40 And also, should the Commission choose to grant the SUP2 there are six conditions that are
41 provided in the recommendation for the Commission to begin its further deliberation.
42
43 Mr. Hudson: There's no recommendation?
44
45 Mr. Quigless: No recommendation from the Department. It's up to the Commission.
46

1 Mr. Hudson: Let's start with questions. Commissioner Carnicelli.

2

3 Mr. Carnicelli: Thank you Chair. I don't know if this is going to be for Corporation Counsel or
4 the Department, but my question is in regards to a special use permit as I understand it is for
5 the entire parcel not just for the CPRd unit. I guess is clarification on that is that true...you
6 know, is this, is this gonna overlay onto enter parcel? I mean, I know that the STRH or at least
7 as I understand the STRH law that the County does attach an STRH permit to a CPRd lot. But
8 the special use permit does this affect the entire parcel?

9

10 Ms. McLean: Well, I'll just...I think we should get response from Corporation Counsel but I'll
11 note two things on the agenda and in the staff report it references the acreage of what I believe
12 is the entire parcel which is 3.66 acres, but then the TMK that's referenced is just the CPRd unit.
13 So if the Staff Planner can clarify what was applied for it seems that both of those options are
14 agendized and Corporation Counsel can confirm that but what did the application involve?

15

16 Mr. Quigless: The application does state the total acreage is 3.66 acres but it also notes that
17 the CPRd parcel each of the lots have their own TMKs 0001 and 0002. So for the purposes of
18 the application each lot is viewed as independently.

19

20 Mr. Carnicelli: So then Chair if I might follow up on that. How do we then view the farm plan
21 and the implementation of the farm plan?

22

23 Ms. McLean: The farm plan I believe was approved for the entire parcel not just for the CPRd
24 portion.

25

26 Mr. Quigless: It is for the CPRd portion.

27

28 Ms. McLean: For the CPRd portion?

29

30 Mr. Quigless: Correct. 0001.

31

32 Mr. Carnicelli: And it meets the farming criteria?

33

34 Mr. Quigless: It meets the farming criteria. It has a previous farm plan approval with the
35 previous owners. And the farm plan has been updated with the owners and approved.

36

37 Mr. Carnicelli: Thank you Chair.

38

39 Mr. Hudson: Commissioner Kahu Hill.

40

41 Kahu Hill: Mahalo Chair. A couple questions. I'm not seeing 0002 on the application is that
42 here?

43

44 Mr. Quigless: Yes, let me refer to the exhibit. One moment please. So I believe it's Exhibit 25
45 and it's shown as Parcel 10 on the 500-foot neighbor notification and separated by a property
46 line between the two but the entire parent parcel is highlighted in red.

1
2 Kahu Hill: I just wanted to make sure as we're voting today 'cause I don't actually see it written
3 on the agenda if that's something for Corp. Counsel or it's very clear, I'm just not seeing it
4 written on the application.

5
6 Ms. McLean: Unit 2 has not applied for a short-term rental home.

7
8 Kahu Hill: Okay. And one other question I have is, is all the testimony here today can apply to
9 the SUP?

10
11 Mr. Quigless: Only the SUP today.

12
13 Kahu Hill: Okay, mahalo.

14
15 Mr. Hudson: Commissioner Kellie Pali.

16
17 Ms. Pali: No questions at this time.

18
19 Mr. Hudson: Commissioner La Costa.

20
21 Ms. La Costa: Thank you Chair. I have a few questions. The photograph that was here I don't
22 know if you or Deb is the one who should answer but when was this photograph taken do you
23 know?

24
25 Mr. Quigless: I don't know. I'm going to defer that to the consultant.

26
27 Ms. La Costa: Okay, it looks like a Google Earth picture that's was...that's way old.

28
29 Ms. Mitchell: Debbie Mitchell. Yes, that's exactly what it is. I corresponded also with the Real
30 Property Tax website. There's a way to view the parcel and it provides the same thing. So that
31 was just intended to how the end of the length of the driveway and the home under question at
32 the end of it.

33
34 Ms. La Costa: Okay. Chair?

35
36 Mr. Hudson: Go ahead.

37
38 Ms. La Costa: Thank you. Debbie please. Thank you. You said that the fourth bedroom is
39 actually an office currently?

40
41 Ms. Mitchell: That's what is depicted in the photograph.

42
43 Ms. La Costa: Okay, does it have a closet?

44
45 Ms. Mitchell: Yes it does.

46

1 Ms. La Costa: And a window?
2
3 Ms. Mitchell: Correct.
4
5 Ms. La Costa: And 80 square feet minimum?
6
7 Ms. Mitchell: Correct.
8
9 Ms. La Costa: Okay, thank you.
10
11 Ms. Mitchell: It did pass the home inspection report and was signed off by the home inspector
12 as a bedroom.
13
14 Ms. La Costa: Okay, thank you.
15
16 Mr. Hudson: Commissioner Tackett.
17
18 Mr. Tackett: No questions at this time.
19
20 Mr. Hudson: Thank you. Commissioner Gomes.
21
22 Ms. Gomes: No questions.
23
24 Mr. Hudson: Commissioner Carnicelli.
25
26 Mr. Carnicelli: Thank you Chair. Ryan was there...was this, I guess, you know I'm gonna pass
27 on the question. I'm good Chair. Thanks.
28
29 Mr. Hudson: Commissioner Hill.
30
31 Kahu Hill: I'm good.
32
33 Mr. Hudson: Commissioner Pali.
34
35 Ms. Pali: Is this just for our department or could I ask a question of the applicant?
36
37 Mr. Hudson: You can ask any questions you want.
38
39 Ms. Pali: I'd like to ask a question to the applicant please.
40
41 Mr. Horst: Steve Horst.
42
43 Ms. Pali: Hi, I just actually I wanted to ask you now having heard a lot of the testimony from
44 your more immediate neighbors and across the street. Is there anything that you've been able
45 to think about that could do anything different or to address their concerns that you could
46 consider including after sort of considering any valid concerns that you may have heard today?

1
2 Mr. Horst: Yeah, I think I understand their concerns and I wanna be respectful to all my
3 neighbors so, I mean I'm willing to limit the number of rentals to one a month. I'm not looking to
4 do a large volume of business, people in and out constantly. It's not really my intention. I also,
5 I'd be willing to make the pledge that if I am granted this and there are problems that I would
6 cease and desist. It's not something I have to do, come hell or high water that you know that
7 I'm doing my thing and disregarding my neighbors. I want to be a good neighbor. I want to live
8 in community with everyone in the cul de sac and beyond.

9
10 Ms. Pali: Thank you.

11
12 Mr. Hudson: Commissioner La Costa.

13
14 Ms. La Costa: Mr. Horst please.

15
16 Mr. Horst: Steve Horst.

17
18 Ms. La Costa: Thank you. So you are aware that most of your neighbors are in opposition
19 because of experience in the past and you mentioned that you would shut it down if there were
20 any complaints. So knowing the opposition do you still feel like you should move forward for the
21 SUP?

22
23 Mr. Hudson: Denise could you please repeat the question?

24
25 Ms. La Costa: So Mr. Horst hearing the opposition and reading the letters that you have no
26 doubt seen you mentioned that you would shut this, shut your vacation rental down if there were
27 any problems. And again, hearing all the opposition if it's not something you need to do come
28 hell or high water then why would you go ahead with it when you know there's so much
29 consternation from your neighbors?

30
31 Mr. Horst: Yeah, thank you. So I don't feel that the fears my neighbors have are fair to me
32 'cause I've not operated a vacation rental. I know that there are illegal rentals and that there are
33 bad managers and so there are problems I understand that. But I believe that it can be done
34 without those kind of problems if it's managed properly. So I'm just asking for the opportunity to
35 prove myself that I can manage it without having those kind of issues and negative impacts.
36 And I'm committed to doing it right.

37
38 Ms. La Costa: So you have never rented the home previously nor have you had paying guests
39 previously?

40
41 Mr. Horst: I have not.

42
43 Ms. La Costa: Okay, thank you.

44
45 Mr. Hudson: Mr. Tackett.

46

1 Mr. Tackett: I have nothing.

2

3 Mr. Hudson: Ms. Gomes.

4

5 Ms. Gomes: I have a question.

6

7 Mr. Hudson: Mr. Horst.

8

9 Ms. Gomes: No not ...(inaudible)...I apologize.

10

11 Mr. Quigless: Ryan Quigless.

12

13 Ms. Gomes: Director, there's no recommendation that is being made is that correct.

14

15 Mr. Quigless: That's correct.

16

17 Ms. Gomes: Based on the fact that there's the location—

18

19 Mr. Quigless: Of the protests.

20

21 Ms. Gomes: Of the protests. We've, we've had in the past many though other places of this
22 sort is there a reason that this particular project or this particular request SUP that you guys are
23 taking this stand?

