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**MAUI PLANNING COMMISSION
REGULAR MINUTES
AUGUST 27, 2019**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Chairperson Lawrence Carnicelli at approximately 9:07 a.m., Tuesday, August 27, 2019, Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.

Mr. Carnicelli: Welcome to the Maui Planning Commission of August 27, 2019. My name is Lawrence Carnicelli, I am your Chair. Also, with us today is Commissioner Robinson.

Mr. Robinson: Good morning Chair.

Mr. Carnicelli: Good morning. Commissioner Pali.

Ms. Pali: Good morning.

Mr. Carnicelli: Commissioner Thompson.

Mr. Thompson: Good morning.

Mr. Carnicelli: Good morning. Commissioner La Costa.

Ms. La Costa: Aloha Chair.

Mr. Carnicelli: Aloha. Commissioner Castro.

Mr. Castro: Good morning Chair.

Mr. Carnicelli: Good morning. And Commissioner Tackett.

Mr. Tackett: Good morning Chair.

Mr. Carnicelli: Good morning. Also, with us is Director Chouteau McLean.

Ms. McLean: Good morning Chair.

Mr. Carnicelli: And Corporation Counsel Hopper. Good morning. Quorum has been established. So, at this point just because I see a lot of faces that haven't been here before what we will do is we will take each item on the agenda individually. We'll hear a presentation from the applicant, the Department will also speak and then after that happens after we have all the information then we will have the testimony. The first three items are public hearing items they are also contested case protocol which means when you come up you will testify, you will have three minutes, three minutes only and that's just to be fair to everyone. We want to hear you but at three minutes Carolyn will say three minutes and your time will be over with. At that time the applicant will have the opportunity to ask you questions if the applicant so chooses, if not, that's fine, you may also get questions from the Commission. So just so you guys

1 understand sorta how things will unfold here since we see some new faces in the audience. I
2 think with that being said, Director.

3
4 Ms. McLean: Thank you Chair as you mentioned there are three public hearing items on the
5 agenda today. The first one is a request from Ilya and Manisha Shafir for a Short-Term Rental
6 Home Permit in order to operate Auina Gardens, a three-bedroom STRH located in the R-2
7 Residential District at 2181 Auina Place, at TMK: 3-9-018:086 in Kihei. Jared Burkett is the
8 Project Planner.

9
10 **B. PUBLIC HEARINGS**

11
12 **1. ILYA AND MANISHA SHAFIR requesting a Short-Term Rental Home (STRH)**
13 **Permit in order to operate Auina Gardens, a three-bedroom STRH located**
14 **in the R-2 Residential District at 2181 Auina Place, TMK (2) 3-9-018:086,**
15 **Kihei, Island of Maui (STKM T2018/0008) (J. Burkett)**

16
17 **The matter is being brought before the Maui Planning Commission for**
18 **review because the Department received two or more written protests from**
19 **the owners of two lots adjacent to the subject property.**

20
21 Mr. Jared Burkett: Good morning Chair, Commissioners.

22
23 Mr. Carnicelli: Good morning.

24
25 Mr. Burkett: My name is Jared Burkett, Staff Planner for the Planning Department. So, this item
26 is before you because there are two adjacent owners that are protesting this Short-Term Rental
27 Permit so it comes before you for your decision.

28
29 There are no Requests for Service on this property and there are currently six...sorry, nine
30 different letters of protests. There are more than that but they are duplicates from the same
31 families. There are also three letters of support.

32
33 The applicant has a presentation they would like to present to you if there are no objections, I'm
34 going to ask them to show their presentation.

35
36 Mr. Carnicelli: Sure. Please do. Either turn that mic on or...there you go...and you do have to
37 speak into the mic just because there'll be a transcript. Thanks.

38
39 Mr. Ilya Shafir: Aloha Chairperson Carnicelli, Director McLean, Members of the Commission,
40 members of the Planning Staff and ladies and gentlemen of the public. Thank you for allowing
41 us this opportunity to show why our permit should be approved. We do, of course, know that we
42 have objections from various neighbors within our 500-foot radius and we want to show that we
43 can address all of their concerns because we have a special use case.

44
45 Just a little bit about us initially and why we're here. My wife and I are here, my wife Manisha,
46 my four-year-old son, our daughter's now ten months old. She was...my wife was still pregnant
47 when we first submitted our application so we were definitely busy in this time period and we

1 currently Northern California. Manisha is actually a pharmacist. She's licensed in both
2 California and Hawaii. She works for the California State Board of Pharmacy, as a Supervising
3 Inspector. I, myself, a systems engineer with a long history of technology and I currently work
4 for Dell Computer. We are older parents with young children and we've always loved coming to
5 visit Maui and we really hope to retire here at some point and because we're older parents we
6 needed to start working early towards this. We managed to purchase a beautiful home on
7 Auina Place that we want to take good care of and have great memories built with our son and
8 daughter and become, you know, good members of the community here. At the end of this we
9 do respectfully request approval of our Short-Term Rental Home Permit which will allow us
10 more frequent stays here and this is the crux of what we're asking for.

11
12 We have received initially January up to seven objections. Just yesterday Jared helped us, we
13 found out that there were two additional ones. We clearly respect all our neighbor's concerns
14 and we do want to address them and show to the Commission and everybody here that we
15 have a solution that will remedy all our objections.

16
17 I just want to state some of the facts. So the Planning Department shared with us seven written
18 protests that were received up to January 2019. We submitted the application actually July of
19 last year. The Planning Department had a lot on their plate and only gotten started in October
20 and we sent out the neighbor notices to all of our neighbors within 500-foot radius. You can see
21 the boundary there our home is right in the middle and we actually had to send out over 530
22 notices. There are 536 parcel owners. Now on this map it doesn't look like that there are many
23 parcels, but the large parcels there actually house condominiums. There are lots of owners
24 there that added to the number.

25
26 You know the Planning Department states you know they received objections, all of them were
27 quite unanimous but in our opinion you know we still sent notices to over 530 neighbors and
28 nine out 536 to us is by no means unanimous. It's less than two percent of the population.
29 However, as we stated again we fully respect our neighbors concerns and we want to make
30 sure that they're addressed.

31
32 Four out of the 16 was on Auina Place have objected. These are our closest of course
33 neighbors we want to remain in good standing with our neighborhood and our neighbors and
34 make sure that you know we retain the peace and tranquility and beauty of our neighborhood
35 you know because we eventually want to live there as well.

36
37 So out of all the objections we noticed the number of themes and concerns which are valid for
38 the general purpose of a short-term rental which is ...(inaudible)...vacationers and other visitors
39 which are very common we understand that but we have a special use case which I'll get to.
40 The main themes were that of concerns that we would only rent to weekend or weekly
41 vacationers that that might jeopardize the safety of the neighborhood. There are families and
42 children that have grown up in this neighborhood. That it would...it would increase traffic and
43 noise through the many visitors that come in. They also, you know don't feel comfortable with
44 the constant change over strangers which we understand and overall of course, that, all of that
45 put together would disrupt the peace and ambiance of the neighborhood. We've also had some
46 concerns that if we were to get approved with this permit that there would be a perceived
47 precedence set that will encourage many other nearby homeowners to also request a short-

1 term rental home and cause a domino effect which would also be a negative impact to the
2 community and I'll address that as well.

3
4 So the...you know only last week we found out that the Planning Department you know
5 provided a recommendation to deny based on these objections and you know they deny these
6 objections based on the number and the substance of these protests. However, we believe the
7 the substance is based on these false assumptions because we have a special use case.

8
9 So what is our special use case and what is our true intent for the short-term rental home?
10 Because the current limitation of a long-term rental is six months or greater this does not allow
11 us for frequent opportunities to visit the home. If we have say a six-month rental or even
12 anything longer than that we would have to appropriately schedule a visit in between potential
13 tenants to do that. That would be maximum twice a year and we may not be able to have the
14 flexibility to schedule at those particular points when the lease ends. Our children, Kailyn goes
15 to school now in Kindergarten. We also have worse schedules even though we get to work
16 from home a lot and have some of that flexibility it's still a challenge to properly schedule it. So
17 allowing us to stay more frequently will get us to know the neighbors a lot better, become part of
18 the community and by the time we hope to retire, again as we're older our retirement age would
19 be coming up sooner, by the time they're in high school we'll already know our neighbors very
20 well.

21
22 Some might as well, why rent at all? You know, you could just not rent and come at the house
23 any time you wish. Well, in that case you know at this point if the house is empty for multiple
24 months at a time you know homes unattended do become decrepit and they become you know
25 really not a good thing for the neighborhood. You want a home that's lived in at least partially
26 and taken care of and maintained. So this is why we'd still prefer to have someone in the home
27 in this case.

28
29 So our idea to mitigate all of the concerns of all of our neighbors that provided objections is not
30 to rent to vacationers themselves. In fact we don't want the constant change over. We have a
31 really nice furnished home. We don't want the foot traffic. We want it to be maintained so the
32 fewer number of people that stay in the home is good for us as well. So our idea is to rent to
33 professionals who actually work on the island and they have temporary stays. In fact our prior
34 long-term tenants were three engineers they had a project and they stayed here for what was it,
35 it was six months and our current tenants we have a physician that was called out to work for
36 Kaiser and she's in the healthcare industry. They're all professionals, our current tenants have
37 a child that's Kailyn's age that goes to the local kindergarten and they're typical neighbors that
38 you'd expect from long-term. So we've already shown that we have connections with the
39 professional community that have...that provide workers for the island.

40
41 An example is specific to the medical professionals. Frequently Maui hospitals, clinics, even the
42 emergency hospitals have an underserved number of medical specialties, they even have
43 underserved roles for nurses and these medical professionals require furnished homes for say a
44 month, two months or greater stay and they're recruited from the mainland frequently. We
45 believe this is important to provide a home for these folks that serve a very important role
46 especially for the good of the community, the health of the community here. And we have the
47 connections. In fact one of our friends here will provide testimony. She's a physician here who

1 started staying on the island being recruited by the hospitals. We feel like it's a noble aspect, it
2 solves both the idea that we don't want all the changeover. We have professionals staying, we
3 expect them to be respectful of the neighborhood, allows us more frequent stays and there's no
4 constant changeover, no additional traffic or noise because these are folks
5 that...(inaudible)...primarily.

6
7 So we believe this is a good solution that addresses all of these concerns, say for the last one
8 the perceived precedent will encourage other short-term rental homeowners. So we've gone
9 through this process which we started last July. There, as you may all know there are many
10 stringent requirements for us to even apply for the short-term rental home for us to qualify. Just
11 speaking you know with Jared we realized if there were no objections we would have the
12 administrative approval for it. We've passed all the requirements, complied with you know all
13 the, all the needs of the application.

14
15 However, part of the Maui County Code says is that if there is more than one...more than two
16 short-term rental homes within our 500-foot radius of the home that might perhaps trigger a
17 hearing with the Commission because that might adversely affect the neighborhood. So it's in
18 our opinion it's even more difficult to obtain a short-term rental home at this point. When we
19 started the application process there were no short-term rental home permits within our radius
20 but it turns out as we speak today one was approved at some point last year and unfortunately
21 we didn't even receive notice of that as well for some reason even though we're a owner. But
22 having said that we believe it's difficult so the notion that everyone else will want to apply and
23 get a permit we believe won't necessarily work because we understand it's a very difficult
24 process and it has to be extraordinary reasons to have a third one in this area.

25
26 So coming up to the conclusion we believe, you know we have a no risk solution. You know we
27 respectfully request perhaps a conditional short-term rental home permit based on our stated
28 intent and if it allays the concerns of our neighbors perhaps having a minimum 30-day stay
29 instead of you know weekly or daily might help with this situation of constant changeover.
30 We're happy to have that as a condition on our permit. We're comfortable with that. We have
31 the connections to provide professionals to rent our home and we feel that that would be
32 ...(inaudible)... That's our request and we want the public to know for anyone that objects to it
33 that this permit is by no means permanent. We, the applicants as well as our tenants must
34 abide by all of the Maui County Code that's required in the short-term...for the Short-Term
35 Rental Permit and we must have an on-island property manager that has a real estate agent
36 license to manage it properly while we're off island. We're the type that are pretty hands on.
37 We want to know what's going on with our property. It's far away, we don't want...we don't just
38 want to let it go, in fact what we have exterior cameras on the property because we're not there
39 but we're able to see what's going on at any time there in case there are any issues.

40
41 So we believe it's significantly easier to obtain...excuse me, to get our permit revoked rather
42 than approved and it is in the power of our neighbors if there are any complaints they can go to
43 the County or the police and you know we, we can get our permit revoked. However, we would
44 never want to get into that situation because we want to maintain our reputation with our
45 neighbors, we want to become part of the community, we are respectful, we're responsible and
46 we want to stay that way.

1 Some of our neighbors might think well we never discussed this with them during our notice we
2 actually sent a letter to each one of our neighbors giving our stated intent at least in summary
3 and provided an open invitation to anyone on Auina Place to contact us, we provided our phone
4 number, our email address, they could text us, only one neighbor had actually reached out to us
5 personally and they were nice enough to send us a copy of their objection which we
6 subsequently addressed, we sent them an email and we requested a phone conversation but
7 we didn't get it. Out of the two neighbors adjacent to us only one of them responded to our
8 request to discuss the matter and in our efforts to dissuade them from their objections. It took a
9 little while but only one of neighbors through multiple emails, texts, phone calls refused to
10 engage which is unfortunate. So we did attempt to work with our neighbors as best as we could
11 unfortunately we weren't able to sway the two that were next to us which you know was a
12 requirement for this hearing, but we trust that based on our intent we can fully, we can fully
13 address all of the concerns that they provide because of our special use case. Mahalo for your
14 time. Thank you very much.

15
16 Mr. Carnicelli: Thank you. I need one point of clarification before we take public testimony. Go
17 back one slide.

18
19 Mr. Shafir: Sure.

20
21 Mr. Carnicelli: There. In that, you said rent to professionals who require two or more months
22 stay. But then in your presentation you said that you would be okay with a 30-minimum stay so
23 which one is it?

24
25 Mr. Shafir: We were thinking two or more months, but there are cases, there might be
26 emergency cases where a professional might need just a month. We want to start with 30 days,
27 if you feel that more is required we can work with that. We believe 30 days is optimal for a
28 condition but we would like to do two months or more, in fact it's likely.

29
30 Mr. Carnicelli: I'm just, I'm just okay, I understand. I just...before people get up to testify—

31
32 Mr. Shafir: Okay.

33
34 Mr. Carnicelli: --I want them to understand what your intent is, that's the only reason. I just
35 wanted clarification because there was a little bit of discrepancy in what you said and what you
36 presented. So I appreciate that. Thank you.

37
38 So at this point in time I think we'll go ahead and take public testimony. Oh, also is when you
39 first come up I will ask you to state your name and I'll ask you to be truthful, so Eleanor Nokes
40 and if I mispronounce your name, I apologize.

41
42 Ms. Eleanor Nokes: Perfect.

43
44 Mr. Carnicelli: Okay. Please state your name.

45
46 Ms. Nokes: This is scary. My name is Eleanor Jennifer Nokes.

47

1 Mr. Carnicelli: No need to be scary. This is okay, we're just, we're just you know here to listen
2 to what you have say. You promise to tell the truth Eleanor?

3
4 Ms. Nokes: I do.

5
6 Mr. Carnicelli: Okay, you have up to three minutes.

7
8 Ms. Nokes: Okay, perfect. I've known Manisha for almost 20 years and Ilya for as long as
9 Manisha has known him which is about seven, eight years. Just so you know where I am.
10 Manisha and I have been very, very close friends for all of that time. We've done a lot of
11 traveling together. So that's my background here.

12
13 So what I want to say is that Manisha and Ilya are exactly the kind of people anybody would
14 want in their neighborhood. When you think of all the unscrupulous people out there who really
15 just want to make money and don't care about anybody but themselves here you have the
16 opportunity to have a property owner, property owners who are honest, trustworthy,
17 conscientious, and reliable. They have the interests of the neighborhood at heart. They
18 honestly want to be good neighbors and they will be the neighbors if they're allowed to be
19 because they want to be here three to four times a year. This isn't a rental to them. It's their
20 home away from home and their future home. They want to be able to come here with their kids
21 every three to four months. We aren't talking about an absentee owner here, we're talking
22 about two beautiful, generous and dependable people who want to be able to use their home on
23 Maui often. Neighbors like them don't grow on trees.

24
25 Everyone who knows Manisha and Ilya will tell you that they never shirk or try to brush off a
26 responsibility. Their home will be well maintained no matter what the outcome of this hearing.
27 Either way, they will do their best to find responsible tenants and will immediately address any
28 issues that may arise you can depend on that. I would bet my last dollar on it because that's
29 who they are. So yes, there will probably be future owners of homes in the neighborhood who
30 apply for short-term rental permits this is your chance to get the very best kind of owner and the
31 very best short-term rental situation that any neighbor could ask for as you've heard what they
32 intend to do is what they will do, it's never been otherwise with them. You would never ever
33 have a weekly rental situation in their home not a chance. This is their home. Anything anyone
34 in the neighborhood would object to so would they. That's because they want their
35 neighborhood to remain the lovely, peaceful place that it currently is. They bought their house
36 here and they love it. They don't want it to change any more than anyone does and they
37 certainly will not be the instruments of that change. I know that you can't go wrong by allowing
38 the Shafirs to be able to enjoy their home more often by approving their short-term rental permit,
39 I know that. If I would end up being wrong, revoke the permit. It won't happen. It won't happen.
40 I sincerely hope that you will see that too and approve their application. Thank you.

