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**MAUI PLANNING COMMISSION  
PORTION OF REGULAR MINUTES  
ITEM B.1  
NOVEMBER 26, 2019**

Ms. McLean: Thank you, Chair. The first item on the agenda is Unfinished Business. This is a proposal from R.D. Olson Development for the Planning Commission to be the accepting agency for the Final Environmental Impact Statement in support of the Community Plan Amendment from Light Industrial to Hotel for the proposed Windward Hotel, a 200-room hotel, located on approximately 5.17 acres of land in the Maui Business Park II Subdivision at 778 Haleakala Highway portion of TMK: 3-8-103:014, as well as parcels 015, 016, 017, 018 in Kahului. The applicant also submitted applications for Change in Zoning and SMA Use Permit. The public hearing will be scheduled after the EIS process has been completed.

**B. UNFINISHED BUSINESS**

1. **R.D. OLSON DEVELOPMENT proposing that the Maui Planning Commission be the accepting agency for the Final Environmental Impact Statement in support of the Community Plan Amendment from Light Industrial to Hotel for the proposed Windward Hotel, a 200-room hotel, located on approximately 5.17 acres of land, located in the Maui Business Park II Subdivision at 778 Haleakala Highway, TMK: (2) 3-8-103:014 (portion), 015, 016, 017, 018, Kahului, Island of Maui (EIS 2018/0001) (CPA 2018/0001) (T. Furukawa)**

[http://oeqc2.doh.hawaii.gov/EA\\_EIS\\_Library/2019-10-08-MA-DEIS-Windward-Hotel.pdf](http://oeqc2.doh.hawaii.gov/EA_EIS_Library/2019-10-08-MA-DEIS-Windward-Hotel.pdf)

**The Applicant has also submitted applications for a Community Plan Amendment, Change of Zoning, and a Special Management Area Use Permit. The public hearing will be scheduled after the Chapter 343 HRS process has been completed.**

**The Commission may act on the following:**

- a. **That the Maui Planning Commission is the approving agency of the Final Environmental Impact Statement.**

Ms. McLean: At the last meeting, the Commission provided its comments on the Draft EIS and you have a copy of those written comments in front of you today. The deferral from last time was whether the Maui Planning Commission or the State Land Use Commission should be the accepting agency and the item was deferred so that we could consult with the State Land Use Commission as well as the State Office of Environmental Control which administers Chapter 343, the EA/EIS Law.

OEQC indicated that when there are competing jurisdictions for an accepting authority that those agencies need to discuss and decide which agency should be the accepting authority. If the agencies cannot agree then OEQC will get involved and make a decision. And so OEQC put it

1 back to the Planning Department and the State Land Use Commission to determine who the  
2 authority should be.

3  
4 After getting that feedback, we contacted the State Land Use Commission and their Executive  
5 Officer, Daniel Orodener and there is an email between Mr. Orodener and myself in your  
6 packets where I summarized the discussions that we had had with OEQC and the Land Use  
7 Commission where both Mr. Orodener and I agreed that the State Land Use Commission should  
8 be the accepting authority. And so, what that would mean is that the Land Use Commission would  
9 have to meet to be the accepting authority and they would be the ones to accept the Final EIS.  
10 After they do that then it would come to the Commission for the Commission to make a  
11 recommendation to the County Council on the Community Plan Amendment and Change in  
12 Zoning. That would go to the Council. If the Council were to approve it then it could come back  
13 to the Commission for the SMA permit.

14  
15 Part of the Land Use Commission's action would also be amending the existing decision and  
16 order when the land was redesignated to Urban. When it was redesignated to Urban it was in  
17 contemplation of industrial and some commercial development not hotel development. And so  
18 that Decision and Order would have to be amended first with the acceptance of the Final EIS  
19 before the County could act on the county level entitlements and so because the Land Use  
20 Commission would be the first action, we agreed that the Land Use Commission should be the  
21 accepting authority.

22  
23 What's in front of the Commission today is, it is your decision so you can decide to be the  
24 approving agency if you choose to. If you were to decide that then I'd have to go back to the Land  
25 Use Commission and see if they would concede that authority. If they wouldn't then we'd have  
26 to have OEQC decide. If today however you agree that the Land Use Commission should be the  
27 accepting authority then the process can move forward with the Land Use Commission.