24

25 Mr. Quigless: Well, I can't—

26

27 Ms. Gomes: Is that okay? Director...(inaudible)...I'm sorry.

28

29 Ms. McLean: Yes, thank you for the question and I'm glad we have the chance to respond to
30 that because the staff report and recommendations are finalized about two weeks prior to your
31 meeting so that they can get finalized, they can get copied, they can get sent to the
32 commissioners, they need to be posted online at the same time. The public hearing notices
33 though have gone out and so we continue to get comments even after that date. And so by the
34 time the report and recommendation went out we had received some opposition so we really
35 weren't sure where we were in terms of making a recommendation because we were concerned
36 about opposition but couldn't go so far as to include that that one criteria was not going to be
37 met. And so that's why we left it open so that we wouldn't have to change our mind or anything
38 like that because we anticipated that there would be more input today and so we left it open for
39 the commission to decide. It's not often that we do that and especially with these operations the
40 Commission has discussed before well, what threshold has to be hit in order for the
41 Commission to make a conclusion to deny. And again, it comes down to the criteria that you're
42 looking at for that particular permit and does the testimony that you've received lead you to
43 conclude that one of those criteria have not been satisfied. By the time we did the
44 recommendation we couldn't make that conclusion nor were we comfortable though
45 recommending approval. So that's why we said no recommendation at that time.

46

1 Ms. Gomes: Chair, I'm sorry Director may I just to follow up? So you mentioned a criteria. The
2 criteria that you guys, for your Department that is looking at that criteria would be in regards to
3 the amount of opposition? Is there a number or is there a specific criteria that I'm unaware of
4 that makes a difference?
5

6 Ms. McLean: For this application for a State Special Permit if you look on Page 2 of your
7 recommendation sheet it lists five criteria. So these are the tests that the applicant needs to
8 meet in order for the Commission to grant approval and so it's that Number 2, which Ryan has
9 pointed out, the desired use will not adversely affect surrounding property.
10

11 Ms. Gomes: I see. And this is what is basically why there's no recommendation?
12

13 Ms. McLean: Because we were not able to conclude on Number 2 that that has been satisfied.
14

15 Ms. Gomes: Okay. Thank you.
16

17 Mr. Hudson: Mr. Carnicelli.
18

19 Mr. Carnicelli: Thank you Chair. So Director I have a question that I don't know if you can
20 answer and that is, of all of the STRH Permits and B&B Permits that have been issued since the
21 ordinances were adopted how many of those have been revoked because of like say, you know,
22 whether it's complaints, noise complaints, you know. I know that some of them through just
23 attrition people haven't renewed or whatever it is, but how many have actually been revoked
24 because they have not met the conditions with which we've placed on them?
25

26 Ms. McLean: I would guess that it's fewer than 10, but there have been some that have been
27 revoked. I know that there are ones that have been revoked because they were advertising
28 rooms or accommodations that weren't included by their permit. Let's say they got a permit for
29 three bedrooms and we find out that they're renting five or they added on a cottage that wasn't
30 covered by their permit. So have, we have revoked permits but not many at all.
31

32 Mr. Carnicelli: If could follow up then just roughly how many have been issued over the years, I
33 mean...cause I know we have the different caps and things like that, about how many do we
34 have out there, you know running legally not the illegals, but the legal ones?
35

36 Ms. McLean: Total B&B and STRH is about 400 permitted.
37

38 Mr. Carnicelli: Okay, thank you Chair.
39

40 Mr. Hudson: Commissioner Hill.
41

42 Kahu Hill: No questions Chair.
43

44 Mr. Hudson: Commissioner Tackett, Commissioner Gomes.
45

46 Ms. Gomes: No thank you.

1
2 Mr. Hudson: Any other Commissioners? Okay, before we open it up to motions and having
3 them read the recommendation. I remind the Commission that we're voting on the Special Use
4 Permit. We are not voting on the Short-Term Vacation Rental, okay. And when we vote on this
5 we have to make sure that it matches all the criteria or if it doesn't...if it doesn't it has to be
6 basic preponderance of evidence, something 51 percent versus 49. If it's not clear and
7 convincing, it's not proof beyond a reasonable doubt, it is a preponderance of evidence. Is it
8 more likely than not? You have to consider the five criteria and I'll let Corp. Counsel go into that
9 right now.

10
11 Mr. Galazin: Thank you Mr. Chair. So again as the Director pointed out it's on Page 2 of the
12 recommendation sheet or it's on Page 3 of the beginning of the packet. But Number 1, is that
13 use shall not be contrary to the objectives sought to be accomplished by Chapter 205 and 205A,
14 HRS, Rules of the Land Use Commission. Basically does it, does it meet the intent, underlying
15 intent of the agricultural statute that's put forth by State Law? Number 2, the desired use would
16 not adversely affect surround property. Number 3, the use would not unreasonable burden
17 public agencies to provide roads and streets, sewers, water, drainage, and school
18 improvements, and police and fire protection. Number 4, unusual conditions, trends and needs
19 have arisen since the district boundaries and rules were established. And Number 5, land upon
20 which the proposed use sought is unsuited for the uses permitted within the district.

21
22 Now generally speaking as the Chair has mentioned there's a preponderance of the evidence
23 standard. It is incumbent upon the applicant to meet that standard. So just to clarify it's not that
24 you need to find by preponderance of the evidence that one of these is not met. You have to
25 find by a preponderance of the evidence that all five are met. And that's based on what the
26 applicant's provided, that's based on the testimony you've received. You've gotta consider that
27 you know some of the testimony had opinions, some were factual statements about things that
28 people witnessed and observed, some were just opinions about people's experiences with other
29 things. And I think we've already heard from the applicant that this hasn't been or at least the
30 applicant has not rented this out on a short-term basis prior to today. So we don't have a record
31 of the specific applicant, the specific property and this proposed use. So you've gotta kind of
32 rely on what's presented to you, what evidence you have, and that's on the basis on what
33 you've gotta make your decision and I would just encourage you to again think about what
34 you've received and what you've heard today, what you discussed and look at it through the
35 lens of these criteria and not only say what criteria if you are inclined to grant it that's fine. If
36 you're include to deny do make sure that you tie in the facts, the evidence you've received to
37 the points of law, the criteria so that they mesh and we can understand and the applicant can
38 understand and the public can understand exactly what decision you're making and why. Thank
39 you Chair.

40
41 Mr. Tackett: I got a question for Corp. Counsel.

42
43 Mr. Hudson: Go ahead.

44
45 Mr. Tackett: I would like to know if you see any circumstances in which the CPR where they
46 have that shared parcel where the liability would be shared between those two parties, do you

1 see any circumstances where liability would be shared between the two parties even though
2 they have different numbered lots.

3
4 Mr. Galazin: Thank you for that question Commissioner Tackett and Chair. I honestly wouldn't
5 want to render an opinion as to the liability on that because I would be providing legal advice on
6 something that frankly the County isn't going to weigh in on. You know anybody who is
7 concerned about potential liability being on a parcel that's been CPRd should seek independent
8 legal counsel. Thank you.

9
10 Mr. Carnicelli: Chair, chair?

11
12 Mr. Hudson: Go ahead.

13
14 Mr. Carnicelli: Clarification David. The applicant's got the burden but how does, how does the
15 applicant prove a negative? If I go to, if I go to Number 2, right? 'Cause that's really, this whole
16 thing comes down to whether or not this is going to adversely affect the neighborhood or not.
17 That's kinda what for me personally feels like this is where the decision lies. So how does the
18 applicant prove a negative?

19
20 Mr. Galazin: Chair?

21
22 Mr. Hudson: Go ahead.

23
24 Mr. Galazin: Thank you. They prove that through you folks. Your questions, your discussion
25 and the way that you weigh the evidence that you have. It is, it is difficult to make a decision. I
26 think you've highlighted what a lot of people may not appreciate about the difficulty that you
27 folks are often put in that you are as you said oftentimes trying to find out if somebody has
28 proven a negative. The other thing I would also add is even if you think that this might have an
29 impact is there a way that you can put conditions on it that would mitigate that impact? That's
30 another way to say okay, there's a potential for risk, we could see that. We however feel that if
31 we do X, Y, and Z that we have controls in place that would take whatever the perceived harm
32 is and lessen that risk of perceived harm whether it's, you know, pertains to revocation, whether
33 it pertains to time frame of the initial permit. You know, there are all sorts of different ways you
34 could go with it in terms of how you try to avoid something that is really an unknown. You're
35 trying to quantify something that has not happened yet and you want to make sure it doesn't
36 happen. You don't want it to happen and then come back and say, well we should have done
37 this. But you also don't want to be chasing ghosts. So that's why sometimes it's easier to be
38 here than there.

39
40 Mr. Hudson: Go ahead.