41
42 Mr. Carnicelli: Thank you Eleanor. Ilya do you have any questions for the testifier?

43
44 Mr. Shafir: No Chair. Thank you.

45
46 Mr. Carnicelli: Okay, thank you, great. Kristen Tamura. Please state your name.
47

1 Dr. Kristen Tamura: Hi my name is Dr. Kristen Tamura.

2

3 Mr. Carnicelli: You promise to tell the truth?

4

5 Dr. Tamura: Yes.

6

7 Mr. Carnicelli: You have up to three minutes.

8

9 Dr. Tamura: Yes, I have known these two people for a long time. I've ever since married
10 Manisha. Manisha and I have been best friends for the past 18, 19 years. I was actually...was
11 a pharmacist before I became a doctor. However, since I came here as a Locum Nephrologist
12 covering the hospitals I realized that there's some needs in terms of place to stay. I want to
13 bring my family but there's no rooms for them to come and as we know that Nephrologists on
14 this island is come in very few so I actually have been recruited for Maui Health Systems to
15 come to this island and I have decided to move here permanently.

16

17 Starting September I will have my clinic here on this island at Maui Lani supporting Maui Health
18 Systems and supporting the community just because I felt that when I wanted to come here and
19 I wanted to bring my family there wasn't enough places for me to bring them so the fact that
20 they are making this available to my colleagues who want to come here and feel the islands to
21 support the needs that we have here as a healthcare providers. I think this would be a good
22 opportunity to my colleagues to come out here to see how this will work out for them. I have
23 decided...I actually did three shifts first before I decided to commit permanently. I fell in love
24 with the island and I said okay, let's come here and support the community and fell in love with
25 the patients that I encounter in the hospitals as well. So I hope that they would eventually come
26 here and stay here permanently and become one of the pharmacists providing healthcare on
27 this island as well and I really hope that their short-term rentals will continue...I mean approve
28 and hopefully they will be here as often as I want them to. Thank you very much.

29

30 Mr. Carnicelli: Thank you Kristen. Any questions for the testifier?

31

32 Mr. Shafir: No thank you, sir.

33

34 Mr. Carnicelli: Thank you. Don Dennerline. Don Dennerline.

35

36 Mr. Don Dennerline: Aloha and good morning. My name is Don Dennerline.

37

38 Mr. Carnicelli: Thank you. Do you promise to be truthful?

39

40 Mr. Dennerline: I do.

41

42 Mr. Carnicelli: You have up to three minutes.

43

44 Mr. Dennerline: I am the gardener on the Shafir's property and I've worked in this neighborhood
45 for ten years now. They've had the property a bit over a year. I was the previous owner's
46 gardener for about seven years. I know the property well. I know most of the properties on this
47 street well, I know the people quite well. Take care of about 40 properties about half of them

1 are off island owners and it's interesting how unresponsive people can be, these folks are
2 wonderful and any request that I've needed from them and also the neighbors have made
3 requests in regards to the landscaping they've responded immediately and it was taken care of.
4 I appreciate that. I know they're...I feel like I know their character and their love of the island
5 that we all have. I think they would be a real bonus to live here and the current tenants are
6 quiet and stable, very fine people. I don't see why there can't be more people like this placed in
7 their property for a month, two months, whatever it's not a frat house party situation at all. It's a
8 quality home and quality neighborhood with quality owners. Thank you.

9
10 Mr. Carnicelli: Thank you. Any questions for the testifier?

11
12 Mr. Shafir: No, thank you Chair.

13
14 Mr. Carnicelli: Thank you. Francine Aarona.

15
16 Ms. Francine Aarona: Good morning.

17
18 Mr. Carnicelli: Please state your name for the record.

19
20 Ms. Aarona: Aloha Mr. Chair, Commissioners, my name is Francine Aarona also known as
21 Aunty Mopsey, Protect Paia and yes, I do solemnly swear to tell the truth and nothing but the
22 truth.

23
24 Mr. Carnicelli: Thank you Aunty Mopsey you have up to three minutes.

25
26 Ms. Aarona: In looking at the many plans of Maui County that governs the way we live can
27 drive you up the wall. I applaud you, the commissioners who give up your time to decide
28 whether or not to make Maui a short-term rental home or a residential home that's when it
29 comes down to the objectives and goals that are written in our community plans are thrown
30 under the bus when it comes to permitting short-term rental to owners who don't live here.
31 Shamefully it comes down to money however you look at it. I'm surprised that there were no
32 RFSs issued because the renovations done to change from a four-bedroom to a three-bedroom,
33 some wait for months for an SMA to be approved. I support the people who oppose the short-
34 term rentals because it goes against the goals, objectives and policies of the plans in place and
35 our lifestyle. Enough is enough. We need to say stop, we need to stand firm, and concentrate
36 on getting our families into homes whether it be a rental or owned. It's up to you, the
37 commissioners to uphold those values for your community. It's a simple word, no. Mahalo.

38
39 Mr. Carnicelli: Thank you. Any questions for the testifier?

40
41 Mr. Shafir: Yes, Chair. Thank you for speaking. Can you please clarify what you mean by four
42 bedrooms and three bedroom conversion?

43
44 Ms. Aarona: In looking at 2821 on the website of ...(inaudible)...social media it did say that it
45 was a four bedroom before. There were a lot of agencies who handled this piece of property
46 and that it was sold in July. Is that when you purchased the property?

47

1 Mr. Shafir: That is correct.

2

3 Ms. Aarona: Yes. So in order to even paint your place you need an SMA correct me if I'm
4 wrong. So there were renovations made as you condensed it from a four-bedroom to a three-
5 bedroom, two bath.

6

7 Mr. Shafir: May I address the question?

8

9 Mr. Carnicelli: If you want to answer questions.

10

11 Mr. Shafir: So we appreciate the...

12

13 Mr. Carnicelli: Okay, is...hang on, let me just go to Corporation Counsel here. Go ahead,
14 Mr. Hopper.

15

16 Mr. Hopper: It appears that the applicant will be given an opportunity after testimony to address
17 the Commission's questions or to address the testimony. If you want to do it now during the
18 testimony I suppose you could but I think the Chair had said that's standard practice that after
19 the testimony the applicant does have a chance to address the testifiers.

20

21 Mr. Carnicelli: Correct. Does that make sense?

22

23 Mr. Shafir: That makes sense so I should wait?

24

25 Mr. Carnicelli: It's up to you. If you want to have a Q&A with the testifier that's up to you. I will
26 allow that. If you would like to address the concerns of the testifiers at the end then I will give
27 you that opportunity as well.

28

29 Mr. Shafir: Just so it stays fresh I would like to address right now.

30

31 Mr. Carnicelli: Go ahead.

32

33 Mr. Shafir: Thank you for that. Part of the requirement of getting the—

34

35 Ms. Takayama-Corden: Please use the mic.

36

37 Mr. Shafir: Sorry, part of the requirements that we have to meet with the application is to make
38 sure everything that was changed was permitted. It does turn out that there are some incorrect
39 data for our property. It was never a four bedroom property and it was never a change and
40 we've asked all our neighbors 'cause they have similar floor plans but none of them were ever a
41 four-bedroom to start. This was a three-bedroom property so the idea that it was changed from
42 four to three I think is incorrect and we validated that and that was part of the process for the
43 application just to make sure any changes were also permitted and we have had no feedback
44 otherwise so I don't believe that was correct. But I do appreciate all your objections. I think
45 again our intent to rent to professionals will actually benefit the community especially for
46 healthcare and we understand you know it's hard for some owners not being able to live here

1 and that we're off island. Our idea is to come on island eventually. And we are a younger
2 family, older parents but we will make our way here. Thank you.

3
4 Mr. Carnicelli: Thank you. Thank you.

5
6 Ms. Aarona: You're welcome.

7
8 Mr. Carnicelli: Louis Olave. Please state your name for the record.

9
10 Mr. Louis Olave: My name is Louis Olave.

11
12 Mr. Carnicelli: Do you promise to tell the truth?

13
14 Mr. Olave: I do.

15
16 Mr. Carnicelli: You have up to three minutes.

17
18 Mr. Olave: Okay, I'm a part-time owner, well, I'm a full-time owner but a part-time resident of
19 Kai Malu in Wailea and I'm also a homeowner in Palo Alto, California near Stanford and my best
20 friend of 40 plus years is a neighbor of Manisha and Ilya and they've been neighbors about
21 seven years and I've known them for a few years and they're just really, really incredible people.
22 They...best neighbors on the street. Their house is just as neat as can be. Good people, they
23 love the island as I do and I've been coming here for 40 years and have owned homes here for
24 ten and I just think that they need to be shown the aloha and everything they're saying I would
25 swear by. This is going to be their forever home at some point and they want to be able to
26 enjoy it and they are not going to get terrible tenants in there that are going to ruin their home
27 and I've seen this happen at other places where they're even six-month rentals where people
28 they sometimes get evicted after three months and they're gonna really screen their potential
29 tenants very, very carefully 'cause as I say this is going to be their forever home and they are in
30 San Ramon, California a real asset to their community and they're hardworking educated
31 people and I hope you will show them aloha and let them do as they please. Thank you.

32
33 Mr. Carnicelli: Thank you. Any questions for the testifier?

34
35 Mr. Shafir: No, thank you Chair.

36
37 Mr. Carnicelli: Hang on, hang on Louis. Commissioner Robinson has a question for you.

38
39 Mr. Robinson: So what do you do with your home when you're not here?

40
41 Mr. Olave: I don't rent it. It stays and I have a person from Maui Meadows that comes in and
42 checks on everything twice a week. We have great neighbors next door that have a key and
43 they go in and check every day. I don't, I don't...I choose not to rent it just because I don't want
44 to rent it. I don't need to rent it.

45
46 Mr. Robinson: Thank you. Appreciate it.

47

1 Mr. Olave: ...(inaudible)...in Palo Alto we have house sitters.

2

3 Mr. Robinson: Thank you.

4

5 Mr. Carnicelli: Jean Nehls. I'm gonna get one of these names right.

6

7 Ms. Jean Nehls: Good morning.

8

9 Mr. Carnicelli: Good morning.

10

11 Ms. Nehls: Jean Nehls.

12

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

14

15 Ms. Nehls: I do.

16

17 Mr. Carnicelli: You have up to three minutes. Thank you.

18

19 Ms. Nehls: I am a full-time resident here on Maui and I might be the only the person in the room
20 who actually shares the property line with a licensed short-term vacation rental and I can tell you
21 that they're really good neighbors. They've been my neighbors for ten years and they are better
22 neighbors than a lot of my full-time resident neighbors and I believe that the argument that a
23 short-term neighbor is always going to be worse than a long-term neighbor is a spurious one. I
24 have ten years of experience. It all depends on how they're managed. I know Manisha and Ilya
25 I find them to be responsible and honest and kind and I know that whatever property they
26 manage it's gonna be managed in the same vein and isn't what we want for Maui. Don't we
27 want that kind of neighbor? Thank you.

28

29 Mr. Carnicelli: Thank you. Any questions for the testifier?

30

31 Mr. Shafir: Yes, one question Jean.

32

33 Ms. Nehls: I'm sure the answer would be no.

34

35 Mr. Shafir: Could you describe the long-term tenant situation in your neighborhood?

36

37 Ms. Nehls: I'm a full-time resident. These...my neighbors---

38

39 Mr. Shafir: Long-term rental I think—

40

41 Ms. Nehls: I don't, I don't...they're not long-term rentals. They actually own and live in the
42 house and my short-term...and these are my short-term vacation rental neighbors they market
43 to vacationers so they are not as you would have professionals. They are short-term vacation
44 people and they are better than people who own and live in their houses all year round.

45

46 Mr. Shafir: Thank you.

47

1 Mr. Carnicelli: Thank you. Craig Tamura.

2

3 Mr. Craig Tamura: Thank you very much.

4

5 Mr. Carnicelli: Thanks Craig. Please state your name for the record.

6

7 Mr. Tamura: My name is Craig Tamura.

8

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

10

11 Mr. Tamura: I do.

12

13 Mr. Carnicelli: You have up to three minutes. Thank you.

14

15 Mr. Tamura: Thank you. I know many of the people who have testified already have shared
16 some insight into this couple and their family and I just wanted to kinda emphasize that as well.
17 So my name is Craig Tamura. Just to share a little bit about myself. I am a licensed pharmacist
18 in California and recently relocated to Maui with my family after retiring from a major retailer as a
19 district manager in San Jose. I have known Manisha for over 17 years when I first joined Target
20 Corporation and Ilya for seven years after they met and started dating. I would describe our
21 relationship with the Shafirs as the best of friends, pretty much family equal to that of my brother
22 and his family and my sister and her family. We often share or spend Thanksgiving Day and
23 Christmas holidays together on many instances.

24

25 I understand this hearing today is about whether the Shafirs are able to obtain permission by the
26 committee to convert their Maui home into a short-term rental. I do admit I don't fully
27 understand the logistics behind the process, however, I absolutely respect the opinions of those
28 involved and how it impacts the neighborhood. I hope my value today in all this is to provide
29 some transparency around the conversations me and my wife, Kristen have had with the Shafirs
30 as it relates to the Maui home in discussion.

31

32 So for many years since we've known Manisha my wife and I spent many numerous vacations
33 together visiting multiple countries throughout the world. During those years we also loved
34 vacationing together in Maui and often discussed the idea of owning a home here one day in the
35 future. Fast forward into 2015, the reality of possibly moving to Maui was becoming more and
36 more possible for my family. We knew that we wanted to start a new life in Maui soon. When
37 we shared this information with the Shafirs we also learned that they were also considering
38 purchasing a home in Maui as well and since then it was our mission to purchase a home
39 together separately and someday raise our family together here on the island.

40

41 Finally, in 2018 the Shafirs did purchase their home in Kihei. I know their main intention was to
42 use it as their vacation home to stay in during holidays, spring and summer vacations, basically
43 whenever they had free time and when it was time to retire they would move into this island or
44 onto this island. For us, we purchased a home in Kihei this past month. We love it here.

45

46 Ms. Takayama-Corden: Three minutes.

47

1 Mr. Tamura: Okay.

2

3 Mr. Carnicelli: Thank you. Any needed to clarify or any need to ask the testifier questions?

4

5 Mr. Shafir: No, thank you Craig. Appreciate it.

6

7 Mr. Carnicelli: Thank you very much. Francis Deloria.

8

9 Mr. Deloria: I signed the wrong one.

10

11 Mr. Carnicelli: You signed the wrong one. Okay, we'll scratch your name off then. Did I get the
12 name right, all right. Is there anybody else that would like to testify on this item please come
13 forward?

14

15 Mr. Joe McDermott: I'm sorry, I didn't know I was supposed to sign that.

16

17 Mr. Carnicelli: That is quite all right. Please state your name for the record.

18

19 Mr. McDermott: Joe McDermott and I live at 2191 Auina which is right next door to the
20 applicant.

21

22 Mr. Carnicelli: Joe do you promise to tell the truth?

23

24 Mr. McDermott: Yes sir.

25

26 Mr. Carnicelli: You have up to three minutes.

27

28 Mr. McDermott: I'm curious. I came to listen to the testimony. The comment that only a small
29 percentage of people wrote complaint letters or objection letters, the majority of those were on
30 Auina Street which is what really matters, those are people that are affected most. We live right
31 next door and I'm sure they're all the great people that they say they are. I've talked to them,
32 but they cannot police tenants from thousands of miles away. There'd be a three-hour time
33 difference if there was a problem and with their greatest intention of oh we're going to rent to
34 this specific type of people that's an intention that if it doesn't work out they're gonna have
35 alternatives that they're gonna have to pursue.

36

37 They came and they bought a house on the island thinking to move into it, it didn't work out,
38 they didn't do their homework on short-term rental. Now they're asking the neighborhood to
39 adapt to their, their choices. We hang out on our lanai at 6 o'clock at dinner and it's very quiet.
40 We've had people in that house before next door to us it's right there, we have three bedrooms
41 and it would really affect our quality of life that we've there since 1995 if the short-term rental
42 person doesn't work out. And I don't believe that there's any property manager on the island
43 that's gonna be able to police that in a timely manner.

44

45 So I'm sorry that it didn't necessarily work out the way you thought but I don't know why the
46 neighborhood should pay the price of the peace or taking a chance of losing that peace who
47 have lived there for 20 plus years. So I think you should reject the application and let the

1 neighborhood stay the way it's been for a long time which is a neighborhood. This is not a
2 location for a short-term rental. This is a family neighborhood and has been so for as long as
3 we've been there since 1995. Thank you.

4
5 Mr. Carnicelli: Thank you Joe. Any questions for the testifier?

6
7 Mr. Shafir: Thank you, Joe. Yes, yes I do. Thank you for your comments as well. Again,
8 throughout the months it was good speaking with you and Alice. You know based on our intent
9 which I understand you've expressed while it looks good on paper how can we, how can we
10 manage it. You know our idea for a conditional permit which, which we would limit the number
11 of people and again, renting to professionals which is a benefit to the community, you know we
12 believe would work so I would ask you the last two tenants that we had granted they were long-
13 term but they were professionals you know I would love your opinion on you know whether
14 we've been doing our job in providing the right type for the neighborhood.

