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**MAUI PLANNING COMMISSION
SUMMARY MINUTES
OCTOBER 22, 2019**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Chairperson Lawrence Carnicelli at approximately 9:03 a.m., Tuesday, October 22, 2019, Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.

Mr. Carnicelli: Good morning everyone. Welcome to the October 22, 2019 Maui Planning Commission. My name is Lawrence Carnicelli, I'm your Chair and we're gonna go ahead and call the meeting to order.

First thing we'll do is establish quorum and roll call. I'll start with Vice-Chair Tackett.

Mr. Tackett: Good morning.

Mr. Carnicelli: Good morning. Commissioner La Costa.

Ms. La Costa: Aloha Chair.

Mr. Carnicelli: Aloha. Commissioner Robinson.

Mr. Robinson: Aloha Chair. Aloha.

Mr. Carnicelli: Commissioner Thompson.

Mr. Thompson: Good morning Chair.

Mr. Carnicelli: And our newest Commissioner, Commissioner Kawika Freitas.

Mr. Freitas: Aloha and good morning.

Mr. Carnicelli: Aloha and good morning. Not present and excused is Kellie Pali, Stephen Castro, and Tina Gomes. So we do have quorum has been established.

B. INTRODUCTION OF NEW MEMBER – KAWIKA FREITAS

Mr. Carnicelli: But before we get going I would like to just say welcome. Congratulations. Welcome to the feeding frenzy, but if you would just go ahead Kawika and just I guess introduce yourself and let us all know kinda who you are.

Mr. Freitas: Okay. All right, aloha. My name is Kawika Freitas actually grew up on Hawaii Island, South Kona, educated at Kamehameha Schools, graduated there and soon after graduation followed a wahine here and married her and has been here for over 30 years. I live Upcountry and I work all the way out at the Old Lahaina Luau. I started at the luau as a General Manager and then I got demoted to Director of Public and Cultural Relations so I don't know if

1 it's a demotion but...but anyway that's my position there. I also do the marketing as well as run
2 the entertainment. So was introduced to the possibility of being on this Commission by a few
3 close friends who I respect and decided to take a...take a stab at it and help be a part of
4 shaping this beautiful island and county. Mahalo.

5
6 Mr. Carnicelli: Thank you, and we appreciate you doing that and also so everybody is aware by
7 ordinance the commission has to have a Hawaiian Practitioner member and Kawika fills that
8 spot for us, so thank you for your dedication and service to the community.

9
10 Members before we go...okay, actually so everybody know what we're gonna do is we're gonna
11 through the agenda item by item. Unlike the County Council we do not take testimony at the
12 beginning. We will take testimony after the presentations because oftentimes the presentation
13 might answer some questions or clarify some things for you ahead of time. So what we'll do is
14 is do that in sequence.

15
16 However, Members we do have the request to move Public Hearing Item E.1 to the beginning
17 for some logistical reasons. I apologize to those of you in the audience that you know thought
18 that your item might have been first, but is there any objections from the Commission to be able
19 to move E.1 to the front? Seeing none, then we're gonna go ahead and go ahead and do that,
20 so Director.

21
22 Ms. McLean: Thank you, Chair. This is the only public hearing item on the agenda today and
23 we are transmitting, the Planning Department is transmitting proposed amendments to Title 19
24 of the Maui County Code, Chapters 19.12, 19.24, 19.26 and 19.37, relating to transient
25 vacation rentals in the Apartment Districts and Industrial District and dwelling units in
26 the Industrial Districts.

27
28 Jacky Takakura is Administrative Planning Officer. She will be doing the presentation
29 and this was the same issue that we did a run through at the last meeting so most
30 commissioners should be familiar with it but Jacky will go through it again. And the item
31 is today simply for you to make a comment, to make comments and a recommendation.
32 We will be taking this to the Lanai and Molokai Planning Commissions as well and then
33 sending it up to Council for action so today is for your comments and recommendation.
34 So Jacky can take it from here.

35
36
37 **E. PUBLIC HEARING**

- 38
39 **1. MS. MICHELE MCLEAN, Planning Director, transmitting proposed**
40 **amendments to Title 19 of the Maui County Code, Chapters 19.12, 19.24,**
41 **19.26 and 19.37, relating to transient vacation rentals in the Apartment**
42 **Districts and Industrial District and dwelling units in the Industrial Districts.**
43 **(J. Takakura)**
44

45 Ms. Jacky Takakura: Thank you and good morning. Thank you for allowing us to rearrange the
46 schedule. This is a proposed bill for an ordinance to update the Maui County Code regarding

1 transient vacation rentals in the Apartment and Industrial Districts. This bill also deals with
2 dwelling units and heights in the Industrial Districts. As you recall on October 8th we presented
3 an overview of this proposal and excuse me, I'll quickly review this with you and we can discuss
4 any questions after.

5
6 So the proposed bill concerns a specific type of vacation rental and these are the transient
7 vacation rentals or TVRs as they're often called, and this is in two specific zoning districts,
8 Apartment and Industrial. This is not related to bed and breakfast or short-term rental homes
9 which have their own chapters in the Maui County Code and right now we're not proposing to
10 change either of those for B&B or STRH permit processes. And as a commission you're
11 probably familiar with them because commission approval is part of the permit approval process
12 for B&Bs and STRHs. The main difference here is that TVRs do not require a permit or
13 commission approval to operate so just to make that clear.

14
15 So I'll just give you a second or two to read this but the purpose of this bill is to prevent the
16 conversion of long-term rentals and owner-occupied apartments into TVRs. We want to prohibit
17 TVR use if the building did not conduct the use in a dwelling unit prior to April 20, 1989. The
18 other purposes of the bill is to prohibit new standalone apartments and apartment houses in the
19 Light Industrial District and also to revise some height standards and then I'm going to go into
20 detail about each of these points.

21
22 So how did we get here? As I mentioned in the previous slide I mentioned that date
23 April 20, 1989, you'll see that date a lot and that's when the Maui County first banded TVR use
24 in the Apartment District but there were some exceptions. We use this date a lot to keep the
25 prohibition date consistent and enforceable and you'll see it time and again. But in May 2017
26 we contracted with LodgingRevs to assist us with enforcement. And at that time people thought
27 there were going to be thousands of illegal vacation rentals but really there were only about two
28 or three hundred. However with LodgingRevs we were able to identify 10,000 legal TVR units
29 and these are legal because of the zoning, Apartment and Hotel zoning and what we realized
30 was that there was a lot of other units that could convert under the current language if the
31 building was built prior to that date I mentioned April 20, 1989.

32
33 If you look at the handout, the Draft Bill for Ordinance, Section 1 kinda gives you a little story of
34 the timeline of how we got to where we are. This is a little bit of data and as of July 15, 2019 in
35 the A-1 which is Apartment and the A-2 Districts there are over 6,600 transient vacation rentals
36 and these are all over the place in West Maui, South Maui, Maalaea, Kuau, Hana, two on
37 Molokai and these are outright permitted. What we propose to do is not change this but no new
38 ones. So existing TVR complexes in the Apartment District may continue if the use was
39 conducted prior to April 20, 1989.

40
41 This is a lot of words, but this is the language of the proposal and the brackets are the part we
42 want to take out and the underlined is the part we want to put in and this is for Apartment
43 District. And what we're proposing in yellow is...I'm just gonna read some key words, higher
44 density housing options. Okay, so these are multiple family apartment districts and they're
45 within or near the urban core of a town and that way residents have access to jobs, services,
46 amenities and transportation and they are compatible with the uses and the various Business,
47 Residential, Public/Quasi-Public, and Park Districts.

1
2 So this defines a purpose and new vision of walkability and that Apartment District is a higher
3 density housing option. It's more affordable and it's closer to the services that people need so
4 people can live, walk, work, shop in a closer area. And as you can see on Item C, the bottom
5 line, that word in yellow, residential that's the intent of this district, the purpose and intent is for
6 residential, long-term residential.

7
8 So what we're proposing is that transient vacation rentals only be allowed if all criteria are met
9 and this includes the first bullet item that the...there was a building permit from April 1989 or
10 prior and the part in bold, they are conducting TVR use and the bottom line, they cannot expand
11 TVR use, okay, so meeting all of the criteria.

12
13 What's the difference with the existing language and the proposed language? Right now
14 residential properties in the Apartment District could ask to be added to the list of TVRs simply
15 because they were built before April 20, 1989 and this could have an impact in areas like
16 Wailuku or other places where we have existing residential. So what we're proposing is that
17 yes, they have to have that building permit before 4/20/89, but they must have also operated at
18 TVR prior to 1989. And like I mentioned it doesn't exist...it doesn't affect existing TVRs
19 because they meet this proposed language and what we're trying to do is avoid further loss of
20 housing for our residents.

21
22 Okay, so that's Apartment District, no new TVRs in the Apartment District. They have to have
23 been built by that 1989 date and they must be conducting use.

24
25 So now I'm gonna move to the Industrial Districts. M-1 is Light Industrial and then I'm gonna
26 talk about M-2 which is Heavy Industrial. Transient vacation rentals were never a permitted use
27 in the Industrial Districts and this clearly states this. We want to ensure that commercial uses
28 are included with any new apartment development and that promotes mixed use and walkability.
29 We also want to amend the height requirements based on total units, dwelling units and then
30 revise the language regarding heights of roof structures so that it's consistent with language in
31 the other districts so that it's no more than ten feet above the highest point of the roof. I'm
32 gonna go through each of these quickly.

33
34 So for M-1, Light Industrial this is the purpose and intent and the part in yellow is all we're doing
35 and taking out the part in the brackets and that's changing 'cause right now it says that dwelling
36 units have to be above or below the first floor. We're saying that they can be on any floor it's
37 okay as long as there's a mixed use. So it's just a very minor revision to the purpose and intent.