41
42 Kahu Hill: This is for Corp. Counsel. I heard three people mention today...that came up, were
43 concerned about possible liability and I wanted to know if you could give any input on that with
44 the property lines if that could have that experience, if they could be liable from something
45 happening on their property, on this property.

46

1 Mr. Galazin: I can't comment on that, but thank you.

2

3 Mr. Hudson: Go ahead.

4

5 Ms. Pali: May I make a comment Chair? So this is a, this is a Special Use Permit. I believe we
6 just approved a Special Use Permit and if I may just collaborate the one similarity that was
7 mentioned and I also would like to correct my statements. I stand corrected on the fact that
8 associations for Ag zoned neighborhoods cannot limit the uses of that ag land per Zoning Code
9 therefore, I suppose if Mr. Horst wanted to put a pig farm on his property then I suppose he
10 would have that right and I so I would like to just clarify and stand corrected on my last
11 comment. Having said that, he's not trying to put a pig farm on the property which I'm sure the
12 neighbors are probably super excited about and so I would like to say though that my heart
13 goes out specifically and directly for the neighbor who is sharing the larger, the actual lot that's
14 been CPRd. I feel like, for me, his testimony I weighed...I would weigh more heavily on since
15 he was kind of closest. I mean it sounds like based off of his testimony he could cause him
16 distress. So I did ask Mr. Horst if he had any other additional items he could consider to try to
17 mitigate the concerns that could totally be true once this started going and you were able to
18 answer some things. I don't know though if it's enough to make your neighbors feel
19 comfortable. I don't know if I can find right now a happy medium so that's just what I'm
20 struggling with.

21

22 Mr. Hudson: Denise.

23

24 Ms. La Costa: I was just going to say if the CC&Rs and this may be totally irrelevant, if the
25 CC&Rs forbid pig farms, roosters and cows within a subdivision and even if it's Ag you probably
26 don't get to do that.

27

28 Mr. Carnicelli: You can't restrict that.

29

30 Mr. Hudson: All right Commission let's get back to the task at hand. Mr. Tackett.

31

32 Mr. Tackett: Nothing at this time.

33

34 Mr. Hudson: Ms. Gomes.

35

36 Ms. Gomes: Chair, I mean, I just...my clarification the SUP is for two years?

37

38 Mr. Carnicelli: Can do it for whatever we want.

39

40 Ms. McLean: Well, if the Commission were to approve the State Special Permit then you could
41 determine the amount of time that it would be granted.

42

43 Ms. Gomes: Over two years or?

44

1 Ms. McLean: You could grant it for one year, you could grant it for five years. What's listed in
2 the recommendation is if you choose to grant it these are provided for your consideration. So
3 you can, you can make a different determination on the time frame if you choose to approve.

4
5 Ms. Gomes: Okay, so I apologize, just for clarification purposes Recommendation 1, states
6 shall be valid two years from the date of approval. We as a commission can change this two
7 years to five years, ten years, "X" years? Is that my understanding?

8
9 Ms. McLean: That's correct.

10
11 Mr. Hudson: Mr. Carnicelli.

12
13 Mr. Carnicelli: So I have another question for Mr. Galazin since he likes being in that chair
14 versus this one. It's kind of an interesting play on words here, I'm trying to just reread back
15 through the five criteria. But Number 5, the land upon which the proposed use is sought is
16 unsuited for the uses permitted within in the district. So suddenly...I mean, it's zoned Ag, it's
17 not suited to do ag so then therefore, they need this special permit, but they're doing ag.

18
19 Mr. Galazin: Chair? I would probably direct that analysis to the Staff Planner to analyze that.

20
21 Mr. Hudson: Ryan if you would please?

22
23 Mr. Quigless: Ryan Quigless, Staff Planner. This is the general basis for our analysis. So I
24 guess this kinda brings me to the reason for not having a recommendation is because when
25 collectively we meet and discuss it amongst each other there's room for coming to a conclusion
26 that I was not able to come to during the analysis.

27
28 Mr. Carnicelli: I'm just gonna say this now calls...I'm just reading this differently for the first
29 time. It now calls into question every single STRH in Ag 'cause we're saying to get the STRH
30 Permit you have to be doing Ag. But the Special Use Permit is saying it has to be
31 unsuitable...unsuited for ag. So they're now in conflict as I'm, you know, now taking
32 Mr. Galazin's seat unless he wants to reinterpret what I'm now compondering.

33
34 Mr. Galazin: Chair, if I could try and summarize all this back together here. What you're gonna
35 look at is every time if you're talking about a Special Use Permit in Ag and you're less than
36 15 acres you're here. Every time it's going to be some kind of use that's something other than
37 just agricultural use. If the parcel really isn't self-sustainable as just flat out agriculture with, you
38 know a farm dwelling and farming activities, your traditional stuff then anything that requires a
39 Special Use Permit they're going to come into you or come into the State Land Use Commission
40 depending on the size of their parcel. So there is some agricultural growing activity. I think
41 Mr. Quigless analysis referred to the agricultural rating of Class E for the property used as
42 grazing for the past. It's rocky, not suitable for modern commercial mechanized agricultural
43 operations. So there is some farming going on. There's an approved farm plan. However, this
44 property is not a self-sustaining farm property. So this is another use that could be permitted if
45 it's not something that's supportable through just ag.

46

1 Mr. Carnicelli: Okay.

2

3 Mr. Galazin: And a lot of times because there's so many properties that are state designated ag
4 that a lot of parcels especially the smaller ones it may not be suitable as the entire thing. So
5 you're gonna look at in terms of...well, parcel we're talking about CPR lot right now just to make
6 sure we're clear about that. Just that use can't be in its entirety.

7

8 Mr. Hudson: Commissioner Hill.

9

10 Kahu Hill: I just wanted to say no matter what we all decide here really just hearing everyone
11 today and your intention and your property and your wife and everyone here as far as healing
12 and health and life itself and I just saw a common ground between all of you besides being
13 neighbors but many of the testifiers as well speaking about why they're in this area and on that
14 straight and within this place for their healing for their life. Mahalo.

15

16 Mr. Hudson: Commissioner Tackett, anything? Ms. Gomes.

17

18 Ms. Gomes: I'm good. Thank you.

19

20 Mr. Hudson: Okay, this is considered a contested case. This is why testimony must be sworn
21 to. Before any could testify we had to ask them if they were gonna tell the truth because if they
22 weren't going to tell the truth, we weren't gonna consider their testimony. Kinda goes without
23 saying. And this is also why the applicant had a chance to rebuttal. In other words, the
24 applicant had a chance to talk to the person who was testifying against him. We're setting up
25 everything for a contested case hearing to make sure that we played all of our bases. And the
26 last base we have to tag, David, is voting privileges.

27

28 Mr. Galazin: Thank you Chair. And so you know, pursuant to E & J Lounge case which is
29 probably in the State of Hawaii, you know, one of the controlling cases for contested case
30 administrative law. If any member of the commission or body has not heard or received all of
31 the evidence that was presented before the body then that member should refrain from making
32 a vote on the final decision lest the decision itself be challenged on the bases that one of the
33 members did not possess all the information that all of the members did. So
34 Commissioner Gomes if you're okay with that, you know, certainly your participation and
35 questions are all very relevant and helpful and useful to this Commission but because you
36 missed a portion of testimony just ask that—

37

38 Ms. Gomes: I understand.

39

40 Mr. Galazin: Thank you.

41

42 Mr. Hudson: Okay, there is no recommendation. So we know what's before us. Reminder that
43 it's a Special Use Permit. I'll open up the floor up to any motion. This is why we get paid the big
44 bucks.

45

46 Mr. Carnicelli: Chair?

1
2 Mr. Hudson: Go ahead.

3
4 Mr. Carnicelli: So I honestly just said Chair and I don't know which way I'm gonna actually
5 make a motion here. Everybody else is probably just as confused as we are. As for the sake
6 of, for the sake of conversation what I would like to do is make a motion to approve the State
7 Special Use Permit with the recommendations 1 thru 6 that were in the staff planning report with
8 the exception of the permit shall be valid for one year instead of two under Item No. 1. So my
9 motion for the sake of conversation is going to be grant the permit with the six conditions
10 changing it from two years to one.

11
12 Mr. Hudson: Thank you. Is there a second? No second? Seeing no second, the motion dies.

13
14
15 **It was moved by Mr. Carnicelli to approve the State Special Permit for a one-year time**
16 **period with the six conditions. The Motion Died for Lack of a Second.**

17
18
19 Mr. Hudson: Do we have another motion? Go ahead.