15
16 Mr. McDermott: Well, the current tenant we have issues with and we called you about them
17 with the noise which I don't want to go into that, it's not necessarily relative. I just...what I'm
18 concerned about is you're coming into this thinking that you got a different mouse trap than
19 anybody else that wants to apply for a short-term rental and that you're smarter and can figure it
20 out better. It's just impossible to say that you could accomplish that goal regardless of your
21 intentions. So whatever has happened in the past it's no guarantee you're gonna have these
22 great tenants, doctors visit that doesn't happen you're gonna fill the gap in some other way.
23 And you're never gonna experience any sort of noise or short-term rental issues because when
24 you're there you're gonna be able to enjoy your house without a short-term rental next to you.
25 We live there full-time and if there is a bad tenant our evenings will be affected. It's just not fair
26 for you to come in and say, we've got it figured out, we're different than anybody else has
27 ...(inaudible)...before, we're smarter than they are and don't worry about it. We've lived in that
28 neighborhood a long time and you're coming in trying to say we made a mistake and bought the
29 house without doing our homework and just trust us, and sorry, we just don't feel that way.

30
31 Mr. Shafir: Well, thank you Joe. We don't believe we made a mistake. We believe we did this
32 for...

33
34 Mr. McDermott: When you bought the house you thought there was short-term rental capability,
35 you told me on the phone.

36
37 Mr. Carnicelli: Wait Joe. It's is it's Q&A right. You can ask him questions, you can answer
38 questions, so but he actually gets to respond last it's just kind of the way that this works.

39
40 Mr. McDermott: All right. I'm sorry I'm new to this.

41
42 Mr. Carnicelli: That's okay.

43
44 Mr. Shafir: Thank you, Joe. Well, we still maintain we have not made a mistake. We have
45 done our research and this is why we provided a solution. What our, again let me restate, if you
46 would trust your new neighbors...

47

1 Mr. Carnicelli: Do you have a question for him Ilya? That's the...at this point...it's just like...I
2 understand that you want to try and pitch him at this point, but I'm asking you right now in this
3 point in time do you have a question for the testifier?
4

5 Mr. Shafir: I'll pose it in a question.
6

7 Mr. Carnicelli: Okay.
8

9 Mr. Shafir: Would you accept our, what we believe a no risk solution because we could easily
10 lose this permit. We don't believe it's a risk for you and this is ...(inaudible)...would you believe
11 that having this is not permanent. It's we consider it no risk and if it doesn't work out it doesn't
12 work out and you would be right.
13

14 Mr. McDermott: If it doesn't work out it's gonna take a lot of effort from my part and the other
15 neighbors that objected to get that permit rejected. I'm already spending my morning here
16 going over this with you what I don't want to be here doing.
17

18 Mr. Shafir: We are as well.
19

20 Mr. McDermott: So, but you're the one applying for this, so if it doesn't work out I'm gonna have
21 to spend a lot of time, it's gonna be very hard to get that rejected, I don't know how hard it is but
22 I'm sure it doesn't happen overnight and you still...you say you want to be a responsible
23 neighbor and you listen to your neighbors but you're not hearing them, and that's what I don't
24 get. We've spoken, right...all the adjacent neighbors have spoken and said no, and you're
25 saying I'm listening to you but you're not, and you're telling us that you're different than
26 everybody short-term rental and I just don't agree with it and the answer is absolutely no.
27

28 Mr. Shafir: Well, I appreciate your feedback, thank you Joe.
29

30 Mr. Carnicelli: Thanks, Joe.
31

32 Mr. McDermott: Thank you.
33

34 Mr. Carnicelli: Is there anybody else that would like to testify on this item? Seeing none, then
35 without objection we'll go ahead and close public testimony. Okay, thank you. So I guess we'll
36 go ahead and go into Q&A from the Commissioners. So at this point in time, I'll go ahead and
37 start with Commissioner Thompson. Do you have any questions for either the Department or
38 for the applicant at this time?
39

40 Mr. Thompson: Sure thank you Chair. So I was wondering when are you planning to moving to
41 Maui permanently?
42

43 Mr. Shafir: This is a good question. We want to ramp up our idea. We haven't set a year. We
44 are in our late 40's right now. We still have some time for retirement, but we want to frequent
45 the island a lot more. It's true there will be some years that we won't be on the island
46 permanently but we want to work our way there and it may happen earlier and sooner.
47

1 Mr. Thompson: True. So you're aware it's same like in the Bay area that we have a housing
2 problem here for locals so we have a lot of tourists coming and not a lot of places for locals to
3 live so that's why they have that rule about a six-month and one day, could you run it as a long
4 term?
5

6 Mr. Shafir: Absolutely. If there are points where we can't make it, there's I believe there's no
7 requirement saying that we can't run it as a long term when that opportunity arises. We have it
8 as long term today. Our daughter was just born at the time that we sent out our first neighbor
9 notice, so we weren't able to travel. It is possible there may be times we can't visit as frequently
10 as we like and we can make it long term.
11

12 Mr. Thompson: Okay, thank you.
13

14 Mr. Carnicelli: Commissioner Pali do you have any questions? Sure.
15

16 Ms. Pali: I had a question regarding short-term rentals. Can you clarify the definition of a short-
17 term rental? I thought it was below 30 days? And that could be my lending guidelines
18 superseding my Planning Commission guidelines.
19

20 Ms. McLean: It's defined as less than 180 days.
21

22 Ms. Pali: Six months.
23

24 Ms. McLean: Six months, yes.
25

26 Ms. Pali: Yeah so going back to you know I actually believe that the people you are servicing
27 sound very different from the normal vacation rental. So just right off the bat I do like that
28 although we're just fighting so hard to guard what we have left and unfortunately you bought in a
29 time when we're ready for the fight now. We want to protect and guard our neighborhoods.
30 And so we are tasked with that here and my question for is if we were to even consider this
31 because I do believe you have a unique spot, I often too get vetted from professionals, medical
32 professionals, even the pilots and different things and they don't know if it's going to work out so
33 they kinda need a temporary spot, two, three months to just see if it works out and then they are
34 ready to commit to housing long term. So I believe there is a need for that. The question is if
35 we put it in a condition that we didn't allow a certain type of person or definitely restricted the
36 minimum days would you be open to that?
37

38 Mr. Shafir: I believe we would. I would defer to the rules whether we're allowed to discriminate
39 in that form.
40

41 Ms. Pali: I'll clarify. I'll clarify I guess we're not allowed to identify a certain type of person but
42 we probably could limit the number of days which would hopefully then kind of have that natural
43 effect. Okay, thank you for that.
44

45 Mr. Shafir: Thank you.
46

47 Mr. Carnicelli: Yeah, I think we have to deal with fair housing guidelines.

1
2 Ms. Pali: Got it. We should do.
3
4 Mr. Carnicelli: So Commissioner Robinson, any questions?
5
6 Mr. Robinson: No questions.
7
8 Mr. Carnicelli: Great. Commissioner La Costa.
9
10 Ms. La Costa: Thank you Chair. So you mentioned that you have rented it previously. Has it
11 always been long term?
12
13 Mr. Shafir: Since we purchased the property it was only July of last year we have rented it long
14 term. So the first tenants were six months, our second tenants have a nine-month with an
15 option to extend month to month after that.
16
17 Ms. La Costa: Okay.
18
19 Mr. Carnicelli: Go ahead.
20
21 Ms. La Costa: You mentioned that you had connections for rentals for two, three, four months,
22 visiting doctors, engineers, et cetera. Do you have any kind of contract with a company?
23
24 Mr. Shafir: We do not have a contract. We do have contacts that we can reach out to to
25 attempt to get that. We have Kristen who actually knows many people in the health community
26 that will allow us to find medical professionals. In fact our prior tenant's company sent...had a
27 project requirement here, sent their engineers we can go back to them. We also found that
28 there are insurance companies that have special companies that place...people displaced
29 people from homes that may have been damaged through water or flooding or even fires that
30 require temporary housing. It could be you know three months or longer so there's definitely a
31 need and these are, you know standard families not vacationers, they actually need a home.
32 They're not homeless you know before that, they just had a damaged home so that's also an
33 option and we will continue to build contacts as well that will help us find the right professionals.
34
35 Ms. La Costa: Mr. McDermott I believe, you know neighbor's name is mentioned that here were
36 some issues with the current tenant. How have those been addressed please and how is the
37 issue being alleviated.
38
39 Mr. Shafir: So didn't really want to go into this. So the...the issues with the last tenants
40 Mr. McDermott's wife called us up and were concerned that there was a lot of yelling,
41 screaming, they have a young child who's five years old who they claimed at some point, you
42 know ran away screaming that the father was yelling and they were concerned about child
43 abuse situation. And she called us, you know we listened to them, we wanted to make sure that
44 this was you know a valid concern. She told us about you know the date and time this
45 happened and as I mentioned before we have exterior cameras that are motion sensitive and
46 have audio and we went to the records of our cameras which I actually have if you want to see
47 stating that the dad was yelling at the son and the mom, you know just ran off not caring what

1 was going on. She's a physician by the way, a pediatrician, all right who services kids and
2 there's a Hawaii State Law which requires all medical professionals particularly pediatricians to
3 report any abuse. So we frankly you know did not believe that was an honest characterization,
4 maybe they heard yelling, that might have been a fact. Our four-year-old yells all the time and
5 we have to, we have to mitigate that sometimes is like a yelling match but there's no sense of
6 abuse and we spoke to them, and said if you have a legitimate concern please call the police.

7
8 Ms. La Costa: The reason that I ask is I wanted to find out how you would respond and how
9 you did respond if there is any kind of issue.

10
11 Mr. Shafir: We responded immediately and we spoke with them and tried to understand and
12 said you know this is terrible please you know, call the police. We had...at the time we had you
13 know the property manager, you know to say, hey you know would you come by and speak with
14 them and he said that he didn't, he didn't get anything from them. And based on...you know
15 based on any further interaction we have heard nothing from our neighbors stating that there
16 were any issues. We've met our tenants. We haven't seen any issues. Kristen and Craig have
17 my meet...probably everybody...most of the people have met our tenants and Don Dennerline
18 who's our gardener interacts with them all the time and have seen nothing irregular. So we've
19 urged them to actually call the police and that would be bad for us if that were true of our
20 tenants. We have heard nothing since.

21
22 Ms. La Costa: And Chair if I might one more please?

23
24 Mr. Carnicelli: Yes, one more.

25
26 Ms. La Costa: On your responses you said that the short-term rental home would be rented
27 only when a manager is accessible and that you do have a licensed realtor who is managing it.
28 So it shows that he's 30 miles away.

29
30 Mr. Shafir: So for long-term there's not a requirement for property manager, but the current
31 from Hawaii Life they need to be within, they need to be within one hour and whenever we
32 requested him to come, he comes.

33
34 Ms. La Costa: Okay. And what's gonna happen if you have a tenant and he's on vacation?

35
36 Mr. Shafir: So it is up to...it is a requirement...sorry.

37
38 Mr. Carnicelli: Go ahead, you answer the question.

39
40 Mr. Shafir: It is a responsibility of the property manager to provide the right backup. But as we
41 said we're not hands on, we will get vet any property manager that is required to be on the
42 island.

43
44 Ms. La Costa: Thank you so much.

45
46 Mr. Carnicelli: Commissioner Castro do you have any questions?
47

1 Mr. Castro: Yes, just one. Mr. Shafir, Mr. Olave testified in support for this permit. He also has
2 a home but he doesn't rent it out and has someone check the property twice a week I believe
3 that's what he said. Would you consider something like that?
4

5 Mr. Shafir: It's a possibility, but you know we believe based on our intent we would actually be
6 contributing more to providing homes for underserved needs, medical professionals, nurses that
7 come here and this is our...that's our intent, request.
8

9 Mr. Castro: Thank you.

10
11 Mr. Carnicelli: Thank you. Commissioner Tackett do you have any questions?
12

13 Mr. Tackett: None at this time.
14

15 Mr. Carnicelli: Thank you. Does everybody have enough information to be able to make a
16 decision at this time? Is Jared if you would come forward? So Ilya before we move forward is
17 there any other pieces of testimony that you want to address and/or...anyways address before
18 we move towards a decision?
19

20 Mr. Shafir: I would just like to reiterate I guess the...the idea that you know we're here today for
21 a permit. We know it is not a permanent situation, we know there's a responsibility for the
22 County to be able to revoke and Mr. McDermott states you know we've got...we have to work
23 really hard. I don't believe you know it might be that difficult if there are actual police reports to
24 do this. We've done our due diligence for this. We've spent over a year you know putting this
25 together especially prepping for the hearing and we believe doing or requesting revocation is
26 way simpler and not a real risk and I...it's unfortunate Mr. McDermott believes that you know we
27 made a mistake, I don't believe so. This would be our future home and we would have
28 Mr. McDermott as a neighbor and we would love to you know gain his respect and
29 understanding and if we, we spend more time there I think he'll see that. He just doesn't see
30 that because he doesn't know us very well. Thank you.
31

32 Mr. Carnicelli: Thank you. Jared would you please give us the Department's recommendation.
33

34 Mr. Burkett: The Department has reviewed the information and has found that everything is
35 according the requirements also noting that on Page 5 of the report that the application was
36 submitted prior to the change of the ordinance that's requiring the owner to own the property for
37 five years before being able to apply for a short-term rental permit, so this is therefore
38 allowed...they are allowed to apply before having five years of ownership.
39

40 Also, I did conduct a site visit everything was found to be in compliance, but what was of note
41 which is why the Department has made this analysis is on Page 13 of the report about in the
42 fourth paragraph...and in doing an analysis of the owners within that neighborhood specifically
43 on Auina Place it was found that nine of the 15 owners are claiming a homeowner exemption
44 and then so six would be presumably not living or occupying their homes full time. So it's pretty
45 even in number but it shows that there are a good number of owners occupying their properties
46 and due to this and the number and substance of the protest that the Department has
47 recommended that we...that the Commission deny this permit.

1
2 But if the Commission does decide to approve the permit the Department requests that you
3 consider approving subject to the 23 standard conditions and of a duration of one year, and then
4 also that if you do decide to go against the Department's recommendation that you use the
5 report and recommendation as the findings of fact, conclusion of law and decision and order
6 and to authorize the Planning Department to transmit that said decision and order on behalf of
7 the Planning Commission.

8
9 Mr. Carnicelli: Thank you. Appreciate it. So at this point in time I will entertain a motion.
10 Commissioner Robinson.

11
12 Mr. Robinson: I'd like to make a motion to follow the Department's recommendation of denial.

13
14 Mr. Carnicelli: We have motion to deny as recommended by Staff. Do I have a second?
15 Second by Commissioner Thompson. Discussion?

16
17 Mr. Robinson: May I speak to the motion please Chair?

18
19 Mr. Carnicelli: Absolutely.

20
21 Mr. Robinson: Short-term rentals it is allowable by law, everybody has the right to apply for a
22 short-term rental and that is that...that is the law that our Council has voted on prior and I get
23 reminded of that a lot of times 'cause I've been against a lot of time and still am. But in that law
24 it also states that neighbors have rights too and I think that gets lost a lot of times and I think
25 that's today where we can see that evidently with the next door neighbors. Most short-term
26 rentals we see they usually have one or two neighbors that over the years they've become
27 friends with and will vouch for them. This is very rare for me to see next door neighbors both of
28 them you know, to say no to tell you the truth.

29
30 It's also people think it's a popularity contest or a niceness contest. These people are so nice
31 they deserve this special use permit...I mean not special use, this short-term rental permit and
32 it's great that they're nice. We want nice people in Maui. You know we think nice people, you
33 know move in with nice people, but there's also zoning in Maui. There's TVRs, there's you
34 know there's different places to where if you want to be a part-time resident of Maui and we
35 welcome you purchase in a temporary housing area that you can do exactly what you think
36 you're doing. You know I think there's that opportunity there. There's different islands in the
37 State of Hawaii. Honolulu doesn't have a six-month requirement. Honolulu has a 30-day
38 requirement. So you know, Kauai is different. So you know I think, I think when you spend a
39 million dollars you do a little bit more research like you said and I think you might want to find
40 out you know where you want to be and to be at. We hope that that you stay in your home.

41
42 You know, we hope that you you do like half of the homeowners here and as far as
43 professionals and this is to my fellow commissioners and I'm glad you brought that up is we
44 have somebody who testified today that he moved here and bought a house in Kihei, short-term
45 rentals these houses don't go up on the market for people who just want to rent them out it
46 evaporates our inventory so that's why we're in this predicament with professionals moving to
47 Maui. We're in this predicament because we don't have long term rentals for professionals to

1 come in here because we have these short-term rentals. So it's great that you think that you're
2 trying to solve the problem but you're part of the problem and part of the problem is too many
3 short-term rentals not enough long-term rentals for professionals to come. These expensive
4 homes on the beaches that we think that nobody is gonna rent out. These are the ones they
5 rent out. These doctors they get these expensive rentals. I know person who has a beach
6 house rental who is a doctor and he's not gonna stay in the neighborhood, his family, he makes
7 enough and he'll pay the 10k that go for a month. We always think that these don't exist.
8 These people are here. You know these people they're around. There's other professionals
9 that come. There's pilots hui together and they rent a house because it's gonna be for three
10 days. There are people that have that dollar amount and we can't all wait to say, oh well since
11 this cost so much there's not gonna find a renter. There's renters out there and I'll attest to it
12 that there are out there. I think you sound like a very nice person, I wish you folks well and I
13 hope that you find other options besides the short-term rental. Thank you.