38
39 So continuing with M-1 you can see the top part in yellow, no single-family dwellings, no
40 vacation rentals, the middle bullet, apartments can have dwelling units on any floor and then the
41 last item, no new standalone apartments, no new apartment buildings that are all dwelling units.
42 They have to have some other non-dwelling permitted use even if it's a little convenience store it
43 should be a mixed use. Apartments that are already existing are fine. As I mentioned regarding
44 development standards for M-1 trying to encourage more density in the buildings with dwelling
45 units. Five or more apartments or dwelling units can be 60 feet, ones with four or less, 45 feet.

46

1 And then last item is regarding the heights of those antennas. We don't want them to be really
2 tall if the building is short. We'd just like it to be ten feet above the building roof and that's how
3 we have it in the other districts.

4
5 Okay, moving to M-2 which is the Heavy Industrial. No single-family dwellings, no vacation
6 rentals, no apartments. This district was not intended to be lived in. As you can see it's for
7 heavy industrial. We already have the language that's on the bottom bullet about the living
8 quarters used by watchmen or custodians but we're just kinda moving it into the notes and
9 exceptions of that part of the Zoning Code 'cause it's really clear that that's only what's allowed
10 for dwelling is for the watchman or the custodians.

11
12 And as I mentioned just like with M-1, the antennas, the communication systems shouldn't be
13 more than ten feet above the building roof 'cause right now you could have a short building and
14 the antenna can be up to 149 feet and that's kinda high.

15
16 So transient vacation rentals were never permitted in the Industrial Districts unless there
17 happened to have been one in operation prior to the Comprehensive Zoning Code which is from
18 1960 and this ordinance is actually on the County website if you look back. It's kinda like going
19 back in time. Eddie Tam signed it. And as far as we know there aren't any, but we want to
20 make sure that this is really clear and there shouldn't be any.

21
22 And the final proposed change is to Chapter 19.37, Timesharing Plans and this is to ensure that
23 we don't leave any loopholes open. We're adding the word, "and" so that it's clear that all
24 criteria in this chapter must be met 'cause right now some people think, oh I can pick and
25 choose, I'm gonna meet this criteria but I don't have to meet the others, but this is really clear
26 that you have to meet all criteria in order to qualify for a timesharing plan. And also there's an
27 item on there Item D in the existing language regarding projects instruments and that's been
28 subject to some different variations of interpretations so we're gonna take that out because we
29 just really need to make it clear that if projects project instruments don't say it, you can't change
30 it. So that part can be confusing and so we'd like to have that part removed.

31
32 So in summary, we're proposing no new transient vacation rentals in the Apartment Districts,
33 existing they're okay because they have to have been built before 1989, must have existing
34 TVR use and they can't change the project instruments just to allow transient vacation rentals.
35 As mentioned, they were never allowed in the Industrial Districts so I'm making that clear. New
36 apartments with other uses are okay in Light Industrial Districts and the dwellings can be on any
37 floor. No new standalone apartments. We'd like to allow higher heights if the contractor is
38 willing to put in more units. So that's why there's 60 feet for five or more dwelling units, 45 for
39 four or less, and then the antennas and those communication systems ten feet taller than the
40 building.

41
42 So what we'd like to do is get a recommendation from the planning commission to recommend
43 this to the County Council so that we can revise Chapters 19.12, 19.24, 19.26 and 19.37.
44 Tomorrow I'll be taking this to Molokai and then hopefully going to Lanai next month and then
45 we can take this to the County Council. Any questions?
46

1 Mr. Carnicelli: Thank you very much. I think what we'll do is we'll take public testimony and
2 then we'll go to questions from the Commissioners. So Jim, could you grab the signup sheet for
3 me please? Anyone?

4
5 Mr. Buika: No one.

6
7 Mr. Carnicelli: No one. Okay, is there...oh, the handsome gentleman in the back please come
8 forward. And just so everybody knows when you come to testify you have three minutes. At
9 three minutes Carolyn will say that and then I ask you to stop your testimony at that time and
10 that's actually...it's not that we don't want to hear from everybody and we want to hear
11 everything you have to say but we limit it to three minutes out of respect for everybody else
12 because if somebody goes on and on beyond the three minutes when somebody didn't stopped
13 then it's just not fair to everybody so you have three minutes. So please identify yourself.

14
15 Mr. William Spence: Thank you Mr. Chairman. My name is William Spence.

16
17 Mr. Carnicelli: William Spence you have up to three minutes, and oh, do you promise to be
18 truthful?

19
20 Mr. Spence: I do.

21
22 Mr. Carnicelli: Great. You have up to three minutes.

23
24 Mr. Spence: Thank you for swearing me in. My name is William Spence and you know me
25 as...I'm a former Planning Director and former Housing Director. I applaud what...

26
27 Mr. Carnicelli: Will, pull the mic towards you, thank you.

28
29 Mr. Spence: I applaud what the Department is doing with making the Code clear that vacation
30 rentals are not allowed within the Apartment District and within the Light Industrial District. My
31 question here is about standalone apartments in M-1 Light Industrial and I'm really glad to hear
32 Jacky say that even if you have a little convenience store you can apartments with it. Okay,
33 great, but that's not what this proposed Code says. The way that the code amendment says is
34 that apartments may be allowed with other non-dwelling permitted uses. So I...when I was
35 Director I sat in literally dozens of meetings where we sat around and said, well what does this
36 mean, what does this language mean? Jacky's intent or the Department's intent may be that
37 even a little bit of commercial will allow a bunch of apartments but the way that I read the
38 Code...the way that I read this proposed language is that you could have a parking lot with your
39 apartments with that parking lot. You know so it's, it's vague the way that it goes or the way that
40 it's written. If the intent is to say, you know a little bit of commercial is okay or something like
41 that then we should go ahead and clarify that language. As you know administrations change
42 so what is intended by language today and you know, as it's presented to the County Council
43 administrations are gonna change and they're going to interpret it differently so and that's been
44 a fairly constant thing throughout administrations. And all of this to say, we're in the middle of
45 the biggest housing shortage that I think this County has ever seen. If we are foreclosing
46 options for building new apartments I think that's going to be a big mistake. If we need to clarify
47 this Code that still allows apartments in the Light Industrial District great. Let's clarify that we're

1 not foreclosing those options, let's not make less land available for apartments, if we should be
2 doing anything, we should be making more land available. Okay.

3

4 Mr. Carnicelli: Oh, right on time. Thank you. I have a quick question for you.

5

6 Mr. Spence: Yes.

7

8 Mr. Carnicelli: So as you know we're just a recommendation to the Council do you have
9 proposed language for us to be able to submit to them?

10

11 Mr. Spence: No I don't. I would be happy to provide that however.

12

13 Mr. Carnicelli: Okay, well you will have another bite at the apple when this gets to Council then.

14

15 Mr. Spence: Yes.

16

17 Mr. Carnicelli: Okay. 'Cause I understand what you're saying. I just don't personally I guess of
18 the top of my head have the language changes to address what it is that you're saying but I
19 appreciate your testimony.

20

21 Mr. Spence: Okay.

22

23 Mr. Carnicelli: Anybody else have questions for the testifier? Seeing none, thank you very
24 much Will.

25

26 Mr. Spence: Thank you.

27

28 Mr. Carnicelli: Anybody else want to testify on this item? Please come forward.

29

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

31

32 Mr. Carnicelli: Tom, do you promise to be truthful?

33

34 Mr. Croly: Yes I do.

35

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

37

38 Mr. Croly: As some of the members are aware I made comment on this last week, but I don't
39 think that was in the official record that would go on so in some ways I'll be repetitive. But first I
40 want to point out that there is a date issue here. One of the dates related to the prohibition of
41 short-term rentals was in 1989 and that's the date that's being used here. In the infamous
42 Minatoya Opinion, the memo that came forward they point out that a second date was
43 March 4, 1991 and back when Minatoya wrote this opinion there was an "or" and now we're
44 turning the "or" into "and" and which is understandable. The "or" being it either had to be built
45 by 1991 or the use had to be...built by 1989 or the use had to be established by 1991. I'm not
46 exactly sure why we've changed to the date to the use has to have been established by 1989
47 because it was 1991 that the transient uses were completely removed from the Code in the

1 Apartment District. So that's kind of a housekeeping measure but it's something I wanted to
2 point out.

3
4 Second is that the intent of this bill is running a little bit counter to what Council has just done in
5 Budget Committee. In Budget Committee they have just gotten rid of the condominium self-
6 declaration which essentially means all of the units that are in these buildings where short-term
7 rental is allowed are going to be taxed at short-term rental use whether they're making that
8 short-term rental use or not. That is kind of incentive for that person to make that use and stop
9 making the use of perhaps long-term rental in those buildings. So there is a conflict here. But
10 beyond that conflict I think that it's vitally important that the Planning Department and what
11 they're to do align with Real Property Tax and that an outreach be done using the records from
12 Real Property Tax of the units and the owners in the Apartment District with buildings that were
13 built prior to this and reaching out to them and asking them right now are you making short-term
14 rental uses, putting that on record today. That would be a very useful thing to do going forward
15 into the future because at the end of this bill there's a Section 10 which brings up the whole
16 same question that we had way back with respect to this Minatoya Opinion and it says, those
17 uses that are ongoing today may continue. So unless we define right now what uses are
18 ongoing today, someone's going to come forward in four years or five years or ten years from
19 now and say in 2015 I was making this use and it was okay, and then you changed the law in
20 2019 and I'm allowed to make that use again and then it becomes this whole trail of trying to
21 figure whether that use was legal, whether they were making that use in this time period
22 because in 2014 we changed—

23
24 Ms. Takayama-Corden: Three minutes.

25
26 Mr. Croly: --the Code and now we're changing the Code again.

27
28 Mr. Carnicelli: Thank you. Any questions for the testifier? I have a question for you Tom. I
29 mean, I understand the RPT matchup right now. However, as we also know we get to the
30 following year's budget and they could unwind RPT to be back to what it was before. You know
31 so this is the Code which is seemed to be a little bit more established. It's going to sort of live
32 on. RPT rules change yearly. So I guess how would you try to justify or rectify saying, oh we
33 should write this to match what the current policy is in RPT.

34
35 Mr. Croly: I think, I think you misunderstood what my testimony was.