20
21 Ms. Pali: I'd like to...I don't mean to be tedious but I think this is...I think a lot of us are just
22 really on the fence and so I think I would be okay with...I'd like to make a motion to approve it
23 as well, but I'd like to go six months. I feel like six months just really gets him to get the
24 manager in place, maybe test two or three people and then just have an opportunity to talk story
25 with the neighbors. You know, talk story with your neighbors, how did it go and just really work
26 on trying to, you know, work together as a community and then come back. I would have gone
27 for the one year but I don't...one year can be a long time, and so anyway that's my motion.
28 With, with...along with the recommendations 1 thru 6 as Planning Department.

29
30 Mr. Carnicelli: Second for the sake of discussion.

31
32 Mr. Hudson: Okay, we can now discuss the motion for six months. Go ahead.

33
34 Mr. Carnicelli: So, six months is gonna be tough just solely from the standpoint of your talking
35 about like he may not be able to get reservations. It may take him another three months to get
36 his STRH permit.

37
38 Ms. Pali: Oh okay.

39
40 Mr. Carnicelli: You know there's still...

41
42 Ms. Pali: ...(inaudible)...

43
44 Mr. Carnicelli: You know there's that. The other parts of this, I mean it is and I don't know if we
45 can make this as conditions of the SUP or if it has to be part of the STRH, but you know he
46 made the representations of you know a cease and desist should he get any RFSSs. One rental

1 per month, so you know, things like that which...so again, and if there's not consensus here,
2 you know I have no problem you know saying we'll vote this one down and we can go a different
3 direction, but I just think for the sake of discussion to say hey, is there way with which we can
4 recommend this for approval and put mitigations in place to address the neighbor's concerns.

5
6 Ms. Pali: I would like to withdraw my motion.

7
8 Mr. Hudson: You're gonna withdraw your second.

9
10 Mr. Carnicelli: I will withdraw my second. Thank you.

11
12
13 **It was then moved by Ms. Pali, seconded by Mr. Carnicelli to approve the State Special**
14 **Permit for a six-month time period which Ms. Pali then withdrew her motion and**
15 **Mr. Carnicelli withdrew his second after discussion.**

16
17
18 Ms. Pali: And if he's willing to put his original motion, I would second yours. No, because
19 there's one more step and you're right it could take many more months. So by the time if that
20 even went through, even if the second step went through then he would only have a few months
21 left anyway with the one year. So whatever you decide.

22
23 Mr. Hudson: The floor is open for a motion though.

24
25 Ms. McLean: If you'd like to consider the timing, whatever timeframe you may choose it could
26 be that amount of time from the date of approval of the STRH permit so that could be an option
27 for them to coincide with each other.

28
29 Ms. Pali: If I can speak to the motion?

30
31 Mr. Carnicelli: There is no motion on the floor. So you can make it.

32
33 Ms. Pali: Oh, discussion?

34
35 Mr. Hudson: Yeah we're in discussion.

36
37 Ms. Pali: Okay, so I think that all of the neighbors have valid concerns of what could potentially
38 happen due to other neighbors with illegal uses and even people that have permits maybe
39 they're not cracking down and managing well. So those are all valid and real. My person
40 problem is that he's not yet rented so we don't know if that would be his behavior of his guests.
41 So I'm having a hard time imposing something on him that he has not yet been guilty of. So I'm
42 just trying to find a happy medium. That's where I'm at.

43
44 Mr. Hudson: Denise.

45

1 Ms. La Costa: Thank you Chair. I'm looking at this and all of us are struggling with this, but
2 when I see the preponderance and the majority of neighbors are opposed to this, they live
3 there full-time, their experience has been not good as many people who live and I live nowhere
4 near this property. I live a mile and a half away, but all of us who have lived next to vacation
5 rentals whether they're legal or not have this noise issue and this nuisance issue and when you
6 live there full-time and you have this coming and going, there are sometimes when you just
7 have enough is enough and I understand neighbors living there full-time so I can't support any
8 motion on this.

9
10 Mr. Hudson: Well, we still don't have a motion. Kahu.

11
12 Kahu Hill: This is very challenging. But I'm looking at the conclusions of law so for me, I'm
13 hearing everyone today, it's just weighing, I'm feeling a weight. And here in this place in
14 Launiupoko where you could...where you could hear the whales, where you could hear the
15 waves and this very special place, I think it's a beautiful place to be and to share their homes
16 and for the grounds that are here I would like to make a motion to deny because of Number 2,
17 that the desired use will not adversely affect surrounding property and I think it already has
18 begun.

19
20 Ms. La Costa: I second.

21
22 Mr. Hudson: We have a motion on the board to deny. It has been seconded. We're now open
23 for discussion.

24
25 Kahu Hill: I'll speak to the motion. With such overwhelming testimony that was given to us that
26 I've read through all of it and heard from everyone that took their time today, some of those
27 which are in here most of them which are living on Pua Niu Way and I can hear about what
28 things that have been, others that have not done the right way in the past, but just looking at this
29 community and the reasons people are living there and I have to look at the conclusions of law,
30 Number 2 is not being met and it's for that reason, I don't know about Number 5, Carnicelli that
31 is possible, but it's for that reason that I just...it's not pono for me to vote it forward. Mahalo.

32
33 Ms. La Costa: And I'd like to speak to the second. Not only is Number 2 in my mind and heart
34 also not met, but also the question of liability whether we're here to decide that or not, yes an
35 attorney should be consulted to find out whether that is true, but I'd hate to have somebody on
36 my property and have a death or an injury and then me get sued because I'm part of the master
37 parcel. So I decided I can't vote for, I vote with the denial as well.

38
39 Mr. Hudson: Carnicelli.

40
41 Mr. Carnicelli: Thank you Chair. So again, still wrestling with all this because a lot of the
42 testimony was about...I don't think that everyone is clear on the difference between SUP2 and
43 an STRH Permit. And most of the testimony was really geared more towards an STRH Permit.
44 Most of it was opinion not based necessarily in fact. A lot of it is fear. You know we get these
45 permits in front of us all the time, every neighborhood. You know there's someone whether it's,
46 you know, a couple of neighbors, whether it's the whole neighborhood are afraid what's gonna

1 happen to the neighborhood. Everyone in our community deals with illegal vacation rentals.
2 They're a gnarly animal. They're crazy.

3
4 To put the burden of what illegal vacation rentals are onto people that are trying to do it the
5 proper way I feel for us is unfair. So as I'm going through this and I'm going okay, has the
6 applicant proven a negative? The other part too is, you know, Number 5, unsuited for uses
7 permitted within the district. The other piece of this though that I'm gonna drag in in support of
8 the motion and this is why I'm gonna go ahead and support the motion is Number 4, unusual
9 conditions, trends, and needs have arisen since the district boundaries and rules were
10 established. And where I'm gonna go with that is affordable housing. Is that since these
11 ordinances were put in place, since the districts were put in place, housing for our local people
12 has become more, and more, and more of an issue and so what I'm gonna do is I'm going to for
13 the record say that I'm gonna support the motion based on Condition Number 5, I'm sorry
14 Condition Number 4, unusual conditions, trends, and needs have arisen since the district
15 boundaries and rules were established. So I'm gonna support the motion by citing Number 4.

16
17 Mr. Hudson: Thank you. Any further discussion?

18
19 Mr. Galazin: Thank you Chair. Commissioner Carnicelli. If I could get you to clarify something
20 for me. So the criterion that you're referring to Number 4 says that a State Special Use Permit
21 can be granted if these five things have been demonstrated. And Number 4 is demonstrated
22 that unusual conditions, trends and needs have arisen since the district boundary rules were
23 established. So that is something that would have to be shown that unusual conditions and
24 trends have arisen. So you're saying they haven't or that they have because you kinda
25 sounded both ways.

26
27 Mr. Carnicelli: See now you know what it's like to be inside my head. Okay, I'm gonna retract
28 then since I have twisted it up in my head and I'll just I'm gonna support the motion based on
29 Number 2, the desired use will not adversely affect the surrounding the properties.

30
31 Mr. Hudson: Very Well. Any further discussion? Go ahead.

32
33 Ms. Pali: I will support our group and then and also the neighbor who shares the CPRd lot and
34 also decide to support the motion that Number 2 would impact the neighbor with the shared lot.

35
36 Mr. Hudson: Thank you. Any further discussion? No further discussion. All right, all those in
37 favor of the motion to deny the application say, aye.

38
39 Commission Members: Aye.

40
41 Mr. Hudson: We have five ayes. Motion carries. Application is denied.