14
15 Mr. Carnicelli: Thank you Commissioner Robinson. Would anybody else like to speak to the
16 motion? Commissioner Pali.

17
18 Ms. Pali: Yeah, so I think I just would like to speak so that way when I do vote there's an
19 explanation which I think is important.

20
21 Mr. Carnicelli: That's what this part is for.

22
23 Ms. Pali: Thank you. So I do like a lot of what Commissioner Robinson shared, but I also want
24 to bring balance in my opinion to that because I would love to blame people who more here and
25 tourists causing our problem with affordable housing and short-term, short inventory and all that,
26 but sadly not one people group is responsible for that. There's many, many factors and I know
27 we, as locals also have a hand in that. When we do sell 357 units affordable and they wait their
28 ten years and then they turn it around for a home they bought \$250,000 and they sell it for
29 \$700,000 to the same people and they cash out and then they need another home in three
30 years, we too are responsible for that problem and so just to bring balance I think for me I stand
31 with Keaka Robinson, Chair Keaka Robinson in that when immediate neighbors are impacted
32 the most I believe we have to hear them rather they are right in their thinking we all are entitled
33 to our opinions. Whether a stranger next door is causing problems or noise or when you move
34 back your child is the one causing noise that's not really gonna...can't be addressed but we
35 want the neighbors to feel like they're being heard and it would have been nice to have maybe
36 at least one or two immediate neighbors to say hey, I've met you and I believe your word that
37 you will be a better landlord but since we don't have that in the file and although we have a
38 wonderful trail of character references no doubt you're good people and we're glad you're here.
39 But for you me, I need more neighbors to fight for you because it's not fair that a person could
40 move in after families have been there for 20 years and in a fluke just change the dynamic
41 potentially of the neighborhood, it's not fair. And so for that reason I would be also supporting
42 the denial because we lacked support from your immediate neighbors.

43
44 Mr. Carnicelli: Thank you. Would anybody else like to speak to the motion at this point? Okay,
45 Director.

46
47 Ms. McLean: The motion is to deny the short-term rental home permit.

1
2 Mr. Carnicelli: All in favor of the motion please raise your hand. That is six ayes, unanimous.
3 Corporation Counsel.

4
5 Mr. Hopper: Just for clarification the basis of denial would be Page 12 and 13 of the report.
6 There's the community input section on N.4 and then Page 13, N.7, the number and substance
7 of protests to the short-term rental home application and protests related to the cumulative
8 short-term rental homes in the neighborhood or area. Is that...so just for guidance in preparing
9 the decision and order for the staff. Is that correct?

10
11 Ms. Pali: Social impacts to the neighborhood.

12
13 Mr. Hopper: Okay, and anything else on record.

14
15 Mr. Robinson: We're following the Department's recommendation.

16
17 Mr. Hopper: Correct.

18
19 Mr. Carnicelli: Correct.

20
21 Ms. McLean: I don't believe a decision and order needs to be written because they're following
22 the staff recommendation.

23
24 Mr. Hopper: Okay, in any case just to be clear that that's the basis in case—

25
26 Mr. Carnicelli: The basis of the decision.

27
28 Mr. Hopper: Yes.

29
30 Mr. Carnicelli: Yes, that's the basis of the decision as recommended by the Staff and presented
31 by Jared.

32
33 Mr. Hopper: Yeah. We can discuss precisely what document it is but I wanted that on record
34 so it's clear. Thanks.

35
36 Mr. Carnicelli: Okay, thank you.

37
38
39 **It was moved by Mr. Robinson, seconded by Mr. Thompson, then unanimously**

40
41 **VOTED: To Deny the Short-Term Rental Home Permit as Recommended by**
42 **the Department.**

43
44 **(Assenting – K. Robinson, D. Thompson, K. Pali, C. Tackett,**
45 **S. Castro, P. D. La Costa)**

46 **(Excused – T. Gomes)**
47

1
2 Mr. Carnicelli: At this point I think we're gonna go ahead and take a five-minute recess to allow
3 Livit time to set up.

4
5 Mr. Shafir: Thank you for your time.

6
7 Mr. Carnicelli: Thank you.

8
9 A recess was called at 10:15 a.m., and the meeting was reconvened at 10:24 a.m.

10
11 Ms. McLean: Next up is your second public hearing item which is a request from
12 Robert C. Davis for a Short-Term Rental Home Permit in order to operate Ala Moana Hale, a
13 four-bedroom STRH located in the R-2 Residential District at 39 Papaua Place,
14 TMK: 4 3-007: 017 in Lahaina. Livit Callentine is the project planner.

15
16
17 **2. ROBERT C. DAVIS requesting a Short-Term Rental Home (STRH) Permit in**
18 **order to operate Ala Moana Hale, a four-bedroom STRH located in the R-2**
19 **Residential District at 39 Papaua Place, TMK (2) 4-3-007:017, Lahaina,**
20 **Island of Maui, (STWM T2018/0003) (L. Callentine)**

21
22 **The matter is being brought before the Maui Planning Commission for**
23 **review because there are at least two permitted short-term rental home**
24 **operations located within 500 feet of the subject property. (Rescheduled**
25 **from June 10, 2019)**

26
27 Ms. Livit Callentine: Thank you, Director. This application is for a four-bedroom short-term
28 rental home that was in operation for three years from February 2014 to February 2017 and at
29 which time the applicant forgot to renew. So as he was...as soon as he became...according to
30 the applicant the STRH operation was shut down as soon as he realized the error and began to
31 rectify that. During the three years that the Ala Moana Hale operated there were no complaints
32 filed. In fact there was only RFS which is a Request for Service filed and it was for information
33 about building permits and that request was fulfilled and has been closed.

34
35 The applicant and his family live in the home approximately four months out of the year and the
36 income from the short-term rental home will...was used and will be used if the permit is granted
37 to maintain and secure the dwelling.

38
39 There are five permitted short-term rentals and one pending short-term rental within 500 feet
40 which is shown in your Exhibit 6 of your report if you want to look at a better copy. I wanted to
41 pull this up because you also got a letter today from a neighbor who lives between two short-
42 term rentals right in the corner of this private gated peninsula so I think that says a lot that
43 someone who's actually a homeowner and claims a homeowner's exemption is surrounded by
44 all of these short-term rentals and doesn't seem to mind. On my site visit there I observed the
45 neighborhood to be very quiet and serene and quite lovely. It doesn't seem like to be the type

1 of property or neighborhood that would really lend itself to workforce housing. This peninsula is
2 just south of Honokeana and Napili Bays.

3
4 The application, the application was filed in July of 2018 which was prior to the enactment of the
5 restriction of the home must be owned for five years, but since the applicant has owned the
6 property since 1998 there's...that, that wouldn't be trigger and also he filed before the, before
7 the enactment of the ordinance restricting ownership.

8
9 The applicant has a small, a short powerpoint he would like to show at this time and without
10 further ado I'll get that set up.

11
12 Mr. Carnicelli: Thank you Livit.

13
14 Mr. Robert Davis: Can I stand?

15
16 Mr. Carnicelli: You may.

17
18 Mr. Davis: Good morning, I'm Bob Davis. I am the proud owner of 38 Papaua Place. My family
19 and I have been coming to Maui for 35 years. For many years my investment firm that I was the
20 founding partner of managed pension funds for the laborers, the Hawaii laborers, the masons,
21 the electricians, ...(inaudible)...and others for about 12 years until I retired which was ten years
22 ago. So we...on one of the trips, we come here on a quarterly basis of course to meet with
23 clients and other things and on one of those trips I was staying at Napili Kai, one of the sweetest
24 resorts there is and I took a walk and about a half mile down the road I walked Papaua Place
25 and I saw this house and fell immediately in love. This house was built by Rob Thibaut who
26 built the TS, he's a founding partner of the TS Restaurants and the home is very Hawaiian. It
27 looks like Leilani's. The walls are all koa and lava rock and it is full of original art from Sabado,
28 ...(inaudible)...and things like that. So it's a very wonderful place. We love to share it.

29
30 But we, we made a mistake and I'll show that in a second. We bought the home in '98 actually
31 not '99. Rob Thibaut was the builder unfortunately Mr. Thibaut passed. He had cancer and he
32 passed and we were the first people to buy it afterwards and we've owned it ever since. So
33 we're very proud of it, we take good care of it. We have nice neighbors as you saw and our little
34 street is only ten homes and it's gated and it's surrounded by water. Our home maybe is a
35 hundred feet from the ocean and you can't hear anybody next door. They can't hear me
36 because the ocean makes so much wonderful noise that we all enjoy. Okay, so it's a gated
37 street, the oceanfront location make it really a private sanctuary, honestly you can't really see
38 the neighbors next door just because the way the houses are set up.

39
40 We applied for our permit, we got our permit and then I ridiculously forgot to renew it and my
41 property manager at Whaler's Realty also failed to tell me I forgot to renew it and so after two
42 and a half years we're back here. Took us this long to get back to this point and we would like
43 to have the short-term rental permit.

44
45 So the reasons we like to rent it out, the main reason is this, we come here quite often and it is
46 important that when I come here that everything works. And so when we're not here we like to
47 have people in the house and so our property manager can fix things and take care of things

1 and so when I'm here it works. My wife and I have been here six times in the last 12 months.
2 My daughter and son-in-law have been here twice. My son and daughter-in-law a couple times
3 and we're very popular with friends and family and so we use the home quite a bit. You know
4 four months of the year is my estimate, but I really don't know. We don't come for four months
5 at a time, but we do come for a couple weeks at a time. So it is our family sanctuary. It is a
6 special place for our family for several reasons. My daughter is an artist and she had to do an
7 internship, she was 17 and she came and spent the whole summer at the house working for the
8 Village Gallery in Lahaina and I bought her a moped so she could get there and back 'cause
9 she was too young to have, you know, driver's license. So that...she is completely Maui mad as
10 you might expect. But my father, when my mother passed 15 years ago, I brought him there for
11 two weeks and it has amazing healing powers. The sun sets every night between Molokai and
12 Lanai, it's a unique, unique situation. So we love it, we share it with friends and family. When
13 we had our permit we shared it with other people that were brought in by rental agents. When
14 we stopped and when we got our permit expired we immediately stopped all rental activity. We
15 called up Whalers and said get rid of all the advertisements so we have not been renting it since
16 we...the permit expired.

17
18 We will take care of the ocean. See those turtles, you saw them on the map where there's a
19 bay on either side. On this one on the east side there's about two dozen turtles that come out
20 and they sit on the beach every day, rest. It's a wonderful experience. So we love it, we want
21 to continue to share it with people. We've been working on this, getting this permit back now for
22 two and a half years and I hope you'll consider allowing us to start renting it again.

23
24 Mr. Carnicelli: Thank you. Has anybody signed up?

25
26 Ms. La Costa: No.

27
28 Mr. Carnicelli: No. Is there anybody that would like to testify on this particular item, please
29 come forward? Please state your name.

30
31 Mr. Tom Croly: Aloha Chair, Tom Croly.

32
33 Mr. Carnicelli: Welcome Tom. Do you promise to be truthful?

34
35 Mr. Croly: Indeed.

36
37 Mr. Carnicelli: You have up to three minutes.

38
39 Mr. Croly: I assisted the applicant in putting together his new application for this property and I
40 just wanted to kinda go through the history of it just so you understand. As soon as he become
41 aware that the permit had expired he canceled existing reservations and took down all his
42 advertising as required and as I directed him to do so. We then had to make a whole new
43 application which involved you know, first submitting the application, then sending notice to all
44 the neighbors within 500 feet and there's two condos that are within 500 feet so like the
45 previous applicant we had a very long mailing list of people to send notice to and there were no
46 objections from that Notice of Application.

47

1 Then we, actually we got delayed in the process because as you may recall we were coming
2 close to the cap in West Maui so the Department stopped processing all applications in West
3 Maui for a period of about seven months and during that period we really couldn't go any further
4 and then when they opened up the applications for West Maui we began again. Then we made
5 notice of a planning commission hearing which was scheduled for June 10th I believe and due to
6 lack of quorum we did not have that hearing. The applicant did fly in for that, but we didn't have
7 the hearing so again we got no letters of objection from that notice. So then we had to make
8 notice again for this hearing and again, we got no notice, no letters of objection from that notice.
9 So it just goes to show that this as opposed to last one that you just saw, this one is accepted in
10 the neighborhood.

11
12 And just as kind of an aside to the last one, a neighbor two doors down from the last one asked
13 me about getting a bed and breakfast permit on that street and I told...I went and I looked at the
14 house and I said, you can meet all the requirements, your house meets all the requirements but
15 what you need to do is find out if this street is going to accept, okay. And she called me back
16 the next day and she said, my neighbors said no way, and I know I'm going to have a problem
17 with this neighbor 'cause he hates me, and the guys across the street are friends with the guy
18 here. And I said, you're gonna waste your time, so don't come forward with an application if
19 your whole neighborhood is going to be against you. The previous, those weren't my applicants
20 but I would have advised them the same way. This is application in this location it's the right fit,
21 so I hope that the commission will see fit to grant it. Thank you.

22
23 Mr. Carnicelli: Thanks Tom. Do you have any questions for the testifier? Thank you. Is there
24 anybody else that would like to come forward and testify on this particular item? Seeing none,
25 then I will close testimony if there are no objections. I guess at this point in time we'll go ahead
26 and start with questions from the commission. We'll start with you Commissioner Tackett, do
27 you have any questions? No. Commissioner Castro, do you have any questions at this time?

28
29 Mr. Castro: No.

30
31 Mr. Carnicelli: Commissioner La Costa?

32
33 Ms. La Costa: I just have a comment.

34
35 Mr. Carnicelli: Okay.

36
37 Ms. La Costa: Thank you, Chair. I would like to applaud you for doing the right thing and
38 stopping your vacation rentals when you knew that your permit had expired so thank you for
39 that.

40
41 Mr. Carnicelli: Commissioner Robinson?

42
43 Mr. Robinson: Hi. So when Mr. Croly says assist, does that mean you hired him? I heard he
44 say he assisted and then he directed, I just want to get that clear. Mr. Croly knows a lot and I'm
45 glad that he advised you correctly. I have a question for you, do you give kamaaina rates at all
46 when you rent out your property? No guys, I'm serious.

47

1 Mr. Davis: We can, but we haven't been renting it for two and a half years so we'll have to talk
2 about it.

3
4 Mr. Robinson: And again, and I keep on saying is you know we want to give these properties
5 especially on the beachfronts that I want to make sure that you know maybe locals would you
6 know like to sometimes get into the price range somehow.

7
8 Mr. Davis: Well, let me answer that this way. We have the same caretaker for the property
9 since we bought it, the same caretaker 21 years so the guys that take care of the wood, as I
10 said it's all koa and everything. So the guys that take care of the wood I give them free time
11 there you know whenever they can make there, they're working all the time, but usually I give
12 them a weekend for if their girlfriends or something like that. We love the place and we love the
13 aloha spirit and we want to share it with everybody.

14
15 Mr. Robinson: And again it's not a requirement I'm just maybe on your site if you guys put a
16 kamaaina rate I should ask that to all the STRHs that we...(inaudible)...but you know when I
17 saw this property I thought it was nice and I got one more question for the Director.

18
19 Mr. Carnicelli: Go ahead.

20
21 Mr. Robinson: Director, I know in Paia we have a shoreline ordinance for STRHs is there
22 anything or is that just for Paia?

23
24 Ms. McLean: That's just for the Paia-Haiku Community Plan region 'cause it generated from
25 language in that community plan.

26
27 Mr. Robinson: Thank you so much.

28
29 Mr. Carnicelli: Commissioner Pali.

30
31 Ms. Pali: One quick question. So this is your second go around because the first one expired
32 and just for the record, have you updated yourself in any changes to the expectation of the
33 permit holders that might be present this time around that maybe were not present the last time
34 you were a permit holder.

35
36 Mr. Davis: I'm sorry, I don't quite understand the question.

37
38 Ms. Pali: Have you updated yourself on any new guidelines or updates to our rules?

39
40 Mr. Davis: Oh yes. Mr. Croly has been very, very good about keeping me updated on changes
41 in the rules.

42
43 Ms. Pali: Because I'm gonna assume a few years later there's maybe some updates.

44
45 Ms. Davis: Yes, ma'am.

46
47 Ms. Pali: Okay, thank you for the record.