36
37 Mr. Carnicelli: Okay.

38
39 Mr. Croly: It wasn't that we should match these two together. It's that they should work
40 together to...for the community outreach.

41
42 Mr. Carnicelli: Okay.

43
44 Mr. Croly: Because there's, there's...what hasn't even been mentioned here are the single-
45 family homes that exist in the Apartment District. It isn't just apartments. So this outreach
46 should extend to all properties that are in the Apartment District that were built prior to 1989.
47 We should establish today whether or not those people are making a short-term rental use. If

1 they say I'm making a short-term rental use then they should be taxed appropriately. If they say
2 I'm not making a short-term rental use well then we have the evidence going forward that
3 someone can't come forward and say, hey you know I was making that use and I should be
4 grandfathered in.

5
6 Mr. Carnicelli: Got it.

7
8 Mr. Croly: But getting that information for the Planning Department to do that outreach RPT has
9 that. They can easily give you a list of here's the, here's the properties in the Apartment District
10 and here's the properties, here's that list refined further to properties that were with buildings
11 built prior to 1989.

12
13 Mr. Carnicelli: Got it. Thank you Tom. Any other questions? Is there anybody that would like
14 to testify on this particular item? Then without objections we'll go ahead and close public
15 testimony. Commissioners questions and/or comments for the Department moving forward?
16 Commissioner Robinson.

17
18 Mr. Robinson: Hi Jacky. So I just wanted to clarify one thing Mr. Croly brought up it's
19 somebody cannot go back and reclassify what they're doing because they didn't have the tax so
20 you can't say three years from now back in 2019 I was running a TVR because then it was a
21 illegal TVR because under the tax records they didn't, they didn't sign up for that. As of last
22 year...now this is, this is prior to us saying that the new condominium taxes are gonna go into
23 existence where everybody is gonna have to pay the tax but prior to that is that what we're
24 looking at? Do you follow what I'm saying, no?

25
26 Ms. McLean: I do not.

27
28 Mr. Robinson: Okay, so in the testimony we said how do we determine that somebody was
29 using this use, you know in the future? Well in order to be a TVR you should be paying TVR
30 taxes so it's pretty simple for the people who hasn't classified themselves as a TVR to say that
31 they are. Now if they've been paying TVR then they qualify so that catch 22 that the testifier
32 was talking about.

33
34 Ms. McLean: Okay, when we tried to determine if a use had been conducted and is
35 grandfathered we don't put a whole lot of weight into what the real property tax was. We'll look
36 at did they pay GET and TAT. There's a lot of different evidence that we can collect. Real
37 property tax that can maybe bolster it, but that all by itself is not evidence that these were
38 conducted.

39
40 Mr. Robinson: So they would have to classify, you have the proof of GET that they actually
41 rented it out and so that would take care of that last ...(inaudible)...

42
43 Ms. McLean: There's a whole lot of evidence that can be provided and you know, the ones that
44 are documented on the list already we're not questioning. We have about five right now, five
45 additional properties that we're investigating to see if they meet the current standards and the
46 intent of this and Mike and I have been emailing on this, we may need to refine the language

1 that Mr. Croly was testifying about to make sure that we're not taking the right away from ones
2 who lawfully fell under those opinions and those ordinances that's not the intent at all.

3
4 Mr. Robinson: Okay.

5
6 Ms. McLean: So as ones come forward and say shouldn't I be on the list, we're researching it
7 the same way as we were five years ago, ten years ago.

8
9 Mr. Robinson: Okay. Another one.

10
11 Mr. Carnicelli: Yeah.

12
13 Mr. Robinson: So the intent of the bill is for the abatement of usage of nonresidential for
14 apartments. But does it say it in the bill or are we just saying that this is what this bill is. Can
15 we put that somewhere so when we discuss this bill, the bill has a purpose to it?

16
17 Ms. McLean: So Section 1, the beginning of the bill, Findings and Purpose. The purpose of this
18 ordinance is to prevent the conversion of long-term rental and owner-occupied apartments into
19 transient vacation rental apartments in the Apartment, Light Industrial and Heavy Industrial
20 District and then it goes onto some more detail.

21
22 Mr. Robinson: Thank you Chair.

23
24 Mr. Carnicelli: So I want to follow up on what Commissioner Robinson's talking about and on
25 our list here you know we've got, I don't...I just pick one here, the Hono Kai. So the Hono Kai is
26 one of the complexes but we're not drilling down on condominium units. So let's just say if I
27 don't know Unit 2 has been doing...hasn't been doing short-term rental and they want to start
28 they can because it's the building...we're not drilling down specifically on individual apartments
29 and/or condos correct.

30
31 Ms. Takakura: That is correct.

32
33 Mr. Carnicelli: Okay.

34
35 Mr. Robinson: But isn't Hono Kai a Hotel District?

36
37 Mr. Carnicelli: I just picked one randomly off the thing. I mean, I'll pick one in the Apartment.

38
39 Mr. Robinson: ...(inaudible)...

40
41 Ms. McLean: This indicates that it's zoned A-1 and A-2.

42
43 Mr. Carnicelli: Yeah, A-1, A-2. So...I mean take the Island Sands then, I mean pick any one of
44 the ones that say...yeah, some of them are zoned Hotel and that's why they're in there and
45 some of...right, so okay. So I just was curious on that. Other Commissioners do you have any
46 questions or comments? Commissioner La Costa.

47

1 Ms. La Costa: Thank you Chair. My only comment is that when you have mixed use, you not
2 only encourage small business to do owner-user, they can work downstairs and live upstairs like
3 Kai Ani or like Island Sands, it makes it much more convenient and workable like you said. And
4 it also I think inspires people to make that one step and get their own business and grow the
5 economy that way so I think it's a great aspect. Thank you.
6
7 Mr. Carnicelli: Commissioner Tackett.
8
9 Mr. Tackett: I have nothing at this time.
10
11 Mr. Carnicelli: Okay. Commissioner Thompson.
12
13 Mr. Thompson: No.
14
15 Mr. Carnicelli: Commissioner Freitas.
16
17 Mr. Freitas: I actually do have two. You know the one that says 149 was the maximum height.
18 I would suggest that that is just striked from because it was confusing. Is it 70 or 149?
19
20 Ms. Takakura: Well, right now the language the M-1, Light Industrial is 70 and for Heavy
21 Industrial, M-2 is 149. We want to change them both to ten feet above the building height.
22
23 Mr. Freitas: But the maximum of 149 was that just an example or that should just be striked
24 'cause it was confusing. I read that five times and I could not under...
25
26 Ms. Takakura: We would like that striked, yes.
27
28 Mr. Freitas: Second I had, I read that the ten feet extension was for antenna as well as energy
29 equipment.
30
31 Ms. Takakura: Yes.
32
33 Mr. Freitas: What would stop someone from going let's say 60 is the max, they get ten more
34 feet so that's 70 for let's say PV or solar panel to go to 66 and put a flat PV on the top. Is there
35 a language that will say the building main structure is 60 max?
36
37 Ms. Takakura: If it's five dwellings or more yes.
38
39 Mr. Freitas: So someone that's gonna add PVs they could actually raise the building height and
40 say that's my extension is the PV and it's only going to take up about a foot or two.
41
42 Ms. Takakura: I'm not sure I understand you mean. But the maximum building height is
43 specified and then anything above that in terms of pipes or fans or PV would be ten feet above
44 the building roof.
45
46 Mr. Freitas: Okay. Thank you.
47

1 Mr. Carnicelli: Commissioner Robinson anything else? Yeah, go ahead.

2
3 Mr. Robinson: I'd just like to say and I like what you said about how the taxes can be changed
4 very year. I wonder if this, in this ordinance we should, we should think about that in the future
5 of maybe somebody being able to, to designate their unit even though they might have to pay
6 taxes this year, maybe next year, you know and I'm sure there's gonna be some lobbying for the
7 people so that way it doesn't incentivize people to sell their unit or having to turn it into a TVR if
8 we're able to claim like how they do now that they aren't using it as a short-term rental or they're
9 not using it as a transient vacation they're able to use that determination so that way as it does
10 carry in the future it would become automatic instead of not. I think to add onto that I think once
11 people do designate that as a non-TVV then I think that it should then fall back if they do want to
12 bring it back into one, it should fall back into the short-term rental uses of ownership has to be
13 five years. You know that's a second face to it, but you know that's something for people to, to
14 you know to be able to that. Okay, you can't come jumping in back and forth in this tax
15 assessment but I will be if you did own it for five years, you were long-term then you can qualify
16 and you can apply for it. The building will still qualify, the area will still qualify but you have to
17 reapply as a short-term but I think we should think about this and giving the people the option to
18 clarify now because I think we all know that there's gonna be a lot of kickback with people
19 having to pay taxes even though they're not using it for that use. Thank you Chair.

20
21 Mr. Carnicelli: That's a great point. Mr. Hopper question for you. If that were to be something
22 were put in this is a designation, again go to any one of these ones on the list and to incentivize
23 people to actually do long-term rentals versus short-term rentals if there was a way in here
24 where we could designate I don't know even have it recorded on the deed some way of
25 designating this as a long-term use, would it supersede RPT?

26
27 Mr. Hopper: I think Real Property Tax exists separate from this. I mean they would need to
28 look at with their uses how they are taxing particular uses. I think as part of this Code you can
29 designate what uses are allowed and where and then Real Property Tax can decide if they want
30 to tax on the, you know, highest and best use or if they want to look at actual use and those
31 types of issues. But I don't think you can necessarily put something in the zoning ordinance at
32 this point or at least I wouldn't recommend it that is going to try to dictate to Real Property Tax
33 which is a separate section of the Code. You can put in what uses are allowed and where and
34 how they're going to be grandfathered in those items but I think it is up to Real Property Tax, it's
35 up to the Council so they can look at this and that in conjunction with this and try to figure out
36 something that deals with that issue but I don't know if there's something in Title 19 that you can
37 do that would dictate to Real Property Tax this is how you're going to tax this item. You can say
38 what uses are allowed and say, you know as this is going to say—

39
40 Mr. Carnicelli: I got you.