42
43 **It was moved by Kahu Hill, seconded by Ms. La Costa, then**

44
45 **VOTED: To Deny the State Special Permit.**

46

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

5 Mr. Hudson: Five-minute recess.
6

7 A recess was called at 2:12 p.m., and meeting was reconvened at 2:19 p.m.
8

9 Mr. Hudson: Commission is back in session. We are no Item Delta 1, Director's Report.
10

11 Ms. McLean: Thank you Chair. This is a notification to the Commission that the Department
12 has approved a permit transfer of a Special Management Area Use Permit, Shoreline Setback
13 Variance and Planned Development Steps I, II, and III Approvals for the Andaz Maui located at
14 3550 Wailea Alanui Drive, TMK: 2-1-008:067 in Wailea, and this was a transfer from Wailea
15 Hotel and Beach Resort, LLC to HHR AMW LLC. Again, this is for notification purposes.
16 Candace Thackerson is the project planner.
17

18 **D. DIRECTOR'S REPORT**
19

- 20 1. **MICHELE MCLEAN, AICP, Acting Planning Director transmitting the**
21 **following application to the Maui Planning Commission pursuant to the**
22 **provisions of the Maui Planning Commission's Special Management Area**
23 **Rules that the following permit transfer has occurred by approval letter**
24 **dated January 9, 2019:**
25

26 **HHR AMW LLC requesting the transfer of permit holder from WAILEA**
27 **HOTEL & BEACH RESORT, LLC to HHR AMW LLC of the Special**
28 **Management Area (SMA) Use Permit, Shoreline Setback Variance, and**
29 **Planned Development Steps I, II, and III Approvals for the Andaz Maui**
30 **located at 3550 Wailea Alanui Drive, TMK: (2)2-1-008:067, Wailea, Island of**
31 **Maui. (SM1 2005/0035, SSV 2005/0004, PD1 2005/0006, PD2 2005/0007, PD3**
32 **2011/0001) (C. Thackerson)**
33

34 **This is for notification purposes.**
35

36 Ms. Candace Thackerson: I don't have much to add to that. It's a notification of transfer. We
37 don't always get them for every parcel only when the SM1 is still open, when the permit is still
38 open and pending then the Commission is just notified of transfer of ownership. Are there any
39 questions.
40

41 Mr. Hudson: This is notification purposes.
42

43 Ms. Thackerson: Yes.
44

45 Mr. Hudson: Everybody, we all acknowledge this.
46

1 Commission Members: Yes.

2

3 Mr. Hudson: Thank you.

4

5 Ms. Thackerson: I wish it was that easy for all of them.

6

7 **The Commission acknowledged the notification of transfer of permit holder.**

8

9 Mr. Hudson: All right we're on Item Delta 2. Director.

10

11 Ms. McLean: Thank you Chair. This is a notification to the Commission of the Department's
12 intent to process to a time extension request administratively and this is for the same project for
13 now HHR AMW LLC for a two-year time extension on the condition to complete construction on
14 the SMA Use Permit for the Andaz Maui Project.

15

16 **2. MICHELE MCLEAN, AICP, Acting Planning Director, notifying the Maui**
17 **Planning Commission pursuant to Section 12-202-17(e) of the Maui**
18 **Planning Commission's SMA Rules of her intent to process the following**
19 **time extension requests administratively:**

20

21 **a. HHR AMW LLC requesting a two (2)-year time extension on the**
22 **condition to complete construction on the Special Management Area**
23 **Use Permit, Shoreline Setback Variance, and Steps 1, II, and III**
24 **Planned Development approvals for the Andaz Maui at Wailea**
25 **Resort located at Wailea Alanui Drive, TMK: (2) 2-1-008: 067, Wailea,**
26 **Island of Maui. (SM1 2005/0005) (SSV 2005/0004) (PD1 2005/0006)**
27 **(PD2 20050007) (PD3 2011/0001) (C. Thackerson)**

28

29 **The Commission shall acknowledge receipt of the request. The**
30 **Commission may decide whether to waive its review or review the**
31 **time extension request at a future meeting.**

32

33 Ms. Candace Thackerson: So the item is before you because it's located in the Special
34 Management Area and they're requesting a two-year time extension which would be for you
35 guys to waive your review and allow the Department to grant administratively a two-year time
36 extension. As you can see following the last item this is a new permit, a new project for this
37 company. So this would be the first time extension by this entity for this project. They just
38 wanted to be able to reserve the right to complete that last building. As you know the Andaz is
39 open and operational. There's just some...there's just one building that they have the option to
40 complete and the new ownership would like a two-year extension to be able to pursue that. The
41 new date would be to complete construction would be March 16, 2021.

42

43 Mr. Hudson: I have a question Candace.

44

45 Ms. Thackerson: Yes.

46

47 Mr. Hudson: This is in the SMA right?

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Ms. Thackerson: Yes.

Mr. Hudson: Did the Planning Commission ever get to review any of the plans before today?

Ms. Thackerson: Yes. This body has seen the SM1 back in...well, it says 2005 was the date but I don't think it was approved until 2009 or something much, much later 'cause there was many different revisions of it. There was also a shoreline setback variance granted by this body and then the PD I, II and PD III so nothing's changing, it's the same set of plans it's just the new ownership. That one last building is kind of outstanding.

Mr. Hudson: I understand but in 2009 nobody on this Commission.

Ms. Thackerson: No.

Mr. Hudson: So we have no continuity. We have no idea, really I don't, what you guys are talking about. I don't know how it's gonna affect the shoreline or anything.

Ms. Thackerson: Yes, this body...and that's why we're here to waive or not to waive review of the two years. If you would like to not waive it then we can come back and present you with the plans and more details about that but if you, you know consider that this all went before the Commission and was approved and I did submit...I believe in my...in the packet there is the last...there's a site plan on the very last one and what they're asking for just Building A.

Mr. Hudson: Okay, we're gonna...we'll get back to you in a moment Candace.

Ms. Thackerson: Yeah, sure.

Mr. Hudson: We're gonna open up the floor to public testimony. Nobody signed up but anybody in the public wishing to testify on this particular item? Okay, seeing none, public testimony is closed. All right Commissioners discussion? Commissioner Carnicelli.

Mr. Carnicelli: Go ahead, go ahead.

Ms. Gomes: Thank you Chair. Candace are they sure it's 2021 they're...

Ms. Thackerson: For the two years?

Ms. Gomes: Yes.

Ms. Thackerson: Yeah, I believe right now the permit expires in 2019, so two years onto that would be 2021 if I'm doing my math right. Two plus 19, 21.

Ms. Gomes: Yeah, are they just to further that would you...are they intending any further extensions? Is this a possibility that they may not be finished by 2021?

Ms. Thackerson: And that's something I would have to defer to the applicant.

1
2 Ms. Gomes: Chair is that okay?
3
4 Mr. Hudson: Yes, for the record please identify yourself.
5
6 Mr. Justin Reed: Hi, Justin Reed I'm the applicant. We've already started the project from the
7 design standpoint so we currently expect to meet that deadline. We've already hired the design
8 team and the engineering team to start and parallel with this approval so were confident we can
9 meet that date.
10
11 Ms. Gomes: Okay, confident then?
12
13 Mr. Reed: Yes.
14
15 Ms. Gomes: Okay. Thank you.
16
17 Mr. Hudson: Commissioner Carnicelli.
18
19 Mr. Carnicelli: Thank you. I'm sorry what was your name again?
20
21 Mr. Reed: Justin Reed.
22
23 Mr. Carnicelli: Justin and are you the applicant or are you the owner?
24
25 Mr. Reed: Both. I guess I'm both. I'm the owner, I work with the ownership group that owns
26 the Andaz.
27
28 Mr. Carnicelli: So when you guys purchased this was it...
29
30 Mr. Reed: March of...of last year, March of 2018.
31
32 Mr. Carnicelli: Okay, so 11 months ago, well 10, 11 months ago you knew that this permit was
33 expiring in one year.
34
35 Mr. Reed: March of this year, 2019.
36
37 Mr. Carnicelli: Correct. So when you bought it you basically had a year left to complete the
38 entire Building A.
39
40 Mr. Reed: Correct, that it's current without obtaining an extension on construction.
41
42 Mr. Carnicelli: Correct. And so I guess I'm just having a hard time saying like okay, you didn't
43 come to us before buying it to see if you could get the, you know, the extension and then you
44 waited until October you know, to then come to us to get the extension. I'm not saying that we
45 wouldn't grant it but it just seems a little bit almost like—
46
47 Ms. Gomes: Intentional.

1
2 Mr. Carnicelli: No, I'm not gonna say intentional, but it just...is I don't know the word to use but
3 to say hey listen you know it's coming up on February, this thing expires March 16th and you
4 guys just bought this, it seems like there's an assumption that you were gonna get it.

5
6 Mr. Reed: Right. Is we thought when we acquired it that to close out the permit this was one of
7 the approvals, the items for approval that was part of the initial SMA so yes, we had that
8 assumption. It's taken us this long to go through the feasibility and ...(inaudible)...geotech to
9 make sure that it actually be built, so yes.

10
11 Mr. Carnicelli: Okay, thank you.

12
13 Mr. Hudson: Commissioner Hill.