1
2 Mr. Carnicelli: Commissioner Thompson any questions?
3
4 Mr. Thompson: No questions. Beautiful home I was in there once with one of your wood guys.
5
6 Mr. Carnicelli: There you go. Yeah, and I've actually admired your house from the surf break
7 right out in front there, Little Makaha.
8
9 Mr. Davis: Little Makaha, that's right.
10
11 Mr. Carnicelli: Numerous occasions, yes. Does everybody have enough information to make a
12 decision at this time? Livit, if you would give us the recommendation?
13
14 Ms. Callentine: So thank you Chair. The application for a short-term rental home complies with
15 the restrictions and standards outlined in Chapter 19.65, Maui County Code for the reasons that
16 were provided in the report, and just to summarize community input was obtained, was available
17 to be obtained, and no protests, and only one letter support quite recently was provided. The
18 designated manager operates an officer less than five miles away. The applicant has been very
19 cooperative in providing information and allowing me to make a site inspection and also
20 graciously accepting the fact that he didn't get to show on June 10th. I mean, he did, but we
21 couldn't have a hearing so he was very gracious about that. Also, the applicants are required to
22 carry one million dollars of general liability insurance which indemnifies the County of Maui as
23 well as the property. There will be a permanent sign that will posted to notify neighbors of how
24 to file a complaint if one should arise and the home will be rented to only one group at a time.
25 There are no other government approvals required therefore, the Maui County Planning
26 Department recommends approval of the subject application subject to 23 conditions which I will
27 believe you guys are familiar with but if you want to go over any of them I'm certainly willing to
28 do that.
29
30 Mr. Carnicelli: Thank you, I don't think we need to read those into the record at this time. The
31 Chair will entertain a motion at this point. Commissioner La Costa.
32
33 Ms. La Costa: I move to accept the Short-Term Rental Permit as approved and suggested by
34 the County.
35
36 Mr. Carnicelli: Motion to approve as recommended by staff by Commissioner La Costa. Do I
37 have a second?
38
39 Mr. Castro: Second.
40
41 Mr. Carnicelli: Seconded by Commissioner Castro. Would anybody like to speak to the
42 motion? Seeing none, Director.
43
44 Ms. McLean: Thank you, Chair. The motion is to approve the STRH Permit subject to the 23
45 conditions.
46

1 Mr. Carnicelli: All in favor please raise your hand. That is six eyes. Congratulations Mr. Davis.
2 I do have one question before you go. Did you rehire Whaler's Village or Whalers Realty I
3 guess I should say?

4
5 Mr. Davis: I haven't fired them yet.

6
7 Mr. Carnicelli: You haven't fired them yet, all right there we go.

8
9 **It was moved by Ms. La Costa, seconded by Mr. Castro, then unanimously**

10

11

12 **VOTED: To Approve the Short-Term Rental Home Permit as Recommended**
13 **by the Department.**

14

15 **(Assenting – P. D. La Costa, S. Castro, D. Thompson, K. Pali,**
16 **K. Robinson, C. Tackett)**

17 **(Excused – T. Gomes)**

18

19

20 Mr. Carnicelli: Let's see who's next. Ryan do you need time to set up? You're ready? Okay.
21 Director.

22

23 Ms. McLean: Thank you, Chair. Your last public hearing item is a request from
24 Mr. Erik Hammer for a State Land Use Commission Special Permit to operate Haiku Hale
25 Aloha, a two bedroom Bed and Breakfast Home located in the secondary farm dwelling in the
26 State Agricultural District and County Agricultural Zoning District on approximately 2.004 acres
27 of land at 218 Oili Road, TMK: 2-7-013: 209 in Haiku. Ryan Quigless is the project planner.

28

29

30 **3. MR. ERIK HAMMER requesting a State Land Use Commission Special**
31 **Permit to operate Haiku Hale Aloha, a two bedroom Bed and Breakfast**
32 **Home located in the secondary farm dwelling in the State Agricultural**
33 **District and County Agricultural Zoning District on approximately**
34 **2.004 acres of land at 218 Oili Road, TMK: (2) 2-7-013: 209, Haiku, Island of**
35 **Maui. (SUP2 2019/0005) (R. Quigless)**

36

37 Mr. Ryan Quigless: Good morning Commissioners, Chair, aloha.

38

39 Mr. Carnicelli: Good morning Ryan.

40

41 Mr. Quigless: My name is Ryan Quigless with the Department of Planning for Maui County. We
42 meet here this morning to review the request for State Land Use Special Permit by applicant,
43 Erik Hammer to operate a bed and breakfast home name Haiku Hale Aloha, a two guest room
44 rental property located in the second farm dwelling. The applicant and his family will reside in
45 the primary farm dwelling. The property is triggered for a public hearing due to its location in the
46 County Agricultural and State Agricultural Districts. The property has a county approved farm

1 plan and a site visit to the property in 2019 documented proof that the property has at least
2 51 percent in active agriculture.

3
4 The applicant intends to maintain the Paia-Haiku Community Plan goal to preserve the region's
5 small-town ambience, rural character, coastal scenic vistas, extensive agricultural land use and
6 to accommodate the future needs of the residents and traditional uses of the shoreline and
7 mauka lands. The proposed project will also contribute to an increase of available jobs for the
8 area. And finally, the owner of the property, Mr. Erik Hammer will ensure that all guests are
9 educated about Maui Nui's history and culture and about detrimental impacts to natural and
10 cultural resources particularly to the well-respected and cherished coastal environment of Maui.

11
12 Commissioners, you have the reports and the facts, are there any questions of either myself or
13 the owners of the property at this time?

14
15 Mr. Carnicelli: Are you going to do a presentation at all?

16
17 Mr. Erik Hammer: I could. I kinda jotted down while I waited on the first one. I think that you
18 guys have all the pictures and facts.

19
20 Mr. Carnicelli: We do have all the information. Okay, so at this point in time I'll go ahead and
21 open up the floor for questions. Commissioner La Costa do you have any questions for the
22 Department or for the applicant at this time?

23
24 Ms. La Costa: Thank you, yes. Have you previously rented the property short-term?

25
26 Mr. Hammer: No.

27
28 Ms. La Costa: No.

29
30 Mr. Carnicelli: Commissioner Castro.

31
32 Mr. Castro: No questions.

33
34 Mr. Carnicelli: Thank you. Commissioner Tackett any questions?

35
36 Mr. Tackett: No.

37
38 Mr. Carnicelli: Commissioners Robinson any questions at this time?

39
40 Mr. Robinson: I do, Chair.

41
42 Mr. Carnicelli: Okay.

43
44 Mr. Robinson: Mr. Hammer.

45
46 Mr. Hammer: Yes.

47

1 Mr. Robinson: Thank you. I always think B&Bs are great for ag lands. I think it's a good
2 support the agriculture. Talking about your 51 percent threshold what is your amount of
3 property that you're using for agriculture on your lot?
4

5 Mr. Hammer: Right now, it's actually grown since we submitted our application. It's more like
6 60-65 percent and I'd like to continue to grow that. The property itself is two useful acres and
7 majority of it is fruit trees.
8

9 Mr. Robinson: Okay. Do you sell any of the fruits trees or donate them or is it just occupying
10 space?
11

12 Mr. Hammer: We donate, well kinda donate. My wife is the parent coordinator at Haiku
13 Elementary so we bring it in for the teachers and we give to the neighbors. We don't want to
14 see the fruit go to waste and the trees were planted, majority of them six years ago, sorry I'm a
15 little nervous.
16

17 Mr. Carnicelli: That's okay, you don't need to be nervous.
18

19 Mr. Hammer: I'm not good at public speaking.
20

21 Mr. Carnicelli: That's okay.
22

23 Mr. Hammer: We planted them six years ago and it's taken quite some time to—
24

25 Mr. Robinson: To fruit, to bear fruit.
26

27 Mr. Hammer: Yeah, so...
28

29 Mr. Robinson: Thank you. Thank you very much. Thank you Chair.
30

31 Mr. Carnicelli: Commissioner Pali, none? Commissioner Thompson any questions?
32

33 Mr. Thompson: No.
34

35 Mr. Carnicelli: No. Okay, so I guess at this point in time do we have enough information to
36 make a decision? Looks that way. Ryan would you come give us our...your recommendation
37 please.
38

39 Mr. Quigless: The Department recommends approval of the State Land Use Special Permit
40 subject to the seven standard conditions in your report and recommendation. Would you like to
41 go over those conditions at this time?
42

43 Mr. Carnicelli: I think we have them in the report.
44

45 Mr. Quigless. Okay.
46

1 Mr. Carnicelli: Oh, you know, we didn't do public testimony. I knew there was something I
2 missed. So, before we go to that, is there anybody that would like to testify on this particular
3 item? Okay, seeing none, then without objection we'll go ahead and close public testimony.
4 We'll go back to the recommendation which we do have in the report. The Chair will entertain a
5 motion at this point in time.

6
7 Mr. Robinson: So move.

8
9 Mr. Carnicelli: Moved by Commissioner Robinson to accept as...to approve as recommended
10 by Staff, seconded by Commissioner La Costa. Any discussion on the current motion? Seeing
11 none, Director.

12
13 Ms. McLean: Thank you, Chair. The motion is to approve the State Special Permit.

14
15 Mr. Carnicelli: All in favor please raise your hand. That is six ayes, unanimous.
16 Congratulations.

17
18 **It was moved by Mr. Robinson, seconded by Ms. La Costa, then unanimously**

19
20 **VOTED: To Approve the State Land Use Commission Special Permit as**
21 **Recommended by the Department.**

22
23 **(Assenting – K. Robinson, P. D. La Costa, D. Thompson, K. Pali,**
24 **C. Tackett, S. Castro)**

25 **(Excused – T. Gomes)**
26
27

28 Mr. Carnicelli: So, at this point in time we have two Communication items and Unfinished
29 Business. Director.

30
31 Ms. McLean: Thank you, Chair. Next you have a request from Tessa Munekiyo Ng of
32 Munekiyo Hiraga on behalf of Christopher White, Senior General Manager, Whalers Village
33 managed by Brookfield Properties for a transfer of a Special Management Area Use Permit from
34 General Growth Properties, Inc. to Brookfield Properties for the Whalers Village Revitalization
35 Project located at 2435 Kaanapali Parkway, TMK: 4-4-008:001 in Lahaina. Kurt Wollenhaupt is
36 the project planner. He does not appear to be here at the moment.

37
38 **C. COMMUNICATIONS**

- 39
40 **1. MS. TESSA MUNEKIYO NG of MUNEKIYO HIRAGA on behalf of**
41 **CHRISTOPHER WHITE, SENIOR GENERAL MANAGER, WHALERS**
42 **VILLAGE, managed by BROOKFIELD PROPERTIES requesting a transfer of**
43 **Special Management Area (SMA) Use Permit from General Growth**
44 **Properties, Inc. to Brookfield Properties for the Whalers Village**
45 **Revitalization Project located at 2435 Kaanapali Parkway, TMK: : (2) 4-4-**
46 **008:001, Lahaina, Island of Maui, (SM1 2013/0018) (SSA 2013/0064) (EAE**
47 **2014/0042) (K. Wollenhaupt)**

1
2 Ms. McLean: You do have in your packet the letter from Ms. Munekiyo Ng indicating the
3 request for the transfer and what is before the commission today is approving the transfer from
4 one owner to a new owner for the SMA Major Permit.

5
6 Mr. Carnicelli: Does everybody have a copy of the letter, have you had a chance to read that?
7 Commissioner Robinson.

8
9 Mr. Robinson: Chair, I am...I would like to question the good standings of the transfer of the
10 company that's gonna receive this permit, so I'd like that opportunity when somebody is here to
11 answer for that.

12
13 Mr. Carnicelli: Yeah, let's go ahead and...without objection we're gonna go ahead and defer
14 this to the bottom of the agenda without objection? Seeing no objection, we're going to go
15 ahead and defer this till later in the meeting. So then Director moving onto the next item.

16
17 Ms. McLean: Next is a request from Mr. John Rogers for an amendment to his State Land Use
18 Commission Special Permit to Operate Ualani Farm B & B to allow three bedrooms to be used
19 for bed and breakfast use instead of two bedrooms in the County Agricultural Zoning District
20 and State Agricultural District on approximately 2.53 acres of Land located at 698 Kaupakalua
21 Road in Haiku at TMK: 2-8-002:259. Jared Burkett again is the project planner.

22
23
24 **2. MR. JOHN ROGERS requesting an amendment to his State Land Use**
25 **Commission Special Permit to Operate Ualani Farm B & B to allow 3**
26 **bedrooms to be used for bed and breakfast use instead of 2 bedrooms in**
27 **the County Agricultural Zoning District and State Agricultural District on**
28 **approximately 2.53 acres of Land located at 698 Kaupakalua Road, Haiku,**
29 **Island and County of Maui, Hawaii: TMK: (2) 2-8-002:259. (SUP2 2012/0001)**
30 **(J. Burkett)**
31

32 Mr. Jared Burkett: Hello, I'm staff planner, Jared Burkett with the Planning Department. Before
33 you is just to amend the SUP2 Permit to add one additional bedroom. Now the situation on the
34 property is there are two farm dwellings. The second farm dwelling is the current B&B Permit
35 that's where it's located and it's for two bedrooms. The applicant is requesting to add a
36 bedroom in the main farm dwelling which is separated by some distance but it's connected
37 legally with building permits to the main dwelling. So, they're requesting to have this added to
38 their permit. There are no requests for service on the property and there were no letters of
39 support or protest. So I'd like to allow the applicant to answer any questions or just give a little
40 presentation if he has.

41
42 Mr. Carnicelli: Do you have a presentation or you're just here to answer questions?

43
44 Mr. John Rogers: ...(inaudible-not speaking into a mic)...

45
46 Mr. Carnicelli: I need you to speak into the mic though.
47

1 Mr. Rogers: Primarily to answer questions.

2

3 Mr. Carnicelli: Okay, then I have a question for you here.

4

5 Mr. Rogers: Go ahead.

6

7 Mr. Carnicelli: Is this long breezeway attached to this guest room, what that there when you got
8 your permit or is that recently?

9

10 Mr. Rogers: No, no, we applied for a permit in 2017 and we had it constructed and inspected.
11 We passed all the inspections and so no, we built it.

12

13 Mr. Carnicelli: Okay, and what's the current use?

14

15 Mr. Rogers: The current use is, we were using it...my wife makes jewelry so she used...part of
16 it was to make jewelry in there and also we stored all, you know farm equipment, but since we
17 made the application we've gone ahead and furnished it and it's just sitting there waiting,
18 waiting, hopefully, hopefully we can get an approval on it. Also, my, my...we have many
19 nephews and nieces who come and visit us and you know they've stayed in it over the last year.

20

21 Mr. Carnicelli: Okay, just one last question. Does it have a 220 plug in it?

22

23 Mr. Rogers: What was that?

24

25 Mr. Carnicelli: 220-volt plug.

26

27 Mr. Rogers: No.

28

29 Mr. Carnicelli: Just all 110.

30

31 Mr. Rogers: It's all 110.

32

33 Mr. Carnicelli: Okay, thank you. Commissioner La Costa do you have any questions for the
34 applicant or for Jared?

35

36 Ms. La Costa: No questions.

37

38 Mr. Carnicelli: Commissioner Castro.

39

40 Mr. Castro: No questions.

41

42 Mr. Carnicelli: Commissioner Tackett.

43

44 Mr. Tackett: None.

45

46 Mr. Carnicelli: Commissioner Thompson. Commissioner Pali. Commissioner Robinson, go
47 ahead.

1
2 Mr. Robinson: Jared this question's for you. Thank you, sir. Jared my question is did we have
3 a chance to get out there and recertify that they're using more than 51 percent for farm?
4

5 Mr. Burkett: Yes, I did. They have a very large selection of fruit trees planted. They have
6 numerous different types of bamboo and they sell bamboo to a lot of people in the area that are
7 searching for those varieties.
8

9 Mr. Robinson: Thanks Jared.

10
11 Mr. Carnicelli: Any other questions? Thank you. So, Jared, why don't you go ahead and come
12 forward and give us a recommendation. Oh, testimony. No, no, this is a communication item.
13 Oh, we still do public testimony. Okay, is there anybody who would like to come forward and
14 testify on this particular item? Seeing none, then without objections we'll go ahead and close
15 public testimony and we'll have Jared come forward and give us the recommendation.
16

17 Mr. Burkett: So, the Department is recommending approval of the State Land Use, the SUP2
18 Permit. Now this is just for the SUP2 Permit because the Department is able to amend the B&B
19 Permit. Now there are no private conditions, governmental restrictions on this property, they
20 own the entire property, so you don't have to consider that. And everything else is in
21 accordance with the zoning districts. So as Keaka Robinson asked I conducted a site visit and
22 confirmed that the property as it's represented on the application and that they are doing active
23 agriculture and that all the other requirements have been met. So, the Department is
24 recommending that you approve the SUP2 Permit with the standard seven conditions for the
25 SUP2 and that it's given for a duration of two years.
26

27 Mr. Carnicelli: Thank you.

28
29 Mr. Robinson: So move, Chair.

30
31 Mr. Castro: Second.