41
42 Mr. Hopper: --those units that aren't established are gonna have to be used going forward as a
43 long-term apartments, but how that's taxed ultimately gonna be up to the sections of the Code
44 that deal with real property taxes.

45
46 Mr. Carnicelli: Got it. Then while I still have you just one quick question. Because the subject
47 of this memorandum is about you know dwelling units and what we're doing is we're making

1 some appropriate changes to height stuff but it's not within the subject are we...are we within
2 Sunshine Law to say, like okay we're addressing all of these you know apartment issues but
3 while we're add it let's go ahead and change some height stuff which doesn't seem tied to what
4 the intent of the bill is. I'm just, just for the legal clarification part of it.
5

6 Mr. Hopper: I think, I think that if we want to clarify that's being done in the bill we can do that
7 and have that forward in the County Council meetings. I don't think that the notice is defective
8 as it is. You don't necessarily state every single change that you're making to every single
9 section. But if we want to have that clarified you know that that's part of it we can look at that
10 and put that in there going forward at the...we can change...what we would really probably want
11 to do is change the text of the bill to clarify that as well.
12

13 Mr. Carnicelli: Okay, thanks Michael. And then, just one other thing Director just going forward
14 and I don't know what to do with this but Mr. Croly brought up the date, I don't know just, if you
15 could just look into that before we forward it on and just make sure that that's all in line.
16

17 Ms. McLean: Yes, we're clarifying that with Corporation Counsel. The bill as it is will stay the
18 same as it goes to the other two Commissions but then when we transmit to Council we might
19 make revisions based on the collective comments and that will also include the guidance from
20 Corporation Counsel.
21

22 Mr. Carnicelli: Got it.
23

24 Ms. McLean: And we will in our comment letter transmit the strong sentiment that Real Property
25 Tax should incentivize long-term occupancy.
26

27 Mr. Carnicelli: Cool. Anything else. So...and again, this is just a recommendation to Council.
28 Ultimately this will be adopted or not at...on the eighth floor.
29

30 Ms. McLean: Make a motion to recommend.
31

32 Mr. Carnicelli: Oh, motion to recommend approval.
33

34 Mr. Robinson: So move.
35

36 Mr. Carnicelli: Moved by Commissioner Robinson, seconded by Commissioner La Costa. Any
37 comments on the motion. Seeing none, all those in favor please raise your hand. That is five
38 ayes. It passes. Thank you very much.
39

40 **It was moved by Mr. Robinson, seconded by Ms. La Costa, then unanimously**
41

42 **VOTED: To Recommend Approval of the Proposed Amendments to the**
43 **County Council as Recommended by the Department.**
44

45 **(Assenting – K. Robinson, P. D. La Costa, D. Thompson, K. Freitas**
46 **C. Tackett)**
47

(Excused – K. Pali, S. Castro, T. Gomes)

1
2 Mr. Carnicelli: Director, or Jim are you ready? You ready to just pull the trigger and go? Okay.

3
4 Ms. McLean: Thank you Chair. Next we have two related items. First is a presentation on the
5 Planning Department's activities supporting beach restoration that will be presented by the
6 dynamic duo of Jim Buika and Tara Owens, and then a workshop on the...continuing our
7 discussion of proposed amendments to this Commission's Special Management Area Rules
8 and Shoreline Area Rules that the Department will conduct, and we also have Dr. Chip Fletcher
9 from UH Manoa's School of Ocean and Earth Science and Technology. So first item first, and I
10 understand we need to take testimony after that presentation and then we'll move onto the
11 workshop. We have Jim and Tara.

12
13 Mr. Carnicelli: So just so everybody knows you will have an opportunity to testify after this
14 presentation and then again on Item D. So just so everybody's clear and understands that.

15
16
17 **C. Presentation on the Department's activities supporting beach restoration**
18 **(J. Buika)**

19
20 Mr. Jim Buika: Thank you Chair. Item C, my name is Jim Buika, Shoreline Planner. I've been
21 with the Planning Department for over a decade. Welcome Commissioners,
22 Commissioner Freitas. Congratulations I guess, but we'll see how it goes. But thank you for
23 your service and everyone's service.

24
25 This is as Michele mentioned, this is the first of four informational sessions including Item D as a
26 lead into our upcoming workshop and we do have Dr. Chip Fletcher which is wonderful.
27 Thanks, Chip for coming over. As Michele mentioned our Planning Team also includes
28 Jeff Dack here and additional Shoreline Planner Keanu Lau Hee, and Tara Owens who I will
29 allow to present most of this presentation is our University of Hawaii, Sea Grant,
30 Maui Extension, Coastal Hazards Specialist here who is a student of Chip Fletcher, and we're
31 happy to have Tara for almost this last decade.

32
33 So thank you again for this opportunity to discuss our shoreline and answer your questions this
34 morning and have some public testimony. It all is leading up to our proposal to increase our
35 shoreline setbacks to accommodate for sea level rise over the next 50 to 100 years. So our
36 focus this morning will be to examine really the increase in shoreline setbacks in our rules to
37 accommodate sea level rise and to make sure that we are able to both protect development as
38 well as to preserve our coastal ecosystems, our sensitive coastal ecosystems. So this first
39 session is reaction to the Commission's question at the September 24th meeting, one month ago
40 from Commissioner Robinson about we had introduced our shoreline setback rules and he had
41 asked, I believe it was Mr. Robinson about what's going on with our beach restorations projects,
42 what else is going on proactively on the island. So I'll provide some opening context and some
43 comments and then with the Chair's permission I will turn it over to Tara Owens to talk about
44 three ongoing beach restorations projects, summarize them, and also to mention another tool in
45 our tool kit which is a programmatic environmental assessment that the Department of Land and
46 Natural Resources is completing for what's called a small scale beach nourishment project. The
47 three projects that Tara will address are I guess would be large scale projects.

1
2 So just a couple opening slides. This picture here is on our north shore and it is, let's see what
3 was my note, it is a picture of a recreation of a thriving coastal ecosystem. So this is our end
4 product that we're looking for to do in some cases this is along Stable Road and was a project
5 that was conceived of and achieved and in place for the last five years or for the last decade
6 here. So back in 2006 and 2009 before we created that project we had ironwoods and
7 cesspools on the shoreline here and we needed to do something about it. Going back, this is, I
8 don't know if you can see but could we at least turn off one light right over there that would be
9 helpful, what we have offshore right underneath the October 22, 2019, maybe opposite...yeah,
10 under there, there are, there are four groins, small groins out there and it was a beach
11 nourishment project of about three to six thousand cubic yards of sand with a nice dune plants
12 and dune recreation there and it's been stable for five years. So this is the end product of that,
13 the eroded coastline here so this is a great example five years after restoration. So this is
14 something we can strive for.

15
16 So beach nourishment is one of the tools in our toolbox and some comments here we have
17 had...we need various tools besides our setbacks and beach nourishment is a key one because
18 we have existing development that was built 30 to 50 years ago, and we'll show you some
19 examples of that, that was built too close to the shoreline and it's now threatened by coastal
20 erosion and we have to protect these structures often at the expense of our coastal ecosystem.
21 And not only is our coastal erosion worsening but we have the specter of 3.2 feet of sea level
22 rise and most of our team here does believe we are experiencing a half a foot of sea level rise
23 around the islands at this point.

24
25 In the past over the last 30 to 50 years armoring has been our primary response to protect
26 threatened development causing beach loss. We have erosion and then we have armoring and
27 we're trying to move away from armoring as much as possible. If we armor one former beach
28 none of us can go to that beach any more. What are the impacts? It impacts every other
29 beach. Right, our beaches are becoming less and less. You know even the Climate Change
30 Commission is talking about preserving our legacy beaches. We can't just preserve our legacy
31 beaches, we in my opinion we have to preserve every beach left because we...they are all
32 legacy beaches and legacy beaches are in the eye of beholder, the fishermen or the people
33 who frequent those shorelines. So that's a direction we're going in.

34
35 One of the responses beside setbacks is to do beach restoration where appropriate as an
36 alternative to disarmoring and often what is happening now is as we have coastal erosion we
37 put sandbags out in front on a beach and those sandbags are pseudo hardening, they have
38 impacts, they require more sandbags and it impacts our coastal ecosystem. So to me for my
39 experience one sandbag going on a beach is significant impact and it's leading to a cumulative
40 impact because where there's one sandbag there needs to be more sandbags so we need to
41 break that cycle. And when we put a sandbag out in the water now through our emergency
42 rules we require the applicant to move in the direction of looking at beach nourishment to get
43 those sandbags out of there so that's the direction.

44
45 So again, the final bullet, this approach will not be feasible everywhere. We need to have sand
46 and it is one tool in our toolbox of coastal management and the other one that we are gonna
47 focus on today are the setbacks. So, when we talk about this coastal management toolbox

1 what are we talking about? What can you do on a parcel on the beach? There are only six
2 things you can do on the beach, on a beach parcel to alter it or change it, improve it, six things.

3
4 There's one thing you can if there's a development at risk, you can remove it. Okay, managed
5 retreat. We can get rid of it, turn it into a park that would be that third picture down there, right,
6 create it into a park. Remove it. We can also, second one is we can elevate something so that
7 eventually when the sea level rises the water will go underneath the structure instead of through
8 the media room, you know that's another role we have. The third is to set back. Right, so let,
9 again, let the coastal ecosystem give it some space, let it thrive, build a dune system and that's
10 what we're talking about here today. Fourth is we can harden the shoreline which we all know
11 what revetments and seawalls do they eliminate beaches. Fifth, we can create beach
12 nourishment. We can do a soft solution we can put sand out front. And six, we can move
13 offshore. We can create some sorta breakwater system or diminish the intensity of the waves
14 coming in. Separate the ocean from the structure. Those are the only things we can do. So we
15 have a limited toolbox.