28  
29 Mr. Carnicelli: So, I guess at this point, does the applicant have anything that they want to add at  
30 this point?

31  
32 Mr. Curtis Tabata: Good morning.

33  
34 Mr. Carnicelli: Good morning.

35  
36 Mr. Tabata: Curtis Tabata, attorney for R.D. Olsen. First of all, R.D. Olsen would like to thank  
37 the Planning Department for having discussions with OEQC and the State Land Use Commission  
38 and we also thank the Planning Commission here for your patience in this matter. '

39  
40 With respect to the recommendation to have the State Land Use Commission be the accepting  
41 agency R.D. Olsen will comply with that recommendation should this Planning Commission adopt  
42 that recommendation. Thank you very much.

43  
44 Mr. Carnicelli: Great. Thank you very much. I appreciate that. So, at this point in time what we'll  
45 do is open up the floor for public testimony. Did anybody sign up? No, nobody signed up. Okay.

1 So, and just so you know is the decision we're making is whether or not we are the authority or  
2 the Land Use Commission is the authority. So, if anybody would like to come forward and testify  
3 on that please do so now. Seeing none, and without objections we'll go ahead and close public  
4 testimony. Discussion? Commissioner Robinson.

5  
6 Mr. Robinson: Chair, I wasn't, I wasn't here at the last meeting but I have read things, but because  
7 it was...this meeting was so back to back I wasn't able to purview all the minutes. I want to see  
8 if you could ask the applicant if they feel comfortable with me voting on this or not and I will...I  
9 may yield to that.

10  
11 Mr. Carnicelli: Okay.

12  
13 Mr. Tabata: The applicant has no objection.

14  
15 Mr. Carnicelli: Okay, thank you very much. Discussion? How about a motion?  
16 Commissioner Thompson.

17  
18 Mr. Thompson: So moved.

19  
20 Mr. Carnicelli: Okay, so you are moving to make the Land Use Commission the approving  
21 authority for this matter?

22  
23 Mr. Thompson: Yes.

24  
25 Ms. La Costa: Second.

26  
27 Mr. Carnicelli: Okay, that is the motion. Seconded by Commissioner La Costa. Discussion on  
28 the motion? Commissioner Robinson.

29  
30 Mr. Robinson: I think the Land Use Commission doesn't have as much local representation as  
31 the Maui Planning Commission does. I don't they're...even though we do have representation I  
32 think that, that we're actually more qualified to, to understand the needs of the community and  
33 the pulse and just the comments that I've seen and the questions that you guys brought up the  
34 last meeting. I don't think those would, would come up...(inaudible)...I'm not saying it wouldn't  
35 but I think that we actually are favorable to Maui if the Planning Commission takes it up. That's  
36 just my two cents. And I do have a question, Chair.

37  
38 Mr. Carnicelli: Go ahead.

39  
40 Mr. Robinson: During...just reading the notes and I apologize I wasn't here during the  
41 conversation is a few of the testifiers you know went back to the Maui General Plan and it went  
42 to the plan of population, tourist and stuff like that, is there any clarification from the Department  
43 on where that stands on what the...I mean with that being brought up is there a certain type of  
44 recommendation should we follow, are we...is it arbitrary, is there any kind of clarification on that  
45 testimony?

1  
2 Ms. McLean: It's an appropriate comment to make to the Draft EIS which this Commission did  
3 and which the Department also did and presumably members of the public did. The EIS should  
4 then address that comment and discuss it and apply it to the proposed action. That policy in the  
5 Maui Island Plan...and it's in the Maui Island Plan, that policy, so there's the EIS step and it's  
6 something the Land Use Commission may wish to consider when they consider amending the  
7 Decision and Order. If the matter comes back to the Commission or when the matter comes back  
8 to the Commission and you're considering the Community Plan Amendment and the Change in  
9 Zoning that would also be one of the policies that you consider in making your recommendation  
10 on those actions. So, it's...it's a policy that guides future action and so the Department will be  
11 making its recommendation to the Commission at that time and the Commission will be making  
12 its action at that time in consideration of that policy and other applicable policies and criteria. So,  
13 it doesn't need to be resolved and figured out right now. It will be considered throughout the  
14 process.

15  
16 Mr. Robinson: Is, Director has the Department ever had an opinion on this, on this subject before  
17 or do they plan to have an opinion since it's been brought up?