32
33 Mr. Carnicelli: So, I have a motion on the floor to approve as recommended by staff by
34 Commissioner Robinson, seconded by Commissioner Castro. Any discussion on that motion?
35 Seeing none, Director.
36

37 Ms. McLean: Thank you, Chair. The motion is to approve the amendment to add the third
38 bedroom to the existing bed and breakfast operation.
39

40 Mr. Carnicelli: All those in favor please raise your hand. That is six ayes. Congratulations.
41

42 **It was moved by Mr. Robinson, seconded by Mr. Castro, then unanimously**

43
44 **VOTED: To Approve the Amendment to the State Land Use Commission**
45 **Special Permit as Recommended by the Department.**
46

47 **(Assenting – K. Robinson, S. Castro, D. Thompson, K. Pali,**

1 **C. Tackett, P. D. La Costa)**
2 **(Excused – T. Gomes)**
3

4 Mr. Carnicelli: So, moving on, Director.
5

6 Ms. McLean: Thank you, Chair. Next on the agenda under Unfinished Business is a request
7 from Susan Deloria for a State Land Use Commission Special Permit to operate a two-bedroom
8 STRH in the State and County Agricultural Zoning Districts at 620 Kai Hele Ku Street, Unit B in
9 Lahaina at parcel 4-7-009:046-0002. Tara Furukawa is the project planner. She is on leave
10 and so Jared Burkett will be filling in for her and this item was deferred from your August 13th
11 meeting or excuse me, yes, August 13th meeting for some follow up information.
12

13 **D. UNFINISHED BUSINESS**
14

- 15 **1. SUSAN DELORIA requesting a State Land Use Commission Special Permit**
16 **to operate a two bedroom STRH in the State and County Agricultural**
17 **Zoning Districts at 620 Kai Hele Ku Street, Unit B, Lahaina, Island of Maui,**
18 **TMK: (2) 4-7-009:046-0002. (SUP2 2019/0007) (T. Furukawa) (Matter was**
19 **originally noticed for June 10, 2019. Due to there being a lack of quorum**
20 **the meeting was canceled and this matter was renoticed for the**
21 **August 13, 2019 meeting.) (Commissioners please bring your copy of the**
22 **report which was sent in the June 10th agenda packet.)**
23

24 *(Item C.2 begins at 01:41:15 of the audio recording.)*
25

26 Mr. Carnicelli: Jared.
27

28 Mr. Jared Burkett: Hello.
29

30 Mr. Carnicelli: ...(inaudible)...Jared. A lot of heavy lifting, good job.
31

32 Mr. Burkett: So previously I think there was some questions regarding this application. I'm
33 open if you'd like to revisit the introduction but we do have some more information provided that
34 we have available to show you if you are willing to—
35

36 Mr. Carnicelli: Please do that, yeah. That's why we deferred it, it was to get this particular
37 information I guess that you have.
38

39 Mr. Burkett: The applicant's consultant was going to present.
40

41 Mr. Carnicelli: Let the record show that Tom Croly has left the building. Go ahead. Speak into
42 the mic. Just identify yourself for the record please.
43

44 Mr. Francis Deloria: My name's Francis Deloria. I'm a co-applicant I guess for this.
45

46 Mr. Carnicelli: Got ya.
47

1 Mr. Deloria: Okay, so we've been deferred, you all know that. And what we...we're here for a
2 reverification of the agricultural site and a copy of the condominium property regime documents
3 to be provided. We also have a statement of the other parcel owner of the property saying that
4 you know, he's Richard Hudson and he's the owner of 626 Kai Hele Ku Street and that he will
5 keep up the agricultural upkeep on his property.

6
7 Mr. Carnicelli: Could you...actually just, okay just for the record is you're reading a text?

8
9 Mr. Deloria: I am reading a text.

10
11 Mr. Carnicelli: From him.

12
13 Mr. Deloria: From him.

14
15 Mr. Carnicelli: And would you read the exact words into the record from that text please?

16
17 Mr. Deloria: My name is Richard Hudson. I'm the owner of 626 Kai Hele Ku Street, Lahaina. I
18 will keep the agricultural upkeep on my property. Thank you, Richard Hudson, Telephone
19 number 925-872-0058.

20
21 Mr. Carnicelli: Thank you.

22
23 Mr. Deloria: Where do we go from here? Well, it's a beautiful farm. This, our property we built
24 it almost 17 years ago. I moved here 31 years ago. My wife and I, my wife's been here
25 29 years. We started at waiters and waitresses working seven days a week hard to make all of
26 this stuff happen. The farm plan has been implemented for years and years. Every square foot
27 that could possibly planted is planted. There's a...this morning's harvest right here. We have
28 everything from bananas, papayas, dragon fruit, fennel, green bunching onions, lemons, limes,
29 oranges, eggplant, green bush beans, peppers, any herb you can imagine, Thai basil, basil,
30 rosemary, cilantro, parsley. I'm a chef so I like this kind of stuff. We plan to encourage an
31 agricultural epicurean type of stay at our property. It's called Ka Hale Malu, the House of
32 Peace. It's a very tranquil area. It's a small two-bedroom cottage. There is no pool on the
33 property. We've given public notice twice. We have had no pushback from any of the
34 neighbors. In fact, we have five letters of support from close neighbors, across the street, very,
35 very close. We also have a recommendation for approval from Tara, who's not here right now.
36 I can go on, I can go on and on. There was some, as I recall some concern, we're here to
37 address the concerns about the grassy area that was around the pool. Well, the guy that
38 bought the...owns the other property now, a year ago he had...was inspected a year ago for his
39 permit to renovate his property, passed. It was inspected a few months ago for this, passed.
40 But there was concern about the lack of the plumeria trees around his pool area, the big grassy
41 area if you recall. Well, he has...he's a standup guy, I don't really know him personally, but's
42 been...we planted 28 plumeria trees. So, you have pictures in front of you, you don't have any
43 pictures. Would you like pictures?

44
45 Ms. Lisa Starr: ... (inaudible – not speaking into a microphone)...

46
47 Mr. Carnicelli: You need to speak into the microphone. Jared?

1
2 Mr. Burkett: We have a presentation that's showing but it's not connecting to the screen so I
3 have three paper copies and I don't know—

4
5 Mr. Carnicelli: Why don't you hand us the paper copies; we will circulate them amongst us and
6 then we'll go ahead and leave those for the record. You gotta talk into, Francis, Francis,
7 Francis, Francis, you gotta talk into the mic 'cause you can't talk to one person we all
8 need...you can give the...we'll pass them around. Here...let's keep them altogether and then
9 that way we can just pass them all at one time. Here just give them all right to
10 Commissioner Thompson. Okay, so at this point let's go ahead and see if any of the
11 commissioners have additional questions at this time. We'll start with you,
12 Commissioner Robinson do you have any questions at this point?

13
14 Mr. Robinson: I remember my concern was the 51 percent threshold.

15
16 Mr. Carnicelli: Right.

17
18 Mr. Robinson: And so, I'm glad we got some pictures and we're trying to look through this right
19 now Chair.

20
21 Mr. Carnicelli: Okay, thank you. Commissioner Pali you have any questions?

22
23 Ms. Pali: Yeah, just for clarification 'cause you were not here last time—

24
25 Mr. Deloria: I was here.

26
27 Ms. Pali: Oh, you were? Okay, so my concern was that the pictures in the packet and the
28 maps we had conflicting information.

29
30 Mr. Deloria: Okay.

31
32 Ms. Pali: There was some old diagrams used years ago that were used and presented to the
33 case today and that caused confusion and so I could not rightfully agree to something that was
34 outdated and not recent.

35
36 Mr. Deloria: Right.

37
38 Ms. Pali: So, I requested specifically recent photos which you've brought me today, thank you.
39 And then I was the one that also requested the CC&Rs so that I could see if there were any
40 agreements to who was going to be managing the 51 percent because we don't take lightly that.
41 Oftentimes when we hear from the public, they're concerned with the gentleman estates getting
42 these two-acre parcels in ag land and then turning them into everything but ag and then we're
43 held accountable for that sort of misuse. So, we are protectors of ag land and so it puts a smile
44 on my face to know that ag is there and that you brought proof of that and you've brought
45 updated pictures, so thank you.

46
47 Mr. Deloria: Thank you. And we share it with everybody too.

1
2 Mr. Carnicelli: Commissioner Thompson do you have any questions at this time? No.
3 Commissioner Tackett do you have any questions at this time?
4
5 Mr. Tackett: None at this time.
6
7 Mr. Carnicelli: Great. Commissioner Castro.
8
9 Mr. Castro: None.
10
11 Mr. Carnicelli: Commissioner La Costa.
12
13 Ms. La Costa: Thank you Chair. What percentage is ag of the property please?
14
15 Mr. Deloria: Fifty-one percent.
16
17 Ms. La Costa: Thank you...(inaudible)...
18
19 Mr. Carnicelli: Any other questions? Go ahead Commissioner Robinson.
20
21 Mr. Robinson: Thank you for the photos. I saw a photo that it showed that is that a water chart
22 where you're not allowed to water, I wasn't sure...I never seen that before.
23
24 Mr. Deloria: Well, there is a water shortage up there.
25
26 Mr. Robinson: Okay.
27
28 Mr. Deloria: And the water company has put a chart saying the restrictions on the water and it's
29 gone from 30 to 40 percent and now they're going day on, day off with the agricultural water.
30 They'll shut it off for a day, turn it on the next day, shut it off.
31
32 Mr. Robinson: Who's your water provider?
33
34 Mr. Deloria: Launiupoko Water Company.
35
36 Mr. Carnicelli: Say that in the record.
37
38 Mr. Deloria: Launiupoko Irrigation Company.
39
40 Mr. Carnicelli: Thank you.
41
42 Mr. Robinson: And is that owned by all you homeowners or is that a private company.
43
44 Mr. Deloria: Private company.
45
46 Mr. Robinson: You know who owns Launiupoko Water?
47

1 Mr. Deloria: I would probably guess Peter Martin.

2

3 Mr. Robinson: Okay, thank you.

4

5 Mr. Carnicelli: Any other questions from the commission at this time? Commissioner Pali.

6

7 Ms. Pali: So just a follow up. Let it be on the record that this was just handed to us so I really,
8 I'm a good reader but I can't read this in two seconds and it's a lot of pages, but I would like to
9 just go to some miraculously highlighted area and just wonder if you guys...my question to you
10 is are you gonna get this updated or maybe it's updated already somewhere in here and I
11 haven't been able to read it. So, I'm reading into the record this I don't know what this is, what
12 is this? Is this your agreement? Is this the CC&Rs?

13

14 Mr. Deloria: This is the...this is the CC&Rs and this is the CC&R that it...the specifically
15 highlighted spot, but this is...

16

17 Ms. Pali: Okay, perfect so this is your CC&Rs when you guys split the property.

18

19 Mr. Deloria: Yes.

20

21 Ms. Pali: So, this, unless I'm reading it wrong, it says Unit A and B shall each commit to an
22 equal percent of their appropriated limited common element areas to be used as agricultural or
23 agricultural land conservation in order that no less than 51 percent. So, I believe a minute ago
24 you read into the text that the other unit owner was gonna satisfy 100 percent of it, but this
25 based off this reads that you both will share in that. So, will you update this? Is this being
26 updated?

27

28 Mr. Deloria: Well, I must of misspoke because I didn't intend to say he was gonna carry the
29 whole weight for the ag.

30

31 Ms. Pali: Okay, so—

32

33 Mr. Carnicelli: If I could jump in? And we could go back and reread the text. He's going to take
34 care of 100 percent of his responsibility.

35

36 Mr. Deloria: Yes.

37

38 Ms. Pali: Okay so is —

39

40 Mr. Carnicelli: The other owner. He's got, he's got his responsibility. He's gonna 100 percent
41 take care of his responsibility. The applicant is going to take care of their responsibility. Is that
42 correct?

43

44 Mr. Deloria: Yes.

45

46 Ms. Pali: Is that what we're...intention. Okay.

47

1 Mr. Deloria: Lisa would like to say something? Can she say something? She's our consultant.

2

3 Ms. Lisa Starr: Aloha and thank you. Sorry to butt in, Lisa Starr, I've been assisting the
4 Delorias with their submittals. So just for clarification, yes it's a CPRd lot and their unit is about
5 a half-acre and the other unit is a lot larger so it's really helpful for you to look, it's really
6 unfortunate that our beautifully prepared presentation isn't showing but what it was gonna be is
7 what I just happen to make four copies just in case the technology broke down today which
8 thankfully, but if you look at the aerial which I is I think from 2018 we got it from the Planning
9 Department so it's the first page of...you can see the delineation. It's pretty obvious in that
10 aerial who owns which section. So then it goes on from there to demonstrate, there's a topo
11 map in there and I've colorized these areas that are too steep to plant yet they have planted
12 naupaka and bougainvillea to mitigate the erosion on the very steep slopes and so that's the
13 yellow on that map and then the blue shows where there's an archaeological easement which of
14 course they're prevented from using it all cause it's an archaeological reserve. So taking that
15 topo map and marking those areas in blue and in yellow then I took that to a CAD designer and
16 had him compute what...how many square feet do we have that really isn't usable and so then
17 the next page, and then I also had him compute how much area had been used up by houses
18 and driveways, so then I did a chart of going okay, the archaeology is so many square feet, the
19 driveways and houses is so many square feet, the steep unusable areas so many square feet
20 and then by computation how many square feet that's left that's useable and of that what is
21 51 percent and I think that you could almost, by looking at the aerial map and the garden and
22 planting photos you could pretty much tell that more than 51 percent of their property is planted.
23 Every square inch like he said that could be planted is, even the little strip between their wall
24 and the strip of the concrete driveway with herbs and stuff. So that...I just want to make that
25 clarification that that's how we arrived at are you really complying with the over 51 percent or
26 not actually...I think the terminology now is the majority under the declaration.

27

28 Mr. Carnicelli: Okay, thank you very much.

29

30 Ms. Starr: Is that helpful? Any other questions?

31

32 Mr. Carnicelli: That is.

33

34 Ms. Starr: Oh, let me...I'd like to say a thing, a quick note about the water.

35

36 Mr. Carnicelli: Quickly.

37

38 Ms. Starr: So, the Launiupoko Irrigation Company as you know was in litigation over the
39 diversion out of the stream up there where they were getting a lot of their water. The result of
40 that case if I'm not mistaken was that they were restricted by 83 percent of what they had been
41 diverting. It's still a contested case but they...because of that I believe and because of the
42 drought conditions right now is why they sent and you'll see a letter from...to the HOA saying to
43 be very cautious and restrict water and then those pictures, these pictures are here are a big
44 sign that they have at the beginning of the development notifying people and it went from
45 Level 3 to Level 4 over a ten...from the 14th to the 24th of August. So, they have had done a
46 remarkable job of trying to plant as much as they can, not to mention it's Type E soil which if

1 you know is dry and rocky and very, very difficult to plant and so that's what I know about this
2 property. Any questions?

3
4 Mr. Carnicelli: Thank you. How fast is your math? We ...(inaudible)... public testimony on this
5 one. The Director is doing some quick short-hand math which I don't have the ability to do any
6 more since I carry a calculator with me everywhere. But one thing that, that we're...what we're,
7 what we're going over is is the farm dwellings and the driveways are not to be deducted from
8 the usable land. Yeah, so that's all. So, it's just like so are we still within our 51 percent and
9 that's where Director...

10
11 Ms. McLean: Yeah, because if you're gonna deduct an area for the archaeological easement
12 and the steep topography then the rest of the parcel is available for agriculture. Then if you
13 improve it with homes and features that are not directly related to agriculture then those count
14 toward that 51 percent. But given the square footage that you provided even if we didn't deduct
15 for that you're still well over the 51 percent.

16
17 Mr. Carnicelli: Okay.

18
19 Ms. Starr: ...(inaudible – speaking from the audience)...You can't...you gotta speak only into
20 the record, so we got it. Any other questions at this time? Commissioner Robinson.

21
22 Mr. Robinson: Director, how well over are we?

23
24 Ms. McLean: Well, I'd need another few seconds.

25
26 Mr. Carnicelli: Okay.

27
28 Mr. Robinson: Well, and I guess my question is and this is just, this is just what the rules are so
29 with the CPR does the person applying for the permit have to carry the 51 percent or does, is it
30 as long both parties carry the 51, and if they do carry the 51, we got a text, so I mean, I don't
31 know, I've never seen a text admissible before but regardless of that then during the next
32 inspection you know we have to take people's word for it that they're gonna do it so then how do
33 we, you know how do we, how do we validate that it's gonna be? And then the third thing is I
34 see a picture of these dead plumeria trees which I assume that's your neighbors or is that
35 yours?

36
37 Mr. Deloria: That's the newly planted, that is my neighbors. They were newly planted and it
38 through shock, I guess.

39
40 Mr. Robinson: Does he water them by hand or is it irrigation?

41
42 Mr. Deloria: He does. That's irrigation.

43
44 Mr. Robinson: Okay, at least we know it will get watered.

45
46 Mr. Deloria: They're all gonna get watered.

47

1 Mr. Robinson: Because there's a lotta, lotta grass.

2
3 Mr. Deloria: Yeah.

4
5 Mr. Robinson: You know, so maybe less grass would...you know and that's what we want to
6 use, we want to use the water for ag not for lawns.

7
8 Mr. Deloria: Right.

9
10 Mr. Robinson: And once it's calculated...and first I want to say you know thank you for working
11 all these years and helping our tourism industry and you guys doing it the right way.

12
13 Mr. Deloria: Thank you.

14
15 Mr. Robinson: Appreciate. I'm glad you guys got this property. I've spoken many times on this
16 I think Launiupoko is zoned wrong, not people are wrong, but the zoning's wrong and you know
17 hopefully they would...if they change the zoning in the near future so we don't have to be using
18 all our water to keep, you know, keep things alive, we can do rock and you know topography,
19 you know different type of landscaping so that way we can try to conserve the water. So, if it's
20 rural we won't have to you know have the 51 percent. Just my one and a half cents.

21
22 Mr. Carnicelli: Well, we do have Pam Eaton from the Long Range Division that's going to be on
23 Item E and we can maybe have her discuss that we get to that item, but did we stall long
24 enough to do a little bit of math and come up with a basis where we are?

25
26 Ms. McLean: Yes, to answer your one question though, we look at the parcel as a whole and
27 not looking for each CPRd unit to have 51 percent of their own 'cause that just might not be how
28 the property is used or how the CPR was created. But it is, because there is a degree of joint
29 ownership if an applicant has a permit from us with conditions for the farm plan to remain
30 implemented then it's their responsibility to make sure that their co-owner pulls their weight so
31 that entire parcel implements that farm plan.

32
33 Mr. Robinson: Okay, so square footage.