16
17 So here are they are summarized, retreat, planned relocation so we can move a structure out of
18 a hazard prone area which includes the sea level rise area and we can plan for relocation of
19 development inland. Again, setbacks and total removal. Accommodate again is to elevate and
20 to, we can actually reconfigure structures and our new rules actually require reconfiguring as we
21 develop over the next 50 years on our shoreline. Reconfiguring means just moving parts of the
22 structure back. Preserve and restore, again this is through sand management, small scale
23 beach nourishment, vegetative buffers, the dune and beach restoration which Tara will present
24 and then protect, harden the shoreline. So that's our toolbox and some of them are preferred,
25 some of them are easier than others.

26
27 So really what I've seen over the past decade is that part of the problem is our permit system
28 and it's been responsible for the degradation of our coastal ecosystem, the time it takes when
29 we put sandbags out there and we need to really move to a proactive shoreline process to
30 preserve Hawaii's coastal ecosystems and to preserve sandy shorelines or they will continue to
31 be degraded and Hawaii will continue to lose its sense of place if we don't move from a reactive
32 shoreline planning process to a proactive shoreline planning process. So when we have acute
33 coastal erosion which is common what's our first reaction? We riprap, we harden the shoreline.
34 And so the built environment takes precedent over natural resources so that's in a reactive
35 planning manner.

36
37 So how do we move to proactive planning? We need to consider the coastal ecosystem
38 equally, and how do we move towards proactive planning? I just have one final slide and I'll
39 send it to, over to Tara to present. But so how do we move to proactive planning along the
40 shoreline? I've talked about some examples here but and that's the paradigm we are seeking.
41 So right now our shoreline is managed parcel by parcel and that's where we get in trouble. We
42 put in sandbags, we protect that structure and it has impacts on the other side of it. So we need
43 to shift to a regional beach cell approach and that's what we're doing with these beach
44 restoration projects looking at it from the entire ecosystem or beach cell and to do that we really
45 need to establish public/private partnerships with the County, with the applicants, with the
46 owners along the coastline, along the stretch of beach. Tara will share some examples. And to

1 proactively restore beaches where possible. So I'll leave it there and turn it over to Tara who
2 has a couple of examples to share with you. Thank you.

3
4 Mr. Carnicelli: Thanks, Jim.

5
6 Ms. Tara Owens: Good morning, Commissioners.

7
8 Mr. Carnicelli: Good morning Tara.

9
10 Ms. Owens: Thanks for having me. For the record, I'm Tara Owens with UH Sea Grant and I'm
11 in a partnership position here with the County of Maui and through the Planning Department to
12 support the Department, other County departments, the Commission, the Council and everyone
13 in our community. As Jim alluded, I'm just gonna give you, I'm gonna try to be fairly quick here,
14 but some details of some of the larger ongoing efforts related to restoring beaches and maybe
15 the fourth item on the list here, the State's small scale beach restoration program which will
16 hopefully support other future projects.

17
18 There are just so you know there are many other dune restoration initiatives, we work on sand
19 management projects like for example right now trying to get the sand from the Kihei Boat
20 Harbor back onto the beach and protect some critical County infrastructure but we're not gonna
21 focus on those smaller efforts today, gonna leave those out. We're happy to come back another
22 time and discuss any of those.

23
24 I think the ones that were probably, you're request to hear about were some of these larger
25 ones so we're gonna start with Kahana Bay. It's proposed regional scale beach restoration
26 project. Kaanapali Beach another proposed regional scale beach restoration project and Napili
27 Bay which would be in the category of small scale so I'll talk about the distinctions between
28 those as we go on. And for each of these I'll try to cover existing conditions along the shoreline,
29 the source of sand for the project and just where we're at in terms of scope and status really
30 quickly and I'm probably leaving out a lot of the details, gory details, and then lastly the State
31 small scale beach restoration program and the status of it.

32
33 So Kahana, I know many of you have seen images of you know the current conditions in
34 Kahana and we have exposed the Commission before to some of the ongoing strategies there,
35 but this is the beach cell. It goes from Kahana Stream at the north end down to right around
36 Pohaku Park or S Turns at the south end. Within that beach cell there are nine condos they're
37 listed there from north to south and one individual Hawaiian private residence, you can see in
38 the list there are four properties that have stars beside their names, those are properties that
39 are already armored with seawalls and currently two of those seawalls are in the process of
40 failure. They have large sinkholes behind them that are expanding. The other four condos, four
41 of the other nine condos actually have temporary shoreline protection in the form of sandbags
42 that you're gonna see in the photos and there is only one condominium property, Kahana
43 Village at the very north end that is currently unarmored and we're doing some sand
44 management work there.

45
46 So this is right in the middle of the beach cell Kahana, at the Royal Kahana Condominiums
47 you've probably seen these photos before this was that real strong El Nino winter 2015 and 16

1 we lost a lot of beach so in this case we lost retaining walls and pool deck. A lot of the land
2 based sediment behind the beach was released to create water quality, degraded conditions.
3 You can see the pool hale again there on the left-hand side. The County has now required that
4 that pool hale be demolished, removed and so on the right-hand side you can see post
5 removals since it is not a habitable structure and it was threatened by coastal hazards.

6
7 This is the next door neighbor to the south, Valley Isle Resort. It is now protected by a sand bag
8 revetment but you can see the very corner of the building is got about a five-foot sliver of land
9 between the building and the waves. So in the winter time when we get big winter swale they
10 come up and they wrap around the corner of the building. You know most of these condos were
11 built in the '60s and the '70s or early '70s when setbacks were minimal before a comprehensive
12 Coastal Zone Management Program.

13
14 And this is the property, two properties to the north, the Hololani Resort. This is the new, in the
15 background there you can see the new sheet pile seawall with a concrete cap on top. This
16 structure was approved by the Planning Commission in 2014, 2016 with condition that the resort
17 participate in the regional beach nourishment project and then remove the structure.

18
19 So right now what the condos...there's a lot of backstory in terms of getting nine condos to work
20 together and I'm gonna leave a lot of that out but it's two, three years' worth of lots of effort. The
21 nine condos and the Hawaiian property are now all working together. They're currently in the
22 environmental impact statement phase with...it's looking likely that the preferred alternative will
23 be something like this conceptual design which will involve seven, as is depicted here seven
24 groin structures and a reinforced headland at the north end and then placement of sand in
25 between those structures so you can see the yellow color there represents restored dry beach
26 and the blue colors represent restored beach that is submerged so below the water.

27
28 Mr. Carnicelli: How far a long are they on their EIS?

29
30 Ms. Owens: I'll get to that.

31
32 Mr. Carnicelli: Oh, sorry.

33
34 Ms. Owens: Getting there. This is an example of that...this is an example of that at
35 Iroquois Point on Oahu so this is sort of a real life example of what that could look like. In this
36 case nine groins were constructed and the beach was renourished with a hundred thousand
37 cubic yards of sand from Pearl Harbor. Kahana sand source is right offshore so you can see on
38 the left-hand image that yellow horizontal bar that's the location of all the condos and then the
39 offshore sand sites are just offshore of Pokahu Park or the S Turns surf break and the right-
40 hand images show you the good quality of the sand both offshore in the borrow area and how
41 that compares to the native beach or the beach that's currently left on the beach at Kahana.

42
43 Finally, this is the...that last condo to the north, Kahana Village, the only one that is now
44 currently unarmored. However, there have been concerns about erosion here too. So you see
45 this beautiful image now this is just the other day I was out there checking up on status what we
46 were able to do here was push sand around from the stream mouth, the stream mouth gets
47 backed up with sand from the beach and we pushed it around and recreated a berm or a dune

1 and have planted that out with akiaki grass and pohuehue to help stabilize the beach until the
2 beach nourishment project hopefully is in place. And this is the second iteration of this. We did
3 it previously back in 2012.

4
5 Okay, this is to Commissioner Carnicelli's question on status and I'll have a slide like this for
6 each of the projects so you can compare. In terms of scope the idea, what is currently thought
7 to be probably the preferred alternative although not certain until the EIS process fully unrolls is
8 to restore the 1975 beach footprint which will require a sand volume of somewhere between 50
9 and 100,000 cubic yards from offshore. The sand study was completed in 2016 which kicked
10 off this effort.

11
12 In terms of economy this area consists of about just under a thousand dwelling units with a
13 combined value of \$500 million and over \$10 million annually in State and County tax revenues.
14 The EIS preparation notice was published in July of 2019 that was actually the second
15 republication of the preparation notice. So that's the first stage in the EIS process and then
16 there will be a Draft EIS and a Final EIS. Note specifically that this is an Environmental Impact
17 Statement which means that impacts are going to be known to occur and the document is
18 meant to look at what those impacts are and describe them and how they will be mitigated to
19 the degree that they can. And this EIS when it gets to the draft phase should come to this
20 planning commission for comment.

21
22 Construction costs we've just learned could be now upwards of \$15 million which is up from the
23 original figures of somewhere between 10 and 15 million which goes to show you how
24 expensive these projects can get and why it's not going to be feasible in every situation. In this
25 case, so far the funding mechanism is private funding, all the condos are working together.
26 There is possibly going to be the creation of a Community Facilities District which will be a tool
27 that the County can use to help the condos fund the project initially and then that money will be
28 paid back to the County in the form of taxes so it would be a special tax district. Construction
29 timeline is still unknown, really depends on how fast the EIS process goes and there's a lot of
30 community input along the way and some of the supplemental studies.

31
32 Moving onto Kaanapali, so we're looking at the Kaanapali and it's a little different situation,
33 thanks Jim for being my pointer that's very helpful. There are two beach cells in Kaanapali, so
34 there's a northern beach cell that operates sort of separately from the southern beach cell so
35 the northern beach cell is from Puu Kekaa or Black Rock down to Hanakaoo Point and then the
36 beach to the south from Hanakaoo Point down to beach park is a separate beach cell.