14
15 Kahu Hill: A couple of things I would like to ask you Justin. Are you speaking just then of the
16 Makena Wing?

17
18 Mr. Reed: I'm sorry, I don't...

19
20 Kahu Hill: I'm looking on here where it says Hotel Building A it says it's called the Makena
21 Wing, is that the one that we're looking just that part.

22
23 Mr. Reed: I only see Condo Building A designated on the site plan. I do not see the...no, this
24 is...we're only specific talking to Building A which is at the top right-hand corner adjacent to the
25 parking lot.

26
27 Kahu Hill: Sorry, there's a Building A below I see.

28
29 Mr. Reed: Condo Building A, yes.

30
31 Ms. Gomes: So mauka?

32
33 Unidentified Speaker: Upper right.

34
35 Ms. Gomes: Yeah mauka.

36
37 Kahu Hill: And is there anything we need to look at as far as shoreline setbacks, as far as the
38 information that has come in since this time?

39
40 Mr. Hudson: I can't answer that. I've never seen—

41
42 Ms. Thackerson: I can...sorry, Staff Planner Candace Thackerson I can speak to that. No the
43 shoreline rules have not changed during that time. We have some new shoreline rules that are
44 being proposed but they have not been accepted. Also that beach while it's a erosion sandy
45 beach it hasn't been moving progressively since the time that this was permitted, you know, the
46 beach has not disappeared rapidly. Does that answer your question?

47

1 Kahu Hill: It does. I'm familiar with Mokapu Beach.

2

3 Ms. Thackerson: Yes, exactly, exactly. And I do believe on the site plan this one's out of the
4 shoreline setback area so that shoreline setback variance is just open because the SM1 is for
5 the whole project, right. And that's why I have to include all the permits that are associated with
6 it, but that shoreline setback variance does not actually apply to that particular building because
7 it's out of the shoreline setback.

8

9 Kahu Hill: Mahalo Candace.

10

11 Ms. Thackerson: You're welcome.

12

13 Ms. Gomes: Chair.

14

15 Mr. Hudson: Ms. Pali any questions? P. Denise.

16

17 Ms. La Costa: I'm a little bit concerned being that none of us who currently sit on the
18 Commission are a privy to any of the blueprints or design details or anything else even though
19 Candace has been shepherding it for quite some time so it's difficult to make a decision on this
20 from my perspective because I don't have any of the bones of the body so to speak.

21

22 Mr. Hudson: Remember this is a decision making waive or not waive our review.
23 Commissioner Tackett questions?

24

25 Mr. Tackett: I have no questions.

26

27 Mr. Hudson: Thank you. Ms. Gomes.

28

29 Ms. Gomes: And I'm sorry I just wanted to...so this is...Director I'm sorry this is made to Staff
30 Planner Ann Cua so Candace is representing or is she...

31

32 Ms. Thackerson: I can explain if that's okay, I'm sorry Michele.

33

34 Ms. Gomes: I just noticed that on the...

35

36 Ms. Thackerson: So normally when it's a larger project and it came in because 2009 let's see
37 was I even here and how old was I, no I'm just kidding...no I'm just lying, so the more senior
38 planners will shepherd the project from the beginning and they will do all of the heavy lifting and
39 a lot of the drainage and all of that and of course, Ann is still with the Department but she is so
40 busy and she is now taking on other senior projects like Makena and things like that so then as
41 a training and part of the younger planner, the more junior planners coming up they will let us
42 then shepherd it and take over what they consider the easier more administrative process such
43 as amendments, time extensions for us to learn and follow and also take something off their
44 plates.

45

46 Ms. Gomes: Okay, thank you.

47

1 Ms. Thackerson: You're welcome.

2

3 Ms. Gomes: I just noticed that it was mentioned with her name and so I'm just wondering.

4

5 Ms. Thackerson: Exactly. As time goes on...

6

7 Mr. Hudson: Commissioner Carnicelli.

8

9 Mr. Carnicelli: Thank you Chair. I'm not sure if this is for you Michele or you David. As of
10 recently when we get SMA Permits coming for extensions whether it's a time extension to start
11 or a time extension to finish when it comes to us we basically only made the decision, the only
12 thing that's open is whether we give the extension or not like we don't open up the whole permit
13 again, it's just the date. It's yes, we'll extend the date or not.

14

15 Ms. McLean: What is in front of you today is whether or not to waive review and if you...

16

17 Mr. Carnicelli: No, I'm taking the step before that though is if we get there—

18

19 Ms. McLean: When you give the permit the first time?

20

21 Mr. Carnicelli: No, if we don't waive our review because we're sitting there talking about how
22 hey we have never seen this before, well if all we're doing is talking about moving a date or not
23 it doesn't matter whether we've seen it or not, it's just gonna be listen we can't change it.
24 There's nothing we can do, we can't add, we can't put a new condition on, we can't do any of
25 these other things so really right now we're just saying hey, if we don't waive review then we
26 can do this again and just basically talk about a date again without opening up any other
27 conditions or we can just say, you know they'll just do it administratively, you know, so that's...I
28 just wanna be clear that we're not opening up Pandora's Box here, we're talking about moving a
29 date.

30

31 Ms. McLean: Right. If for example you chose not to waive your review and that you wanted to
32 see it, we would bring it to you and we would show you more information and more plans, but
33 you're correct, the only thing that would be agendized would be the time extension.

34

35 Mr. Carnicelli: Thank you.

36

37 Mr. Hudson: Not yet. You have any questions?

38

39 Ms. Pali: Thank you for clarifying that. I was gonna do the same and so I just want to make
40 sure we understand. Thank you.

41

42 Mr. Hudson: Tackett?

43

44 Mr. Tackett: No, I have no questions.

45

46 Mr. Hudson: Ms. Gomes.

47

1 Ms. Gomes: I'm good. Thank you Chair.

2

3 Mr. Hudson: Okay, now the Chair will entertain a...wait, we don't need a recommendation.

4

5 Ms. Thackerson: I could give you one. The Department recommends that the Commission
6 allow the Department to...waives their review and allows the Department to administratively
7 approve a two-year time extension to complete construction for the new date of March 16, 2021.

8

9 Kahu Hill: I'd like to make a motion that we would waive our review and accept this two-year
10 time extension for the Andaz to build this condominium.

11

12 Ms. Gomes: Second.

13

14 Kahu Hill: And I would like to speak to that. Yeah, I just want to say I'm looking at this and
15 where Andaz is and this completion. This work has already been done here so it's just been
16 asking for an extension for us so as Carnicelli mentioned very important information that what
17 could we do here. So I'm just seeing we're allowing an extension, the work has already been
18 done before we got here and that is why I made the motion. Mahalo.

19

20 Mr. Hudson: Further discussion?

21

22 Mr. Carnicelli: Thank you Chair. Just to speak to the motion. I'm gonna vote in favor of the
23 motion and I know that we don't this but I'm gonna say with reservations. The reason why I'm
24 gonna say with reservations is because of what I said earlier where we have a new owner and
25 I'll just say it, coming from the mainland that assumed they were going to get this extension and
26 it just...you know, I mean as the body that's got to ultimately approve this and we're waiving our
27 own approval I found it a little bit...it just doesn't sit real well. So I'm gonna just...I'm not gonna
28 say no, but I'm gonna say I'm voting in favor of it with reservations. That's it. Thank you.

29

30 Ms. La Costa: Thank you Chair. I can't support the motion because I haven't seen the plans. It
31 is important because so many things have changed with the laws, with solar, with the way waste
32 water is distributed et cetera and this has been going on a long time and things have changed.
33 So I do not feel comfortable waiving review.

34

35 Kahu Hill: I would like to change my motion, retract my motion, no?

36

37 Mr. Hudson: We have a motion on the floor that has been seconded. We have a couple of
38 choice we could vote on the motion as it stands or you could withdraw your motion but then you
39 would have to have the second also withdraw his...

40

41 Kahu Hill: Can I just ask one question? I wanted to know with this have they broken ground on
42 this piece of parcel.

43

44 Ms. Thackerson: On that particular area?

45

46 Kahu Hill: Yes, just wondering for environmental and—

47

1 Ms. Thackerson: The applicant would have to answer that.

2

3 Kahu Hill: Could I just know that if you've broken ground for the Condominium A area?

4

5 Mr. Reed: No.

6

7 Mr. Hudson: Could you please identify yourself?

8

9 Ms. Thackerson: That was the applicant.

10

11 Mr. Hudson: Okay so, Kahu.

12

13 Kahu Hill: Speak to that.

14

15 Mr. Hudson: So Kahu are you going to continue with your motion or are you going to withdraw
16 your motion?

17

18 Kahu Hill: I would like to withdraw my motion because I haven't seen the plans and now
19 knowing what P. Denise had mentioned Commissioner it's sensitive in that area if they have not
20 broken ground, to understand what the ground is, if there is any iwi kupuna or anything in that
21 area that needs to be brought up environmentally or historically so for that reason I am going to
22 retract my motion.