34
35 Ms. McLean: And then square footage I believe that 51 percent should total and this, and this
36 is, excuse me, 50 percent 'cause I wasn't quite fast enough to do 51 so I just did 50 cause that's
37 easy, 31,442 square feet should be in agriculture at a minimum. In all of this it has these
38 calculations but it doesn't declare how much land is in agriculture so that would have to be
39 either up to the commission's discretion by looking at this. This just says the area of the
40 property and all the deductions and therefore we end up with this balance that's in agriculture
41 but that balance has to be higher than what's listed here, but they haven't said one way or
42 another the area that they have calculated to be in agriculture.

43
44 Mr. Robinson: So is, is can I assume as a commissioner that we're granting the SUP and that
45 you guys are granting the STRH and that you guys would verify that the square footage would
46 be correct prior to granting that STRH?

47

1 Ms. McLean: Yes.

2

3 Mr. Robinson: Thank you.

4

5 Mr. Carnicelli: Jared.

6

7 Mr. Burkett: Staff Planner Jared Burkett. So for this project the farm plan was reviewed by
8 Zoning and before there was the change with Zoning no longer was doing farm plans and
9 Zoning does the calculation to make sure that at least 51 percent is in agriculture before they're
10 approved and so their farm plan was implemented there was...it was beyond the 51 percent but
11 there was the discrepancy with the plumeria that had been blown over, so they replanted it so
12 now it matches.

13

14 Mr. Robinson: Chair?

15

16 Mr. Carnicelli: Commissioner Robinson.

17

18 Mr. Robinson: So Jared, the plan was a plan, it wasn't actually put into action so is, is we have
19 to verify a plan, so people put a plan together, then the plan gets verified and then after that
20 then you as an agent or somebody will go before they do the permit to make sure that the plan
21 is actually enacted. So, the plan is a plan but that's why usually we see photos that it's actually
22 enacted so I'll just asking the Director if you guys are gonna check it before the STRH and then
23 that will satisfy me.

24

25 Mr. Burkett: So before they're allowed to build their second farm dwelling they have to prove
26 that it's implemented already and then I did go and verify before we...I was the one assigned to
27 do the ag inspection not Tara, I went with Tara, and everything was implemented and even
28 more so because the whole back behind the house there's a ridge like it's a wall and...

29

30 Mr. Robinson: You could put a goat in that ridge on that side there and a fence, no I'm serious.
31 I mean pasture is ag, so you know that whole slope that's not considered even if it's gets
32 technical and the guy doesn't want to have 20 plumeria trees in his yard, you know it's
33 accessible, you know, I mean pasture is considered ag. So they could...I'm not...I'm just telling
34 you there's a way around it because I see...I think this is going to be a challenge with those
35 plumerias and your water restrictions so I'm just saying in the future, you know you guys have
36 land to use even though its they ducted it out you might want to throw that back in. That's all.
37 I'm good Jared. Thank you. Thank you, Chair.

38

39 Mr. Carnicelli: Okay, thank you. Any other questions at this time? Seeing none, I guess we'll
40 go ahead and go with the recommendation. Jared.

41

42 Mr. Burkett: The Department has conducted their review and has determined everthing is
43 meeting the restrictions and standards so the Department is recommending that the commission
44 approve the Land Use Commission Special Permit with the standard seven conditions for a
45 period of three years and again, we recommend that you adopt the report and recommendation
46 prepared by the Department which would be this document.

47

1 Mr. Carnicelli: Okay, thank you very much. Motion on the floor? Commissioner La Costa.

2

3 Ms. La Costa: So move.

4

5 Mr. Carnicelli: Moved to approve as recommended by staff by Commissioner La Costa. Do I
6 have second? Seconded by Commissioner Castro. Any discussion on the motion on the floor?
7 Commissioner Pali.

8

9 Ms. Pali: Yeah, I'm just thankful that you guys were able to come back with updated records
10 and more accuracy for the reports because we don't get to go see the properties so we rely
11 heavily on just accurate and updated information so we can do you a fair justice and also the
12 public. So, thank you for coming back and doing that.

13

14 Mr. Carnicelli: Thank you. Commissioner Robinson.

15

16 Mr. Robinson: Thank you Chair. I'm opposed to any STRH on ag land, nothing to do with the
17 applicant. I think you guys are in the right thing, I think it's a circumstance, but hopefully in the
18 future Planning will be cleared up and the zoning will be changed. Thank you.

19

20 Mr. Carnicelli: Thank you. Any other discussion? Seeing none, Director.

21

22 Ms. McLean: Thank you, Chair. The motion is to approve the State Land Use Commission
23 Special Permit for the two-bedroom short-term rental home.

24

25 Mr. Carnicelli: All those in favor, please raise your hand. That is five. All opposed? One. It
26 passes congratulations.

27

28 Mr. Deloria: Thank you very much.

29

30 Mr. Carnicelli: You're welcome.

31

32 Mr. Deloria: Aloha.

33

34 **It was moved by Ms. La Costa, seconded by Mr. Castro, then**

35

36 **VOTED: To Approve the State Land Use Commission Special Permit as**
37 **Recommended by the Department.**

38

39 **(Assenting – P. D. La Costa, S. Castro, D. Thompson, K. Pali,**
40 **C. Tackett)**

41

42 **(Dissenting – K. Robinson)**

43

44 **(Excused – T. Gomes)**

45 Mr. Carnicelli: I think at this point without objection, you guys want to bring back C.1, and have
46 Kurt come forward before we jump into...and we'll finish our communication items.

47

1 Mr. Robinson: With the condition he's fast Chair.

2

3 Mr. Carnicelli: Thank you for your work today Jared. Director.

4

5 Ms. McLean: Thank you Chair. Going back to Communication item, C.1, this was the request
6 from Ms. Tessa Munekiyo Ng of Munekiyo Hiraga on behalf of Christopher White, Senior
7 General Manager, Whalers Village managed by Brookfield Properties requesting a permit
8 transfer of the Special Management Area Permit for Whalers Village. Back to Kurt.

9

10

11 **C. COMMUNICATIONS**

12

- 13 **1. MS. TESSA MUNEKIYO NG of MUNEKIYO HIRAGA on behalf of**
14 **CHRISTOPHER WHITE, SENIOR GENERAL MANAGER, WHALERS**
15 **VILLAGE, managed by BROOKFIELD PROPERTIES requesting a transfer of**
16 **Special Management Area (SMA) Use Permit from General Growth**
17 **Properties, Inc. to Brookfield Properties for the Whalers Village**
18 **Revitalization Project located at 2435 Kaanapali Parkway, TMK: : (2) 4-4-**
19 **008:001, Lahaina, Island of Maui, (SM1 2013/0018) (SSA 2013/0064) (EAE**
20 **2014/0042) (K. Wollenhaupt)**

21

22 Mr. Kurt Wollenhaupt: Good morning Members of the Maui Planning Commission. According
23 to the Rules of the Maui Planning Commission it simply states the Director shall notify the
24 commission at the commission's next regularly scheduled meeting of the issuance of any permit
25 transfer receipt of which shall be acknowledged by the Commission that's in fact what we're
26 here today is acknowledging that this permit is transferred as you probably know in 2014 the
27 Maui Planning Commission did grant unanimous approval for the applicant which was General
28 Growth Properties for the Whalers Village revitalization. That project is essentially almost
29 complete, but during this period of time General Growth Properties then now has become
30 Brookfield Properties so there was a sale and this is just acknowledging that this sale has taken
31 place, the permit holder is now Brookfield, Brookfield acknowledges their responsibility for all
32 the conditions. So essentially, we're just here for the commission to recognize that that's the
33 situation for this SM1 transfer.

34

35 Mr. Carnicelli: Thank you Kurt. At this point in time we'll go ahead and open up the item for
36 public testimony. Is there anybody that would like to come forward and speak to this item?
37 Seeing none, we'll go ahead and close public testimony without objections. Public testimony is
38 now closed and Commissioner Robinson you have a question?

39

40 Mr. Robinson: Thank you, Chair. Kurt just wanted to see if the new owners are in good
41 standing with the County of Maui or are there any other open RFSs with any of the other
42 properties that they currently own?

43

44 Mr. Wollenhaupt: I'm not sure if they own any others here on Maui, but with this one we're still
45 waiting for the compliance, final compliance report to be issued. There was an issue that is in
46 litigation. I don't know how much I am to talk about it, but there has been no final compliance
47 report until that issue has been resolved. So, each of you I believe was given an email that if

1 you had any communication between any of these of parties, I need to know that. So, if you
2 haven't gotten an email back to me please do so and this is a matter that Corporation Counsel
3 is dealing with a subpoena for all of the records regarding this project. So that's where we are
4 at the moment. Brookfields is now the owners—

5
6 Mr. Robinson: So as part of the criteria for a transfer doesn't a business have to be in good
7 standing or they don't have to be it's just request and it's done?

8
9 Mr. Wollenhaupt: Well, they're the owners so they assume the responsibilities of this permit.
10 So, I don't know what are the properties they would own on Maui. I'm not sure if they also
11 acquired Ala Moana because General Growth was also an of Ala Moana, but I don't believe that
12 they would own any other properties on Maui except Whalers Village 'cause General Growth
13 only managed Whalers Village on Maui. I would assume that then is their only property they
14 purchased.

15
16 Mr. Robinson: Director, I guess what I'm asking is you know is when an applicant comes in
17 front of us it also has to deal with other projects after they're done with us and it's not an always
18 an automatic that somebody can just get somebody else's SMA. So is, what is the criteria for a
19 transfer you know in short term?

20
21 Ms. McLean: The criteria for a transfer is now as stringent as the requirements for the initial
22 applicant. The initial applicant who goes through the entire process to obtain the permit bears a
23 higher level of scrutiny, but when someone purchases the property for which a permit was
24 issued then as Kurt described a transfer doesn't automatically go with a transfer of ownership.
25 The transfer of the permit doesn't automatically go with the transfer of ownership, but it's much
26 less stringent.

27
28 Mr. Robinson: Thank you.

29
30 Ms. McLean: And just for the record, I don't believe the County or the commission is a party to
31 that litigation. It's between private entities but County records have been requested by the
32 parties.

33
34 Mr. Hopper: I want to clarify what—

35
36 Mr. Carnicelli: Corporation Counsel.

37
38 Mr. Hopper: I want to clarify what you're asking from the commission. There is the provision in
39 the SMA Rules that talks about notification but it also says that nothing in this section shall
40 prevent the Director from forwarding any permit transfer request to the Commission for
41 consideration in accordance with the procedures set forth in this section. And the way this is
42 agendaed it does say requesting a...requesting transfer and it's not totally clear on whether it's
43 just notification or you're requesting the commission to actually review this and it sounded like
44 you were saying this is the first part of this rule subsection that says, the Director shall notify the
45 commission receipt of which shall be acknowledged by the commission, such notification shall
46 include the aforementioned information provided to the Department and permit transfer approval
47 letter. So, I'm presuming based on what you said already that that's what you're doing and not

1 the second part of this rule which is actually forwarding the request to the commission.

2

3 Mr. Wollenhaupt: What we were trying to accomplish today is to notify you that the permit has
4 been transferred.

5

6 Mr. Hopper: Okay.

7

8 Mr. Wollenhaupt: Because we have an affidavit from the general manager of Brookfield
9 Properties attesting that they will accept and take responsibility for all development and
10 construction of the revitalization project, that they take...they will complete construction
11 following the transfer of the SMA Permit and so we seem to have all the information that we
12 needed in order to move forward with this especially in light it's already been...the
13 ownership...Brookfield is...now will have the permit 'cause General Growth doesn't exist as an
14 entity so we're kind of a odd situation.

15

16 Mr. Hopper: Okay. If you like I can go over the criteria for that but it's in your rules as far as the
17 transfer. I just wanted to clarify is this a transfer that you're reviewing or is a transfer that
18 already happened that you are receiving and acknowledging receipt of.

19

20 Mr. Carnicelli: Well I guess that's the question so is there an action that you need.

21

22 Mr. Wollenhaupt: ...(inaudible)...it's a transfer that's already been done that we are asking your
23 acknowledgement of the receipt.

24

25 Mr. Carnicelli: So, I guess—

26

27 Mr. Wollenhaupt: That's the normal process by which these are done just from past history
28 normally this wouldn't be subject to a extensive review because we did ask for the affidavit from
29 the Brookfield Properties. We have the information that is required for this so we felt that it was
30 appropriate to go this direction.

31

32 Mr. Carnicelli: So, I guess my question for you Mr. Hopper is do we need or Director do we
33 need to make a motion, do we need to put something on the record here that we are
34 acknowledging this or is it just simply the presentation's enough?

35

36 Mr. Hopper: I think you would potentially through unanimous consent or motion acknowledge
37 receipt of the notification.

38

39 Mr. Carnicelli: Okay, is there any objections to this notification? Seeing none, we'll go ahead
40 and accept it. Thank you, Kurt.

41

42 **The Commission acknowledged receipt of the transfer of the Special Management Area**
43 **Use Permit.**

44

45

46 Mr. Carnicelli: Unfortunately, Pam my bladder needs a two-minute recess before we get to
47 Item E. So, recess at the call of the Chair.

1
2 A recess was called at 11:30 a.m., and the meeting was reconvened at 11:35 a.m.

3
4 Mr. Carnicelli: Maui Planning Commission of August 27, 2019 is now back in session. Director.

5
6 Ms. McLean: Thank you, Chair. Next on the agenda is an update on the West Maui
7 Community Plan from the Planning Department's Long Range Division and with us we have the
8 Division Chief, the head of the Planning Section, Jennifer Maydan, and the head of the
9 GIS section, Dan McNulty-Huffman.

10
11
12 **E. UPDATE ON THE WEST MAUI COMMUNITY PLAN – Long Range Division**

13
14 Ms. Pam Eaton: Thank you, Director. So, I'd like to introduce Jen Maydan, Jen is our
15 supervising planner and she's going to actually be delivering the presentation today. The
16 reason why we're doing this is we are trying to give you guys timely updates in terms of what's
17 happening with the West Maui Community Plan update in hopes that you'll feel involved, you'll
18 feel a part of this, and therefore when you do receive the draft perhaps we won't need to start all
19 over again and we can have a swift review. One of the things that I do want to add if you have
20 not done so already please try to take the opportunity to go onto the website because the
21 website just so you know captures everything that's ever happened with regard to community
22 engagement, CPAC meeting minutes, summary questions, policies, the whole works as well as
23 a copy of the draft plan right now.

24
25 Mr. Carnicelli: So, Pam, I'm sorry I'm gonna just—

26
27 Ms. Eaton: I knew you would.

28
29 Mr. Carnicelli: I'm sorry to interrupt you but I'm just gonna just even at more rudimentary level is
30 just for whether...I think everybody knows this but right now the West Maui Community Plan is
31 with CPAC and then after that goes to us—

32
33 Ms. Eaton: Can I...Jen's gonna go through all of that.

34
35 Mr. Carnicelli: Okay, okay cool.

36
37 Ms. Eaton: I just really want to introduce Jen.

38
39 Mr. Carnicelli: Then I will not interrupt you ever again.

40
41 Ms. Eaton: Thank you. Bye guys.

42
43 Ms. Jennifer Maydan: Aloha Chair and Commissioners, thank you for having us present today.
44 Sorry, the color is very off but you have handouts that much better. So yeah, as Pam said we
45 are...it's very important for us to come before your commission and give you an update in this
46 process because your review will be a very important part of the process to update the West
47 Maui Community Plan. We will likely be back before you guys shortly for part of your orientation

1 training but we're at key milestone in our community plan process so we wanted to come before
2 you now.

3
4 So, I just have a brief presentation. First, just starting very briefly with an overview of the
5 community update process in general and our planning structure. Some information the draft
6 West Maui Community Plan which is out in the public right now. Information on the Community
7 Plan Advisory Committee for West Maui and then what our next steps are and where you guys
8 come into the game.

9
10 So, Maui County Code establishes the framework for the General Plan and the process for
11 updating it. The County of Maui General Plan refers to a series of plans that provide direction
12 for the future growth and policy creation in the County. The General Plan consists of three
13 parts. We have a Countywide Policy Plan, the Maui Island Plan and nine community plans six
14 of which are on Maui Island as well as Molokai, Lanai, and Kahoolawe.

15
16 So, what does a community plan do? Community plans refine and, in some ways, implement
17 the Countywide Policy Plan and the Maui Island Plan which are broader documents to the
18 community plan. The community plans reflect the unique characteristics of each of the
19 community plan areas and enable the residents within those areas to address specific
20 challenges and opportunities. The community plans are really focused on land use,
21 development character and community design and the community plans go a step farther than
22 the Countywide Plan and the Maui Island Plan. Where the Maui Island Plan sets Urban and
23 Rural Growth Boundaries saying where we plan to grow in the 20 years. We're gonna grow
24 here, we're not gonna grow here, the community plans really define that growth and help to say
25 how are we gonna grow in those areas. And the community plans provide direction for future
26 zoning but it's always important to keep in mind that community plan designations are not
27 zoning they're two very distinct things while they work together.