37
38 The southern beach cell is where the real problems are in Kaanapali although the problems are
39 growing everywhere because this is more of a chronic erosion situation. The beach is
40 narrowing and moving landward and that beach sand is not recovering and structures are
41 threatened. The northern beach cell is more, it operates it's more of a seasonal dynamic
42 situation so the sand from the north and south trade back and forth between seasons so in the
43 winter the sand is moving in one direction with the winter swells and the summer it's moving the
44 other direction with summer swells, and there's sort of a point in the middle that's relatively
45 stable. However, as beaches narrow with sea level rise we're starting to see that these
46 seasonal conditions are also becoming problematic.

47

1 So some pictures, this is down in the south littoral cell, this is at the Hyatt where chronic erosion
2 and a low spot in the reef has focused wave energy and lead to undermining of the public beach
3 walkway and concerns of erosion moving landward. So this is temporary erosion control that's
4 been in place for a number of years now. And this is at the north end of the...in the separate
5 beach cell that is more seasonally dynamic but some seasons we are starting to see extreme
6 erosion earlier than ever so this was in January of 2018, and you can see a lot of the dry beach
7 was eroded away and some emergency measures were taken to protect the walkway and the
8 Molokai Wing of the Kaanapali Beach Hotel.

9
10 Kaanapali's sand source is also offshore. There's a black box there you can see just offshore of
11 Black Rock or Puu Kekaa, right, yes, thank you right there is the source of the sand. The image
12 to the left-hand side of that shows generally offshore geology or ...(inaudible)...composition, so
13 that whole yellow area indicate sand. So there's a lot of sand out there, and then the right-hand
14 image shows you again how the beach samples compare to the offshore samples and how it's a
15 good fit to the native sand. Kaanapali hopes to restore the 1988 beach footprint with a sand
16 volume of maybe around 75,000 cubic yards restoring the dry beach width or an increase in dry
17 beach width of 42 feet. Their sand study was completed in 2008, they've been working on this
18 for a long time. A little bit different way of presenting the numbers but the economic impact of
19 Kaanapali is estimated at \$2 billion annually. They are also doing an EIS and their prep notice
20 was issued in July of 2018 so a year before Kahana. Construction cost is gonna be upwards of
21 nine million. I think the latest figures I heard were upwards of ten million. The funding
22 mechanism there is that it's a cost share project between the Kaanapali Operations Association
23 and the State of Hawaii that is contributing half. Construction timeline in the EISPN was
24 proposed to have permits and constructions in maybe late 2020 but again these timelines or
25 dates you know, evolve as the process evolves.

26
27 And then the last project we wanted to feature is Napili Bay. So here's the Napili Bay beach
28 cell. There are seven properties that are currently participating in their effort to work together
29 and those are listed here. The situation is getting...is growing at Napili just like everywhere else
30 where the shoreline is...the beach is getting narrower, the shoreline is moving landward, and
31 these seasonal events are no longer buffered by the natural beach and we're starting to see
32 impacts. So this community is led by there's a nonprofit group called the Napili Bay and Beach
33 Foundation that has sort of organized all the properties and they're pursuing a small scale
34 beach nourishment. So it wouldn't be nearly as large as what's happening at Kahana or
35 Kaanapali and these are the conditions looking there just right about now currently. We had
36 some pretty severe erosion this summer with strong south swell season. This is the Napili Bay
37 Resort and you can see that the erosion scarp there is within just several feet of the building.
38 There used to be an iconic hau tree right out front of this building and that hau tree went into the
39 ocean a couple of summers ago. I hope you can indulge us on this, the Napili Bay and Beach
40 Foundation has created a three-minute video about their efforts and they want the commission
41 to see it so they know what kind of progress they are making. We don't have the sound.

42
43 Ms. McLean: Put the mic closer to the speaker.

44
45 Ms. Owens: Yeah, there's no speakers on this so I...okay, well we have no speaker system I
46 don't think unless anybody knows...

1 Mr. Carnicelli: Where's Akaku when you need them.

2

3 Ms. Owens: They worked very hard, they put together a video talking about the impacts they've
4 observed and then what they hoped to do, and the main reason for that is because they're in the
5 fundraising phase to fund raise to support their beach restoration project. So we can share the
6 video if anybody's interested by email and you can all watch it. It's really nice.

7

8 Mr. Carnicelli: Tell them we said thank you for their efforts.

9

10 Ms. Owens: Okay, we will. Napili Bay, of course, is hoping to get sand from offshore. They
11 have also done their sand study so you can see the yellow and green blobs in the offshore there
12 represent the potential sand borrow areas with N1 being their primary choice and there are
13 some images on the left there of the...of cores that were taken to look at the quality and quantity
14 of sand. In terms of scope, again this is a much smaller project so if they do their project under
15 the State Small Scale Beach Restoration Program the advantage is that there's already a
16 programmatic EA in place and that means they don't have to go through the EA process and it
17 saves them a lot of time and money but it also limits the amount of work you can do which is
18 currently set at 10,000 cubic yards is the limit in terms of quantity of sand that can be placed on
19 the beach. If they do that they hope to get a dry beach with increase of about 20 feet. Their
20 sand study was updated in July of 2018. They have about 670 dwelling units with a combined
21 value of over 400,000 million and over nine million annually in State and County tax revenues.
22 Again, they hope to utilize this programmatic SSBN and I'll tell you more about that program in
23 just a minute. The construction cost is still sort of unknown at this point but estimated at maybe
24 at one to three million. They are currently seeking private funds, fundraising and that is their
25 biggest hurdle at this point. Construction, maybe permits, and construction by late 2021 if all
26 goes well.

27

28 Okay, so in case you aren't aware DLNR, the Department of Land and Natural Resources
29 already has this streamlined permitting program for small scale beach nourishment. The
30 existing SSBN Program was authorized under a programmatic environmental assessment in the
31 year 2000, and again it limits projects to 10,000 cubic yards. What it also had for a period of
32 time which was really helpful was interagency agreements with the Department of Health and
33 the Army Corp of Engineers and DLNR. So projects could go through the permitting phases
34 much quicker. If you don't know the Department of Health considers sand a pollutant so it can
35 be quite a hurdle or a barrier to getting these projects permitted quickly and there's reason for
36 that. You have to be very careful when you're doing these types of projects to not impair water
37 quality. Those interagency agreements expired and the program is getting old, so right now
38 DLNR is undergoing a process of updating their statewide programmatic Environmental
39 Assessment. They did agency comments and public consultation from 2017 till now so that's
40 still ongoing, and I think the expectation is that there'll be a Final Environmental Assessment
41 with anticipated Finding of No Significant Impact in late, late this year, maybe early January.
42 And then once the EA process is complete, DLNR is hoping to again go back to the agencies
43 and maybe develop a new interagency agreement with DOH and Army Corp and a new
44 application so that these projects can be...continue to be streamlined and maybe we'll see more
45 of these projects happening and their aim is for maybe late 2020.

46

1 Oh, and let me just point out, the pictures on the right-hand side are from the Stable Road
2 project that Jim showed at the outside of the presentation. The first picture is a driver guided
3 dredge system so that's how they were getting the sand that they placed on the beach there,
4 and then again, a picture of the beach what it looks, you know about the conditions right now
5 after restoration. This was done as a small scale beach restoration project so it's another
6 example of how that program works.

7
8 And then just ending up where we started that beach restoration is an important tool in the tool
9 box. The Department is working hard on...to the degree that they can on facilitating these
10 projects that are going forward but it is only one tool in the tool box and there are lots of hurdles.
11 There are gonna be places where sand is not available to do beach restoration. We're seeing
12 interest right now in places where there just are not offshore sand resources. There are other
13 places where the cost that are associated with these projects are just going to be...they're not
14 going to pencil out and they're gonna be places where this is not what the community wants and
15 it may not be supported. So we have to look at all the tools in the tool box and that's what
16 we're, we're trying to do with these discussions today. Thank you.

17
18 Mr. Carnicelli: Thank you, Tara. We appreciate you and Jim, and all of CZM and for everything
19 you guys are doing. As a matter for fact, I met both of you before I was even in the planning
20 commission in the basement of the Royal Kahana, one of these original meetings like I don't
21 know five, seven years ago, whatever it was so you guys have been at this a long time, so I
22 appreciate all that you do. So at this point in time what we're gonna do is take public testimony
23 on this particular item. Some of you may have signed up to testify on Item D, but if you want to
24 testify...you will be afforded the opportunity to testify on this particular item and Item D.
25 However, if you come to testify on this particular item I please ask that you limit your testimony
26 to this presentation and to this particular topic and not the next item.

27
28 Ms. La Costa: Excuse me, Chair?

29
30 Mr. Carnicelli: Yeah.

31
32 Ms. La Costa: Could we take a short break prior to that please?

33
34 Mr. Carnicelli: Of course we can.

35
36 Ms. La Costa: Thank you.

37
38 Mr. Carnicelli: Five-minute recess to the call of the Chair.

39
40 A recess was called at 10:21 a.m., and the meeting was reconvened at 10:30 a.m.

41
42 Mr. Carnicelli: Planning Commission meeting of October 22, 2019 is back in session. At this
43 point in time, I would like to take testimony on Item C. We don't have anybody signed up for
44 Item C, but is there anybody that would like to come and testify on the presentation that Tara
45 and Jim just made? Go ahead and come forward Mark. Thank you, please state your name for
46 the record.

47

1 Dr. Mark Deakos: Dr. Mark Deakos, Chief Sustainability Officer, 3P Consulting.

2

3 Mr. Carnicelli: Do you promise to be truthful?

4

5 Dr. Deakos: I do.

6

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

8

9 Dr. Deakos: Thank you, Commissioners. For starters, I want to say we're very lucky to have
10 Jeff and Jim and Tara. They're very passionate about the environment and they do a great job.
11 I have a lot to say so I'll try to get through it. Imagine you and me order a brand new car, you go
12 for a year and you say when I come back you can use it for free just don't...you know give it
13 back to me the way you got it. You come back the brakes are gone, the tranny is leaking, you
14 get the picture, and you say well that's not acceptable, give it back to me the way I gave it to
15 you and I say well, that's too inconvenient, that's too expensive, but I'll get you some nice seat
16 covers for your car, how's that? Okay, that's akin to us inheriting or borrowing the shorelines,
17 the beaches from our children, right? We all enjoyed the abundance of fish, the limu, the soft
18 shoreline, the natural shorelines but we screwed it up. Okay, we took all the fish, contaminated
19 the water, we did some pretty damage, now they want it and we're saying well, it's too
20 inconvenient, too expensive to fix what we broke so we'll give you an artificial beach instead.