23

24 Mr. Hudson: Tina are you going to withdraw your motion.

25

26 Ms. Gomes: I withdraw but I will make a motion to accept to waive review.

27

28 **A motion was made by Kahu Hill and seconded by Ms. Gomes to Waive Review Which**
29 **Then Kahu Hill Withdrew the Motion and Ms. Gomes Withdrew Her Second.**

30

31 Mr. Hudson: Corp. Counsel.

32

33 Mr. Galazin: Thank you Chair. Thank you Commissioner Kahu Hill. It's a little bit difficult for
34 you folks to try and grapple with the fact that you're being asked to deal with something that
35 another body dealt with before and I can understand the consternation that comes with that.
36 Based on your comments I would offer up that the Planning Department is going to clearly be
37 reviewing anything, you know when the building permit comes in it's going to be routed
38 accordingly, SHPD is going to take a look at it, everybody, you know it's going to run the typical
39 gamut and that's why we have the Planning Department to review it. The request is really do
40 you want to do the work or do you want to let Planning do the work of the review. So if you
41 really want to do that analysis yourself that's your purview because it belongs to you and what
42 the Department is saying is hey we'll do the work for you if you want. It's our recommendation
43 that we can do it, I'm speaking for them, I'm not part of the Planning Department, 'cause I
44 wouldn't want to do the work so that's really, that's really crux of it if that helps illuminate
45 anything for you.

46

1 Mr. Hudson: I would like to make a comment. What Corp. Counsel said is true. We're only
2 looking at whether or not we're going to waive review or not waive review, right? I mean that's
3 the only thing we're supposed to look at but I couple that with this as members of the
4 commission we're supposed to go out to the community and speak with the community and
5 they're gonna ask us questions about this and we're not going to have an answer and we're
6 gonna look like idiots because we're passing something through as a rubber stamp that
7 happened ten years ago. Now, so that's the problem, that's the issue. Here's the solution to
8 the problem. A five-minute presentation would have been most helpful so we could actually see
9 what we're voting on. Right now we have this which is something that we look at and you see
10 how thick this is and how much time it takes to read this. Perhaps going forward even though
11 this thing has passed a long time ago, it be far easier to have a five-minute presentation and
12 delay some of these questions and us go back and forth about review or not to review.
13

14 Ms. Thackerson: Just to speak on behalf of this particular item 'cause I've...we used to do that
15 ten years ago, and this body voted to create this waive review process in their rules because we
16 used to not have a waive review. Everything would come during it's time period. So we used to
17 do that. The rules as they are written right now state we're only supposed to give you the
18 request, the length, the amount of time of request, the reason, the reason why they want it, you
19 know has anything changed in the immediate area and then...and that's actually all we're
20 supposed submit for a waive or not waive review. However, this body is welcome to ask for
21 additional information and if that's something that you would like to moving forward like to ask
22 for with future ones, the Department is more than happy to given that information. When
23 different bodies have been on this board before certain commissioners would ask for a drainage
24 report every time let's say, they would just want to receive the old one and we would then
25 include it. So we're not doing this for any, you know, not that we don't want to provide the
26 information, we're more than happy to give you whatever you would need but that's something
27 the body needs to vote on that they want to see so that we have a standard for what we're
28 presenting to you. Because we used to do everything and in the effort of streamlining permits
29 and things the body felt we've seen it, we've held the public hearing, we've gone through
30 everything, you know if somebody just financially ran out of time you know maybe they want to
31 hold a public hearing again. So this is where that process got created. But if this body would
32 like to see more information the Department's more than happy to give that to you but we'd
33 need to know that going in as this changes depending on who's on the commission.
34

35 Mr. Hudson: Oh, that's unfortunate 'cause it's going to keep on changing.

36
37 Ms. Thackerson: Yeah.

38
39 Mr. Hudson: Having said that, go ahead.

40
41 Ms. Thackerson: Oh no, I think the consultant wanted to add something to the conversation if
42 the Chair would allow.

43
44 Mr. Hudson: Sure, please identify yourself Erin.

45
46 Ms. Erin Mukai: My name is Erin Mukai. I'm with Munekiyo Hiraga here in Wailuku. So we
47 helped with this submittal request and I just wanted to respond to the question on whether the

1 applicant had broken ground. You know we needed to wait for the permit to be transferred
2 which just happened earlier this month and after the acquisition of the property last year we did
3 have initial consultation meetings with the Planning Department to discuss the you know, the
4 change of ownership and next steps that would be needed in terms of the need for the permit
5 transfer and the potential time extension request as well. So there was some early consultation
6 with the Department. Just wanted to bring that up.

7
8 Mr. Hudson: Thank you.

9
10 Ms. Gomes: I make the motion.

11
12 Mr. Hudson: Made the motion to—

13
14 Ms. Gomes: To waive review.

15
16 Ms. McLean: Waive review.

17
18 Mr. Carnicelli: Second.

19
20 So we have a motion and a second. Further discussion?

21
22 Mr. Carnicelli: I'll speak to the motion again Chair. So same as before but the other piece of
23 this that I do want to add is I...I kinda gotten to this place where I really want to trust the
24 commissions that came before me as much as I want to say like oh I want to dig through that
25 and what else...you know like hey, I might have looked at this differently just like there's gonna
26 be a commission ten years from now that's gonna want to review what it is that we're doing
27 today, you know whatever it is. You know there's that potential for things. So you know I know
28 a lot of those commissioners, I mean we probably all run into them and I'm like...oh hey I used
29 to be a commissioner, whoever, you know it's like oh wow, and there's a sort of brotherhood.
30 So as much as I would like to you know see what it is in a thing like that I trust you know the
31 people that came before me that they made good decisions and so I personally don't need to
32 look into it again. I just kinda wish that you guys would have done this a little bit ahead of time
33 so I'll support the motion.

34
35 Ms. Gomes: And Chair...

36
37 Ms. La Costa: Thank you Chair, I know this is redundant but so many things have happened in
38 the last ten years, so many things from shoreline to flood zones to...it doesn't matter whether
39 we can change it or not, I am not going to be responsible as Chair Hudson said. If somebody
40 asked you a question you go, I don't know. Then why are we here if it's not to be sure that what
41 we are passing forward is correct irrespective of the date that it stated. So cannot support the
42 motion because of that.

43
44 Mr. Hudson: Ms. Gomes.

45
46 Ms. Gomes: Just to speak on that which is completely understandable commissioner and I
47 understand but Andaz has been in place for some time. It's not like it hasn't. And in regards to

1 you know the shoreline we're talking about Building A which is mauka, you know not makai. I
2 mean we're not talking about redoing everything and again, if we were to just to piggyback on
3 Commissioner Carnicelli is the fact that if we were to do that because of course we are gonna
4 be changing commissioners every so many years we would be digging into many projects and
5 of course we all would have different opinions all the time and wanting to make different
6 changes because of so many things. So I...yes, I agree with you know Commissioner Carnicelli
7 that you know we have to trust in what our, you know previous commissioners have made
8 choices on. So I just wanted to make a comment on that, and understandably so I do
9 understand as well your concerns as well. I do stand by motion.

10
11 Mr. Hudson: Go ahead.

12
13 Mr. Galazin: Thank you Chair. And thank you Candace for bringing this back around to the
14 actual rules that you have and thank you for the history about that 'cause I wasn't aware how it
15 came about but certainly makes sense. You don't get to this point until there's already been an
16 analysis of whether any changes have occurred within the Special Management Area since the
17 granting of the permit that may cause the permit holder's development to adversely affect the
18 capacity or condition of the infrastructure and if the Director determines there's been no
19 changes that will substantially you know have an adverse environmental or ecological effect or
20 there have been no changes within the Special Management Area that determination already
21 been made, that has to be made before it comes in this form to you folks to say okay, we'll
22 waive it or we won't. That's a determination that's already been made that has to have been
23 made so it that gives you some comfort that the Director has made a determination that you can
24 rely on.

25
26 Ms. Gomes: Thank you Corp. Counsel.

27
28 Mr. Hudson: Any further discussion? Seeing none, the motion and second is to waive the
29 review. All those in favor signify by saying, aye.

30
31 Commission Members: Aye.

32
33 Mr. Hudson: Those opposed?

34
35 Ms. McLean: There's two.

36
37 Mr. Hudson: I vote aye. However, Candace for myself—

38
39 Ms. Thackerson: Would you speak into the mic so we can get it on the minutes.

40
41 Mr. Hudson: I'll vote aye so the motion carries.

42
43 Ms. Thackerson: Yes.

44
45 Mr. Hudson: But should one of these things come again, I should like to see a little bit more.