18  
19 Ms. McLean: The issue has come up before when we've talked about various types of vacation  
20 rentals in the discussion of the adoption of the B&B bill, the Short-Term Rental Homes bill and  
21 amendments to those, the impacts of the visitor industry in general does get, does get discussed.  
22 In applying it directly to a specific application I don't believe that it has been so directly applied  
23 before where there's been such an entitlement before. And so, we have had discussions with the  
24 Mayor in terms of new hotel development and its relationship to this policy. And so, this will  
25 probably be the first time that that policy finds its way to a specific recommendation from the  
26 Department.

27  
28 Mr. Robinson: Thank you, Chair.

29  
30 Mr. Carnicelli: No problem. Also, that policy in the Maui Island Plan I do believe it says, strive for  
31 is that ...do you recall that it's not like a hard and fast okay, we have to have this, but I do believe  
32 that the actual policy in the Maui Island Plan is to strive for one to three ratio. I mean, again, we  
33 don't have to iron that out exactly right now.

34  
35 Ms. McLean: Right.

36  
37 Mr. Hopper: At this stage, also you're deciding on if you're accepting authority and discussing  
38 the merits of the project. You will have...the Commission and the...not necessarily this  
39 Commission but if this project moves forward this Commission will have the opportunity to review  
40 a Community Plan Amendment, I believe a Change in Zoning as well and I believe an SMA Permit  
41 and it will have the opportunity to discuss the merits of the project, to the extent that relates to the  
42 EIS then that can be addressed in the EIS document, but again as a Commission will have the  
43 opportunity to review those issues when the project comes before you for your recommendation  
44 and approval for the SMA Permit.

45

1 Mr. Carnicelli: Yeah. Thank you. Thank you, I was just...since we're having the conversation,  
2 just wanted clarification is all.

3  
4 Ms. McLean: Chair, if—

5  
6 Mr. Carnicelli: Yeah.

7  
8 Ms. McLean: --assuming that Dick Mayer properly quoted the Maui Island Plan in his opinion  
9 piece and I trust that he did, it states, promote a desirable island population by striving to not  
10 exceed an island wide visitor population of roughly 33 percent of the resident population.

11  
12 Mr. Carnicelli: Okay, thank you very much for that clarification. Any other further discussion on  
13 the motion? I will just add that I do agree with Commissioner Robinson in that I think when it  
14 comes to these types of matters we do have a better understanding of Maui, and our community,  
15 and our communities than the Land Use Commission does, however, I will be supporting the  
16 motion in just that you know through the due diligence of what we did and the process with which  
17 the Director explained that I think it's easy to go ahead and concede this to the LUC. So that's  
18 my two cents worth. I guess call for the question, Director.

19  
20 Ms. McLean: The motion is for the Land Use Commission to be the accepting authority.

21  
22 Mr. Carnicelli: All those in favor please raise your hand. That is one, two, three, four. Opposed,  
23 one, two. One abstaining, so that would be five-two, motion passes.

24  
25 *(Motion was made at 00:07:18 of the audio recording.)*

26  
27 **It was moved by Mr. Thompson, seconded by Ms. La Costa, then unanimously**

28  
29 *(Vote was taken at 00:13:39 of the audio recording.)*

30  
31 **VOTED: For the Land Use Commission to be the Accepting Authority.**

32  
33 **(Assenting – D. Thompson, P. D. La Costa, K. Pali, S. Castro,**

34 **Abstained - C. Tackett)**

35 **(Dissenting - K. Robinson, K. Freitas)**

36 **(Absent - T. Gomes)**

37  
38 Ms. McLean: And Chair I would like to apologize to the applicant for this jurisdictional issue  
39 coming up so late in the process.

40  
41 Mr. Carnicelli: Right.

42  
43 Ms. McLean: It's something that we should have resolved with the applicant before coming to the  
44 Commission and that's ...(inaudible)...some delays into their project and we bear responsibility

1 for that so I am sorry for that and we'll work with them to make this as smooth as possible moving  
2 forward.

3

4 Mr. Carnicelli: Yeah, thank you again for your due diligence guys.

5

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7

Respectfully Submitted by,

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CAROLYN TAKAYAMA-CORDEN

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Secretary to Boards and Commissions II