28
29 So, the process to update a community plan, the West Maui Community Plan. The community
30 plan update process is guided by the Maui County Code, Section 2.80.B. We have five phases
31 that we look at updating a community plan. Our first phase is research, data collection and
32 coordinating with various State and County agencies. We started...for West Maui we started in
33 early 2017 doing our research, doing our research and background information. We did this
34 while we, concurrently while we were still participating in the Council's review of the Molokai
35 Island Community Plan. Phase 2 is community engagement including interviews, meetings,
36 workshops, open houses as well as online activities and we kicked off Phase 2 officially with
37 West Maui in August of 2017 and it ran through April of 2019. Phase 3 is where we are right
38 now in the process with the CPAC review, the Community Plan Advisory Committee. According
39 to Maui County Code the CPAC has 180 days or six months to review the plan, make
40 recommendations, listen to public testimony and their review started on July 25th so it will run
41 through late January approximately. Phase 4 is where you guys come in. Phase 4 is the Maui
42 Planning Commission review, again you also have according to Maui County Code, 180 days,
43 up to 180 days to review the draft, make recommendations and listen to public testimony.
44 Phase 5, the last phase is Maui County Council adoption and approval. The Council has up to
45 one year to review the plan, listen to testimony and adopt the plan by ordinance.

46

1 So as part of our research phase we prepare technical resource papers on an array of topics
2 pertinent to West Maui. The papers provide a snapshot of West Maui's existing conditions.
3 They also highlight future needs, key challenges and potential strategies and actions that could
4 be pursued as part of the community plan. All of the technical resource papers you can see the
5 topics here ranging from land use, housing, water, wastewater, all of these are available on
6 website at wearemaui.org. We have two papers, Recreation Network and Mobility that we're
7 working on and we're almost finished with.

8
9 So, community engagement, when we started the community engagement of the process, we
10 knew that we had no shortage of challenges and we needed to build the relationship and trust
11 with the West Maui community. We established goals for community engagement for ourselves
12 to guide our process. We wanted to engage the community early and often, provide many
13 diverse options to participate and bring the process to the community and we wanted to provide
14 transparency and better understanding of the community plan update process so it didn't seem
15 so cumbersome and foreign to the community. So community engagement really does take
16 time and it can be very messy but it really is a critical part of building a community plan that the
17 community really believes in and our hope is that doing a thorough community engagement
18 process will also help make the review and approval process with you folks and with the County
19 Council efficient and timely.

20
21 So just a quick snapshot of our engagement. We had 57 public and stakeholder meetings,
22 workshops, open houses, online activities, we have over 1,500 participating in these. A really
23 big feature as Pam mentioned of our engagement is our website. It really is the go-to spot
24 wearemaui.org. We had many engagement activities on there as well as in-person activities.
25 We had questionnaires, idea walls, mapping activities, and a visioning exercise. There's also a
26 lot of information on each of the in-person community events that we had. You can find all the
27 material from our events there, any presentations that were done or available there, there's
28 videos, any results from community feedback, pictures, lot of information. We also have just
29 general background information on the community plan process as well as links to other plans
30 like the Countywide Plan, Maui Island Plans, and other plans that are important for the
31 community plan. You can also sign up for email notifications on our website so that you never
32 miss something going on related to the community and we are also active on social media,
33 Facebook and Instagram and it's been a great way to communicate with the community.

34
35 So just a brief overview of the draft West Maui Community Plan as far as its general format and
36 general content. So, the draft plan is available to view and download our website,
37 wearemaui.org and the draft plan is with the CPAC right now and they are reviewing it and
38 holding meetings. The draft plan is an update of the 1996 West Maui Community Plan. So,
39 community plans are meant to be updated. They are never meant to stay the same. They're
40 meant to evolve to address new issues and to incorporate the voice of new generations.

41
42 So, we started with the 1996 West Maui Community Plan and analyzed it for current relevance.
43 We looked at it and said is this issue, is this still an issue, is this needed, is this action
44 implemented or not, is this policy still relevant, and there are a number of important things that
45 inform the update of a community plan. The Maui County Code provides direction for the
46 content to be included in community plans, the Countywide Policy Plan and Maui Island Plan
47 also guide the update of the community plan, and there's State legislation directing counties to

1 include sustainability and climate change adaptation into their community plans. Two other
2 critical components that feed into the update are new data and research, and community input
3 on issues, needs and priorities.

4
5 So, the format of the draft plan is quite...the draft plan update is quite different from the
6 1996 plan. We've done this very deliberately to structure the draft plan to address the inner-
7 connectedness of many of the issues and potential strategies for West Maui. The 1996 plan is
8 really divided and siloed by topics. You can land use, environment, housing, et cetera and
9 there's very little said in the plan about the inner-connectedness of these issues. In the draft
10 plan update we place a much greater emphasis on the inner-connectedness of the natural and
11 human made systems, structures and services that really make West Maui a community and
12 are vital for planning for the future. The draft plan is structured into four sections. As you can
13 see here, plan framework, policy framework, growth framework, and finally implementation and
14 monitoring.

15
16 So just really briefly give you an overview of each of these sections. The plan framework
17 provides helpful background information, kind of the purpose and authority of the community
18 plan, a summary of the update process, a guide of how to use the plan and change the plan,
19 and the plan framework also includes the West Maui vision which was developed by the
20 community during our engagement process.

21
22 This is the vision, so part of the engagement process we had, we had an in-person event and
23 also online activities to develop, to develop the West Maui vision. In the 1996 plan there isn't
24 currently a vision. So, visions are written in the present tense. They describe the future as if it
25 has already happened and it's crafted with extensive community input. So as I mentioned we
26 did a workshop, we had online activities, so it had a lot of community vetting and it will continue
27 to as we review with the CPAC they will put their voices into it and you guys will get a chance to
28 review it as well.

29
30 So, Section 2, policy framework is organized by five goals which support the vision. Each goal
31 will have supporting policies that work towards achieving that goal. Each goal covers several
32 topics to show the relationship between the different topics and the policies and actions needed
33 to address the inner-connected issues. So, the goals of the West Maui Community Plan are
34 ready and resilient systems, a complete balanced and connected transportation network,
35 responsible stewardship of resources, culture and character, economic opportunity through
36 innovation and collaboration, and finally, safe, healthy, livable communities for all.

37
38 Section 3, the growth framework is the growth plan for West Maui for the next 20 years. It will
39 help decision makers and County departments plan for land uses, services, and infrastructure
40 for West Maui. The growth framework forms the foundation for land use and development
41 decisions and also provides a guide for efforts to update and create new regulations like the
42 zoning code. The growth framework will include the community plan map, descriptions of areas
43 planned for growth as well as the updated community plan designations.

44
45 So, in addition to the handout of the presentation you also got this guidebook. We, through the
46 process of updating the West Maui Community Plan, we also working on updating the
47 community plan designations to address issues and to respond to the need for creating

1 complete and livable communities. So, we've developed these updated designations through
2 the West Maui process but we intend to go forward and eventually apply these designations to
3 all of the community plan areas as we update the various plans. We did numerous, we did
4 numerous stakeholder meetings on the updated designations in the fall of last year and we used
5 the designations in community design workshops with the West Maui community in the spring of
6 this year.

7
8 So, the purpose of the new designations is to really shift the focus from segregating uses to
9 actually creating places. They provide the opportunity for a range of compatible and
10 complementary uses as well as a variety of housing types. They provide urban design guidance
11 on density, intensity, range of uses, parks and public amenities and also address street
12 connectivity and mobility. I'm not going to go over them, it's way too much to absorb but I just
13 wanted to give you guys a little snapshot that this is something new and that you'll be seeing
14 this when we come to you. So just a comparison, you know, you've got State Land Use
15 Districts, you got Maui Island Plan Growth Boundaries, in the first long list you have existing
16 land use designations, this is what you're familiar with in the various community plans now and
17 the 1996 West Maui Community Plan where you have Conservation, Ag, Single-Family, Multi-
18 Family, some Business Districts, et cetera. The new, the updated land use designations are on
19 the right, and like I said, a lot of the purpose was to not focus on segregating uses, but creating
20 more mixed-use communities. You can just click through. We'll talk about this more when we
21 come back to you with the plan but I just wanted to give you a heads up on this and provide this
22 resource to you, a little bit of light reading.

23
24 Okay, the last section of the draft West Maui Community Plan, implementation and monitoring.
25 This section will include actions to implement the vision and the goals of the community plan. It
26 will include an implementation schedule with timelines and responsibilities and a monitoring
27 program to gauge the impact of the community plan as it's implemented.

28
29 So, in the draft plan there are sections that we have left blank at the start of the CPAC process.
30 These areas include the policies and the policy framework, the community plan map, growth
31 plan objectives, and areas of change in the growth framework, and the actions in the
32 implementation and monitoring section. We've intentionally left these important sections of the
33 plan blank so that we can work with the CPAC to develop them. We have analyzed the policies
34 and actions in the 1996 plan and have a ton of great input and ideas from our community
35 engagement process and we are sharing all of this with the West Maui CPAC right now as they
36 go through their review and the develop policies and actions to incorporate into the community
37 plan.

38
39 So, as I mentioned the CPAC began their review, their first meeting was on July 25th. We have
40 a meeting tomorrow and I believe that's gonna be our seventh meeting. They elected
41 Kai Nishiki as their Chair, Jeri Dean as their Vice-Chair. Four of the CPAC members were
42 selected by Mayor Arakawa and confirmed by Mayor Victorino, nine were selected by the
43 County Council. In working with these members over the last several meetings we're finding
44 that each brings a different perspective to the conversation based on their different priorities,
45 interests, experiences, backgrounds. As of right now we have 24 meetings scheduled total with
46 the goal of completing recommendations within a 180 days by mid to late January. And if there

1 is a need for an extension, if they ask us for an extension, we have to bring that before the
2 County Council for approval.

3
4 So then after, after CPAC we come to you folks so you can expect us some time in the spring
5 of 2020 and after that is County Council and then adoption. Any questions/
6

7 Mr. Carnicelli: Thanks, Jen. Pam, did you have...did you want to add anything else at this
8 point?
9

10 Ms. Eaton: No, other than just recognition of two things. One, the community plan land use
11 designations that we updated was also done at the same time of the Molokai ending process
12 with the Council and the West Maui community engagement and I make this point because for
13 example, the next community will be South Maui. The community engagement will not take two
14 years, so I just want to emphasize that we did a lot, and by the way we have no consultants so
15 all of this was done inhouse and with half the staff we have, so I know a lot of people are like oh
16 two...no, this was a huge effort, so I really want to recognize that which...and setting up the
17 website was an initial effort as well, and so that's done so we'll be able to motor on through. So,
18 I just really wanted to say that, and again, kind of reiterate that this is all so far been done
19 inhouse so I just want people to know that.
20

21 Mr. Carnicelli: And you and your entire team have done a wonderful job. You guys have done
22 a masterful job. I think one thing too that I'd, I'd like to just sort of throw out there now, Pam.
23 Pam and I have had a couple of conversations about like okay, how are we going to go about
24 this. Just so you guys know it's my belief that because this is the West Maui Community Plan
25 that when we have our meetings on this which is for six months, our meetings are gonna have
26 to be in Lahaina and they're gonna have to be at night. And so that's gonna be like we've
27 already committed you know five years to two, Tuesdays every single month for five years, and
28 then when this process comes, we're gonna throw the West Maui Community Plan on top of
29 that and we're not sure exactly how much that's gonna be. It's not gonna be once a week or
30 anything like that, but it's gonna be more than four or five times most likely, but we don't know.
31 It may only be four or five times. On the other piece of it, that I think is I remember when you
32 know Wayne Hedani left he, you know, what are your parting words and his thing was read
33 everything. I think that that's gonna be one of the biggest challenges is not only the fact that
34 we're gonna have to have extra meetings in Lahaina but there's gonna be tremendous amount
35 of reading for us and prep before those meetings. It's not gonna be one of those meetings
36 where we can show up and just do it on the fly. You know like, oh we got a presentation to
37 kinda get it, it's like we're gonna have to read this stuff ahead of time so that's just sorta my two
38 cents and then I don't know Pam if you want to parlay off of that.
39

40 Ms. Eaton: Yeah, again 2.80.B says up to six months, you don't need to take six months.
41

42 Mr. Carnicelli: Correct.
43

44 Ms. Eaton: And then I would also say if you get chance I mean, really like for example the
45 technical resource papers those aren't gonna change so those are on the website and that
46 gives you a really good idea of what the existing conditions are now with suggested policies and

1 actions. So that's a good thing to start with, you know, for folks who are not from West Maui
2 unlike Denise, so to give you a familiarity of what the issues are they're grappling with.

3
4 And also, on the website under past events we had, I mean every single workshop we had, I
5 mean I know we had one with all of the...many of the department directors dealing with
6 infrastructure, we had Ed Sniffen come in from HDOT and Ford Fuchigami. I mean we had
7 some pretty substantial workshops. I know Michele had a great idea, we had a lot of the
8 developers come in to really talk about what it takes to deal with and try to supply affordable
9 housing. So we've had some really substantial workshops, all of the notes, the minutes,
10 everything, Q & A is all on the website and that to me gives you a really good idea of what the
11 emphasis is of that particular issue within the community and to me that's the most important.

12
13 And then just, if you want to keep track which I think is a good idea, right now we have a CPAC
14 tab set up so that you...we have minutes posted from, you know, summary minutes of all the
15 CPAC meetings and we've also contracted with AKAKU so there will be videos. So, if you want
16 to go in and see the videos of all the CPAC meetings as well. So, like Lawrence said, we have
17 a lot of information up there and instead of just getting a binder cold, there's a lot you can do
18 right now to really see what's going on.

19
20 Mr. Carnicelli: Thanks, Pam. Anything else from you too, Jen? No?

21
22 Ms. Maydan: No. Thank you.

23
24 Mr. Carnicelli: You guys have any questions for them at this time? I think we'll have lots of
25 questions in about six months or so. Thank you for coming by ladies, we appreciate the update.

26
27 Ms. Eaton: Thank you. Just one other quick thing. This isn't a one-time thing. If you like, like
28 for example, if you want, I mean hitting certain milestones perhaps another meeting once we've
29 got this community plan land use designations happening so we had proposed doing this on a
30 quarterly or as needed basis so that you kind of getting a sense of what's happening with CPAC
31 if you'd like.

32
33 Mr. Carnicelli: And I think the other thing too that Pam and I are trying to work on is to not make
34 us a whole nother CPAC where we get the entire binder and we're going through the entire
35 thing. You know we kinda have our specialty. We have our lane with which it is that you know
36 we operate from so we're gonna try to stay within our lane when we're looking at the community
37 plan and not just open the whole thing up and wordsmith.

38
39 Ms. Eaton: You know that's a great point, for example as planning commission members I
40 would think you'd want to focus on stuff like the policies because those are the types of things
41 you would be looking at as you're reviewing permits and applications and making sure that
42 they're consistent with the Maui Island Plan and the Countywide Policy Plan.

43
44 Mr. Carnicelli: Thanks, Pam. So, I guess, moving on, Director.

45
46 **F. DIRECTOR'S REPORT**

47

1 **1. SMA Minor Permit Report**

2
3 **This is for notification and review purposes. No action is anticipated.**

4
5 **2. SMA Exemptions Report**

6
7 **This is for notification and review purposes. No action is anticipated.**

8
9 Ms. McLean: Thank you, Chair. Next, we have the SMA Minor Report and Exemptions Report
10 for your notification. Are there any questions?

11
12 **3. Cancellation of the September 10, 2019 regular meeting**

13
14 Ms. McLean: Next, just a reminder that the next regularly scheduled meeting, September 10th
15 was canceled because we have the HCPO Conference. Hope everyone is gonna be able to
16 attend at least part of that.

17
18 **4. Discussion of Future Maui Planning Commission Agendas**

19
20 **a. September 24, 2019 agenda items**

21
22 Ms. McLean: Then the agenda after that is September 24th, you have the memo from
23 Mr. Yoshida with two public hearing items, one communication item. We will probably also do a
24 workshop on that day for the SMA and Shoreline Rules. We'd be looking later in the year to
25 have a workshop with Dr. Chip Fletcher from UH also talking about sea level rise which ties into
26 our proposed shoreline rule amendments, looking to adopt those by the end of the calendar
27 year before you get the West Maui Community Plan some time next year.

28
29 Mr. Robinson: How are we looking for another member?

30
31 Ms. McLean: A name has been sent to Council, we are pleading with them to schedule that
32 person for consideration, yes.

33
34 Ms. La Costa: Director, will the shoreline symposium or workshop be recorded? I won't be here
35 a that meeting?

36
37 Ms. McLean: Okay, we can check with AKAKU to see if they will be filming and then we can
38 make that available.

39
40 Ms. La Costa: Thank you.

41
42 Mr. Carnicelli: Commissioner Pali.

43
44 Ms. Pali: Just for the record, I've already set the request that I'll be out the whole month of
45 October.

46
47 Ms. McLean: Okay. And that concludes the agenda, Chair.

1
2 Mr. Carnicelli: Okay, meeting is adjourned. Thank you everyone.

3
4 **F. NEXT REGULAR MEETING DATE: September 24, 2019**

5
6 **G. ADJOURNMENT**

7
8 The meeting was adjourned at 12:00 p.m.

9
10 Respectfully Submitted by,

11
12
13 CAROLYN TAKAYAMA-CORDEN
14 Secretary to Boards and Commissions II
15

16
17 **RECORD OF ATTENDANCE**

18 **Present**
19 Lawrence Carnicelli, Chair
20 Stephen Castro
21 P Denise La Costa
22 Kellie Pali
23 Keaka Robinson
24 Christian Tackett, Vice Chair
25 Dale Thompson

26
27 **Excused**
28 Tina Gomes

29
30 **Others**
31 Michele McLean, Director, Department of Planning
32 Michael Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel
33 Stephen Welling, Deputy Director, Department of Public Works