46

1 Ms. Thackerson: Is that a vote by the Commission that...I mean is that something...or just one
2 person can say?

3
4 Mr. Hudson: That's just my opinion.

5
6 Ms. Thackerson: That's fine. Okay.

7
8 Mr. Hudson: Well, two. At least two people.

9
10 **It was moved by Ms. Gomes, seconded by Mr. Carnicelli, then**

11
12 **VOTED: To Waive Review of the Time Extension of the Special Management**
13 **Area Use Permit, Shoreline Setback Variance, and Steps 1, II, and III**
14 **Planned Development approvals.**

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

19
20 Mr. Hudson: All right, five-minute recess.

21
22 A recess was called at 2:49 p.m., and the meeting was reconvened at 2:58 p.m.

23
24 Ms. McLean: Thank you Chair. This is another waive review for a two-year time extension from
25 Mr. Charles Jencks, the Owner Representative of Honuaula Partners, LLC and this is again for
26 a two-year...waive review of a two-year time extension for an SMA Permit condition to initiate
27 construction of the Honuaula Project at Wailea Alanui Drive and Wailea Ike Drive,
28 TMK: 2 01-008: 118, 131, and 134, and Candace Thackerson again is the project planner.

29
30 **b. MR. CHARLES JENCKS, Owner Representative of HONUULA**
31 **PARTNERS, LLC requesting a two (2)-year time extension on the**
32 **Special Management Area Use Permit condition to initiate**
33 **construction of the proposed Wailea Alanui Drive and Wailea Ike**
34 **Drive Intersection Improvements at TMK: (2) 2-1-008: 118, 131, and**
35 **134, Wailea, Island of Maui. (SM1 2009/0012) (C. Thackerson)**

36
37 **The Commission shall acknowledge receipt of the request. The**
38 **Commission may decide whether to waive its review or review the**
39 **time extension request at a future meeting.**

40
41 Ms. Candace Thackerson: I apologize that we didn't have time to do a power point during our
42 five-minute break. Yes, I know, I know. I'm not that much of a magician. So the differences
43 between this one and the last one is this one is to initiate construction the other one was to
44 complete construction. So this one hasn't initiated. The other thing about this particular project
45 though it's an improvement to an intersection and it was a condition. This project is a condition
46 for a larger project, Honuaula which I believe is in the packet that I discussed. So this one's a
47 little difficult 'cause they really can't start this until they have all of the other land use

1 entitlements for Honuaula which I believe is still currently under, I'm not the planner on that I
2 couldn't speak to where it's at in the process. So the applicant is asking again for the
3 Commission to waive review and allow them a two-year time extension and the date for initiate
4 construction so they can initiate is just you know grading or building permit, from there they
5 have more time to complete, to initiate would be April 30, 2021.

6
7 Mr. Hudson: Mr. Carnicelli.

8
9 Ms. Gomes: Twenty...I'm sorry...

10
11 Ms. Thackerson: I would be April 30 2021 to initiate construction.

12
13 Mr. Hudson: Mr. Carnicelli.

14
15 Mr. Carnicelli: Motion to approve.

16
17 Ms. McLean: To waive review.

18
19 Mr. Carnicelli: To waive review. Motion to waive review.

20
21 Ms. La Costa: Second.

22
23 Mr. Hudson: Motion has been made and seconded. Discussion?

24
25 Mr. Carnicelli: If I could speak to the motion Chair. The other part to me that's different about
26 this one is rather than just is this time extension is because of somebody else not because of
27 something they didn't do, but you know there's processes that are basically government driven
28 that have delayed this and that's why this particular project needs an extension you know
29 versus the last one. So to me it's pretty easy.

30
31 Mr. Hudson: Further conversation on this Kahu Hill.

32
33 Kahu Hill: I would support that as well. I think it's really important this area with all the building
34 Wailea Alanui and Wailea Ike Drive. I was looking at how many extensions they have had so I
35 didn't know about that that was the only thing.

36
37 Ms. Thackerson: Let's see I believe if it was 2019 I think this might be the third one going in.

38
39 Kahu Hill: And what were the main reasons for the extensions?

40
41 Ms. Thackerson: It's the same. It's attached Honuaula so until that one gets its land use
42 entitlements I don't...I'm not the planner on Honuaula so I'm not sure how that condition reads
43 and Gina was the original planner on this project but I remember when that one came up I was
44 here at that planning commission meeting and it is tied to the other one, so it's kind of hard
45 where you've got a larger one that may be contentious or not going through its review yet this
46 one's kind of piggybacking on it.

47

- 1 Kahu Hill: Well I will support the motion and I hope they can do this intersection as soon as
2 possible.
3
- 4 Mr. Hudson: Mr. Tackett.
5
- 6 Mr. Tackett: No, nothing.
7
- 8 Mr. Hudson: Ms. Gomes.
9
- 10 Ms. Gomes: Yes, I have a question so this is in the initiating phases Candace am I correct?
11
- 12 Ms. Thackerson: Yes, they have not initiated yet.
13
- 14 Ms. Gomes: Oh, have not initiated.
15
- 16 Ms. Thackerson: No, no, no, they have not initiated. That intersection is not under construction
17 there's nothing going on. This permit is to I believe it's to add another turn lane on the...to
18 make it for the capacity, but as I stated it's tied to that larger project. It was a condition on the
19 other SMA that you know then you should improve the infrastructure so these two kinda chase
20 each other.
21
- 22 Ms. Gomes: Is this going to be under MDOT or County of Maui as far as work?
23
- 24 Ms. Thackerson: No I believe it's the applicant. Am I correct?
25
- 26 Ms. Gomes: The applicant, oh I apologize.
27
- 28 Ms. Thackerson: County of Maui. The County of Maui is.
29
- 30 Ms. Gomes: So County of Maui.
31
- 32 Ms. Thackerson: Yeah.
33
- 34 Ms. Gomes: So Public Works.
35
- 36 Ms. Thackerson: Yeah.
37
- 38 Ms. Gomes: Public Works. Thank you.
39
- 40 Mr. Hudson: Thank you. In our excitement to get through this I forgot to open the floor for
41 public testimony. Anybody wishing to testify please step forward. Seeing none, public
42 testimony is closed. So I will go back and entertain a motion on the board which is to waive
43 review. All those in favor say, aye.
44
- 45 Commission Members: Aye.
46
- 47 Mr. Hudson: That's six ayes, motions carries.

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

3
4 **VOTED: To Waive Review of the Time Extension of the Special Management**
5 **Area Use Permit.**

6
7 **(Assenting – L. Carnicelli, P. D. La Costa, A. Hill, K. Pali, T. Gomes,**
8 **C. Tackett)**

9 **(Excused – S. Castro, K. Robinson)**

10
11 Mr. Hudson: We're gonna go right on into Item Delta 3.

12
13 **3. SMA Minor Permit Report**

14
15 **This is for notification and review purposes. No action is anticipated.**

16
17 **4. SMA Exemptions Report**

18
19 **This is for notification and review purposes. No action is anticipated.**

20
21 Ms. McLean: Thank you Chair, Items 3 and 4 are the SMA Minor and SMA Exemption Reports.
22 If the Commissioners have any questions on those I'd be happy to get back to you.

23
24 **5. Discussion of Future Maui Planning Commission Agendas**

25
26 **a. February 12, 2019 agenda items**

27
28 Ms. McLean: And lastly Item 5 is discussion of future Planning Commission agenda, you have
29 a memorandum from Mr. Yoshida noting one public hearing item, one communications items
30 and one item under director's report for the February 12th meeting. Any questions on those?

31 Ms. McLean went over the items scheduled for the February 12, 2019 meeting.

32
33 **E. NEXT REGULAR MEETING DATE: FEBRUARY 12, 2019**

34
35 Mr. Hudson: Any further business? Seeing no further business we're adjourned at 15:04 hours.

36
37 **F. ADJOURNMENT**

38
39 The meeting was adjourned at 3:04 p.m.

40
41 Respectfully Submitted by,

42
43
44 **CAROLYN TAKAYAMA-CORDEN**
45 **Secretary to Boards and Commissions II**
46
47

1 **RECORD OF ATTENDANCE**

2 **Present**

3 Lawrence Carnicelli

4 Tina Gomes

5 Kahu Alalani Hill (in attendance from 11:41 a.m.)

6 Larry Hudson, Vice-Chair

7 P Denise La Costa

8 Kellie Pali

9 Keaka Robinson, Chair (excused at 12:15 p.m.)

10 Christian Tackett

11

12 **Excused**

13 Stephen Castro

14

15 **Others**

16 Michele McLean, Acting Director, Department of Planning

17 David Galazin, Deputy Corporation Counsel, Department of the Corporation Counsel

18 Rowena Dagdag-Andaya, Acting Deputy Director, Department of Public Works (9:00a.m.-10:09
19 a.m.)

20