21

22 So there's, trust me, beach nourishment there's nothing nourishing about beach nourishment.
23 Dredging an offshore ecosystem to bulldoze it over an existing ecosystem is not enhancing any
24 habitat. But you know, what's a sustainable sand source? Parrot fish. Okay, 70 percent of all
25 the sand on beaches come from parrot fish. So we can restore the water quality, restore those
26 fish, stop taking them, protect them and that's a great long-term, free, sustainable source of
27 sand.

28

29 The T-groins, okay are they dampen the wave energy, absolutely. Okay, you ever been out to
30 Honolua Bay after a heavy rain it's just a pile of mud, but yet it's one of the best snorkeling spots
31 on the island. Why is that? North swells, they come and they clean, they flush everything out.
32 T-groins are great for an artificial beach, they're not going to allow the flushing of the sediment
33 that's coming in so it's an important factor. There's plenty of architecture out here for reefs so
34 we don't need the T-groin boulders and all this habitat. We need to clean up the water. So all
35 this, oh we're going to introduce infrastructure to bring the fish back that's...we gotta take care
36 of the water.

37

38 So if the majority wants an artificial beach at the expense of our natural marine and coastal
39 ecosystems because it's too expensive to retreat then at least just be honest with our keiki and
40 tell them. Okay, they don't get to inherit the beach that's existing under my condo because it's
41 inconvenient. Don't tell them that after thousands of years of natural retreat we ran out of sand
42 and it's all clay. Okay, at least bore the substrates from the shoreline back so know exactly
43 what is under those condos, and then we can share that information with them.

44

45 Mr. Carnicelli: Thank you, Mark. Does anybody have any questions for the testifier?
46 Commissioner La Costa.

47

1 Ms. La Costa: Thank you, Chair. What structures are you suggesting if T-groin building is not
2 in your purview?
3

4 Dr. Deakos: So what I am suggesting if...I understand the predicament. You've got nine condo
5 owners that attorneys lining up to file lawsuits to not allow them to protect that beach and retreat
6 is very costly but depending on what you want, you an artificial beach or you want natural
7 ecosystems that had been receding and evolving over time then I would focus on natural retreat
8 or at least put that as part of the discussion. So that's allowing the natural retreat of the beach
9 and there is probably three, four generations of sand based on the USGS, USDA data under
10 those condos, so why deny them...those, your great grandkids the beach they should inherit so
11 I would be in favor of managed retreat and having workshops and having more focus on how to
12 finance that. There are new ways to do that and that would be my preference personally.
13

14 Ms. La Costa: Well, first of all, I don't have children so great grandchildren are definitely not in
15 the future, but when you talk about retreat I'm a little confused as we have seen personally and
16 by the slides that the erosion is continuing. So if something is not done to stop it then you're
17 talking about millions and millions of not only dollars but also the pollution that will happen if you
18 just let the retreat continue. So, my question was what kind of structures would you suggest to
19 stop that so that the real estate isn't impacted and the shoreline isn't impacted more negatively
20 than it is.
21

22 Dr. Deakos: So I'm not...if you're asking me how I would stop the ocean, I'm telling you we
23 can't stop the ocean. We can delay the inevitable and we can throw \$15 million on beach
24 replenishment and all that and say it's just too costly to move structures back, but if you're
25 gonna look long term then we have to start thinking about reality instead of just kicking the can
26 down the road, okay, we're gonna have to move back eventually. Yeah, there's not just the
27 condos, there's infrastructure, there's roads, there's a lot of stuff that's gonna be impacted but
28 we can't just armor and hold the line indefinitely. You can, at the risk of losing all the natural
29 resources and that natural shoreline but even that eventually you're gonna have to remove and
30 do something about it. So moving back is inevitable. It's just a matter of whether we start, you
31 know realistically addressing that now or do we come up with some temporary measures so
32 somebody else has to deal with it in 15, 20 years.
33

34 Ms. La Costa: Thank you.
35

36 Mr. Carnicelli: Anybody else have any questions? Commissioner Freitas.
37

38 Mr. Freitas: Hi, thank you. I have one quick question. How did you come to the conclusion that
39 the parrot fish provides 70 percent of the sand because I always thought it was coral being
40 eroded and the parrot fish of course we know as Uhu and the locals eat that a lot, and if that is
41 true maybe we could look into conservation laws to make that happen, but where did you come
42 up with that?
43

44 Dr. Deakos: So that reference is from a UH study. I don't know I that's for every single beach
45 in, you know, in the Hawaii, State of Hawaii, but the Uhu they do chew on the coral and it's their
46 poop that's actually producing the sand, so it's from a UH study.
47

1 Mr. Carnicelli: So when you go the beach you're laying on fish poop.
2 Commissioner Thompson.

3
4 Mr. Thompson: How can we get more parrot fish?

5
6 Dr. Deakos: So, you know you have to restore their natural habitat. So for example, Kahekili
7 Airport Beach, you know they actually have a herbivore no take zone, so people aren't allowed
8 to take parrot fish which are very easy to hunt at night when they're sleeping. So, and they've
9 seen recovery there, but that's...the recovery is very slow so you need to address, you know,
10 the fertilizers, the pesticides, the sediment, the global warming obviously an issue. So you gotta
11 take all the stressors out, you gotta stop taking them out of the population and leave the big
12 females that are big egg layers, you know it's a multi-facet approach, but you know, that's
13 should be part of the EA and the fish, water quality management should be...a plan should be
14 part of that process.

15
16 Mr. Carnicelli: Maybe we can make a fish management area as part of the whole thing it be
17 kinda nice. Take night fishing out it. Anyways that's a whole nother conversation that we'll have
18 offline. Any other questions for the testifier? Seeing none, thank you, Mark. I appreciate it.
19 Anybody else would like to testify on this particular item? Seeing none, then if there's no
20 objections we'll go ahead and close public testimony and Chip I believe you're ready, yeah?

21
22 Dr. Chip Fletcher: Yes.

23
24 Mr. Carnicelli: Cool. Or I guess, Director.

25
26 Ms. McLean: Thank you, Chair. We're very happy and honored to have with us
27 Dr. Chip Fletcher from the University of Hawaii at Manoa, School of Ocean and Earth Science
28 and Technology. He's reputation and expertise proceeds him, and he'll be giving an overview of
29 as his slides are entitled, The Climate Crisis, Sea Level Rise, and the Erosion Problem, to give
30 more of the science behind the proposed rule changes that we're talking about. Thank you for
31 being here.

32
33

34 **D. Workshop on the Planning Department's proposed amendments to the**
35 **Maui Planning Commission's Special Management Area Rules and Shoreline Area**
36 **Rules conducted by Planning Department, including presentation by**
37 **Dr. Chip Fletcher, School of Ocean and Earth Science and Technology, University**
38 **of Hawaii, Manoa (M. McLean)**

39
40 **This workshop is for information purposes; no action is anticipated.**

41
42 Dr. Chip Fletcher: I'm going to take advantage of my time to...

43
44 Mr. Carnicelli: I'm sorry, is Chip you have to use the mic though for the record. I know you like
45 to wonder around, but there's a handheld there if you want it.

46

1 Dr. Fletcher: Thank you. I'd like to take advantage of my time with you to connect things that
2 are taking place up in the watershed with our shoreline issues and the ocean as well because
3 the shoreline experiences a lot of impacts from other elements of climate change than just sea
4 level rise. I'd like to go over a short overview of climate change, talk about extreme weather,
5 then what we know about global sea level rise and local sea level rise, how planners are using
6 sea level rise scenarios and then the erosion problem.

7
8 Overall the greenhouse effect is a natural process where carbon dioxide in the atmosphere
9 traps heat that would otherwise escape to space, but the more carbon dioxide there is, the more
10 heat is trapped, it's like putting blankets on your bed at night. You can put too many blankets on
11 and it can get uncomfortably hot. The sources of carbon dioxide come from every corner of our
12 socioeconomic activity, ag, commercial, and residential, construction and electrification,
13 manufacturing, transportation and the generation of electricity in general.

14
15 Since the late 19th century we've seen a steep increase in carbon dioxide in the atmosphere
16 from burning coal, oil and natural gas. We're up now to 415 parts per million that's the highest it
17 has been for about three million years. The highest in that three million years is about 280 parts
18 per million so we're on our way to doubling the amount, the natural amount of carbon dioxide in
19 the atmosphere. Temperature has risen at roughly the same time. The warm individual spikes,
20 the individual warm years there tend to be El Nino years and the cool downward spikes tend to
21 be either volcanic eruptions or La Nina years. The rate of warming is accelerating. We
22 currently have warmed the planet about 2.2° Fahrenheit. That may not strike you as very much.
23 So what, you know I'll go out that door and my skin will experience a 10° Fahrenheit increase in
24 temperature from direct sunshine. But a 2.2° fever inside your body would probably leave you
25 in bed for longer than normal. You might get out of bed and come to work in the morning but let
26 that low grade fever operate for several weeks and you start to experience organ failure. So a
27 very small change in the energetics of an entire system which is the small change in the air out
28 there affecting the entire physical ecological system of Earth surface can have very dramatic
29 impacts. The expectation is that by a decade from now we're going to see 2.7° Fahrenheit of
30 average global warming and before mid-century a little over 3 1/2° Fahrenheit of average global
31 warming. Both of these temperatures would violate a 2015 treaty that every nation in the world
32 signed with the United Nations called the Paris Accord.

33
34 So this is the data collected by NASA of changing temperature. One of the things to notice is
35 that the Artic is going to right about now start to heat up much faster than the rest of the planet.
36 This Artic amplification is melting the Greenland ice sheet and you can see that little bit of blue
37 up there in the North Atlantic that's fresh water coming off of Greenland and it is shutting down a
38 system of vertical currents called the conveyor belt which normally takes heat down to the
39 deeper ocean and so heat is building up along the east coast of the U.S. and down in the
40 tropics. This is probably responsible for the dramatic increase in hurricane intensification that
41 we're seeing. Hurricanes are jumping from category one and two up to the categories four and
42 five literally overnight because they get their fuel from warmer sea surface temperatures. And
43 you can also see the fresh water streaming off of Antarctica this is also related to excess heat
44 that is not being carrying down to the deep ocean by this vertical conveyor belt process.

45
46 Just this past month, September, was the, I think it tied for the warmest September on record.
47 The last five years have the five warmest Septembers on record, and the year to date global

1 temperature from January to September has been the second warmest on record. So
2 we're...we have over a 90 percent probability of 2019 being the second warmest year on the
3 record, 2016 being the warmest.

4
5 With only a little over one degree sea of warming so far I will go over for you that experts have
6 concluded there's a 10 percent probability of six and a half feet of sea level rise by the end of
7 the century. Antarctica is melting three times faster than in the past decade, Greenland two
8 times faster. The Arctic sea ice volume is down 50 to 70 percent since 1979 this is essentially
9 the total collapse of the sea ice ecosystem in the Arctic in the summer time. There's been a
10 12 percent global increase in extreme rainfall and 10 percent increase in land area under
11 drought. There's been an observed decrease in atmospheric circulation. We have an unstable
12 Jetstream which brings down intense winter events into areas south of it leading to record
13 setting snow storms, record setting cold temperatures and meanders in the Jetstream pulling
14 tropical air up into mid-latitudes and northern latitudes leading to record setting heat waves.

15
16 The decrease in ocean vertical circulation as I mentioned is accompanied by ocean warming.
17 The PH is lowering as the ocean absorbs carbon dioxide from the atmosphere and there's an
18 overall two percent loss of dissolved oxygen in the world's ocean since 1950. This is leading to
19 marine and terrestrial extinctions and hurricanes especially something that we're very worried
20 about in Hawaii are bigger, wetter, slower and intensifying literally overnight.

21
22 All right so you'll notice the time scale down here, 1850 up to present day. This is the carbon
23 dioxide emissions historically. We have different nations shown here. This a is very dramatic,
24 persistent and still increasing rise in this heat trapping gas. There are short instances where the
25 amount of carbon dioxide emitted for a few years dropped these typically are associated with
26 global recessions or recessions in China or the U. S. And in order to stop warming at one and a
27 half degrees sea emissions have to do that, literally starting next year. And they must end, we
28 must end all carbon based emissions by mid-century, by 2050 then we have to remove CO2
29 from the atmosphere for the next several centuries after that. But for social equity the
30 developing nations especially India, but African, Latin American, and South East nations they
31 want the quality of life that we have, they want new hospitals, roads, secure fresh water and
32 food systems and they deserve to have those, they can't get those using solar panels and wind
33 farms, they need to spend fossil fuel energy to build these things because that infrastructure is
34 already in place. So if we want the developing nations to have an increase in their quality of life,
35 the developed nations need to actually go to zero in only a decade. CO2 emissions are still
36 rising however, last year they rose 2.7%, excuse me, 2.7 percent and the U. S. Energy
37 Information Administration projects that by mid-century the market share of fossil fuels to
38 renewables is basically gonna be the same as today. Yes, renewables rise but the fossil fuels
39 are rising faster.

40
41 Progress is falling well short of the Paris Agreement. There is less than one-third of the needed
42 reductions in the Paris Agreement and less than one percent of the population of the world is in
43 full compliance. Fossil fuel use is accelerating faster than renewable energy. Here is our clean
44 energy history and here is our fossil fuel energy history.

45
46 Solutions by sector such as transportation or food systems are patchy and irregular and we
47 must simultaneously end carbon emissions. We must pull a trillion tons of CO2 out of the air

1 and by the way we can do that with a certain type of agriculture that doesn't leave soil open to
2 the air by 2050, and we need to adapt to centuries of ...(inaudible)...weather, disasters and sea
3 level rise that we have set into motion and that we cannot stop at this point. Any one of these
4 represents an expensive and radical change in current socioeconomic practices.

5
6 Again, the U. S. Energy Information Administration came out with a recent projection earlier this
7 summer, they are projecting a 20 percent growth in carbon dioxide emissions by midcentury.
8 And if you look at the projections of the International Energy Agency, BP, Equinor, various
9 scenarios, Exxon, Shell, they are all basically projecting the same thing, continued CO2
10 emissions.

11
12 We need to reject the assumption that scaling up clean energy will automatically replace fossil
13 fuels. Historically new energy sources have added to older ones. Oil and gas didn't replace
14 coal they were added on top and the same is happening right now with new clean energy. So
15 we are on track to reach four degrees sea by 2080 perhaps as early as 2060 and this level of
16 warming because of the food and water insecurity and the fact that the tropics becomes
17 unlivable has been described as a world that is essentially ungovernable.

18
19 So extreme weather is one of the consequences of global warming. As I said, we see a
20 ten percent increase in land area under drought. Hawaii is getting drier. We've seen a
21 six percent decrease in precipitation per decade over the last 30 years. There's been a
22 400 percent increase in wildfire on Oahu since the 1960s. Almost all the wildfire is set by
23 humans whether it's on purpose or accidentally and these invasive grasses provide the fuel.
24 They will sprout up rapidly in a small rain storm and then quickly dry out in the following drought
25 and they will lead the wildfire to amplify and spread very quickly.

26
27 Sea surfaces are rising especially during an El Nino which is a time of decreased tradewinds
28 where warm water surges back into the Central and Eastern Pacific from the west. And we've
29 seen record setting temperatures this summer. You've all felt it when you walk outside. We are
30 surrounded by what's known as a marine heat wave. In Lihue, August was the hottest month on
31 record and they had 31 days of record highs since May, including May. Honolulu, August 31st
32 tied the all-time record, 95°, and there have been 29 days of record highs since, including May.
33 Here on Maui, August 29th, 97 °, it may be the highest ever temperature measured in Hawaii as
34 the daily average and there have been 41 days of record highs, and Hilo also record setting
35 temperatures. Again, coming from these extremely high sea surface temperatures.

36
37 Global rainfall, extreme rainfall has increased 12 percent. We now have what are known as rain
38 bombs. These intense, damaging, concentrated rain events that actually are capable of
39 damaging a building. And we've had our share of these in April last year an intense rain bomb
40 came over the southeast corner of Oahu leading to \$124 million in damage. The Wailupe
41 Gulch, a cemented stream channel rose eight feet, it jumped out of its channel and went
42 through several homes. And the same system hit Kauai and set a national record for 24-hour
43 rainfall, almost 50 inches in a 24-hour period. The Hanalei River up on the north shore rose
44 15 feet, it jumped out its banks and carved a new channel to the sea through Black Pot Beach
45 where the pier is.

1 Overall Hawaii getting warmer and the average daily wind speeds are declining. Tradewinds
2 now are trending more from the east instead of the northeast which makes them coming from
3 the same latitude so they're warmer and they're interacting with our topography from that
4 direction such that they produce fewer clouds and there's less rainfall and so the idea of
5 vigorous trades with trade showers is decreasing.

6
7 Hurricanes overall are larger and slower around the world. Hurricanes are steered by the
8 surrounding winds and as I mentioned atmospheric circulation has been decreasing around the
9 world. This is our 1994 hurricane season as an example. One trend that we have observed
10 globally is that tropical cyclones and hurricanes are moving away from the equator and we saw
11 that basically in 2018, a pretty strong hurricane system. As our tropical cyclones move to the
12 north that puts us more on the same latitude as our islands.

13
14 Hurricane Michael is a good example of what a community has to experience when a strong
15 hurricane passes overhead. It went over the Mexico City Beach community in Florida
16 Panhandle. There were two types of buildings resulting, one, those that were just a pile of
17 rubble and those who had modern code building codes, but even some of those didn't
18 completely withstand the damage. The cost of cleaning up the debris was \$64 million. The
19 annual budget of this community is \$6 million. So they turned to the states and they turned to
20 the Feds for assistance. Again, we have older building code and then modern code. There's
21 free board, more and more communities are enacting an additional foot or two above the FEMA
22 base flood elevation and continuous load paths where the roof and all of the components of the
23 building are joined all the way down to the foundation or to the piles. One reason there weren't
24 serious fatalities is because everybody here was able to evacuate, given plenty of warning, but
25 in Hawaii we don't really have an evacuation possibility, we can get away from the coastline but
26 we can't leave the islands. So that leaves us in a situation after a hurricane hits without
27 electricity and we need to be ready to stage fresh water, food, and shelter resources. It's also
28 an opportunity to ask do we want to rebuild in exactly the same place now that the hurricane
29 has occurred maybe it's an opportunity to plan ahead, pre-disaster planning and I know you
30 guys have a report that was written on that subject by Tara and Sea Grant folks and that's an
31 important effort to continue to engage in pre-disaster planning.

32
33 Global weather disasters overall have tripled in two decades and here we see extreme
34 temperature, drought and forest fire, floods, and landslides, and then major meteorological
35 storms in different colors of blue. They have all increased up to the present day. And many of
36 these lead to a loss of insured losses which drives up insurance premiums and makes the cost
37 of living higher.

38
39 All right so let's look at sea level rise. A recent analysis of tide gauges around the world
40 compared to the satellite record of sea level changes since 1991 shows that sea level rise has
41 been accelerating since the 1960s and that the current rate of acceleration puts it on a path to
42 rise two feet by the end of the century. One reason sea level is rising is because the ocean has
43 absorbed over 90 percent of the excess heat trapped by carbon dioxide. If the ocean hadn't
44 absorbed this excess heat from our anthropogenic carbon dioxide our planet would probably be
45 devoid of life right now. The ocean has allowed us to continue to exist. This carbon dioxide has
46 trapped that much heat. Since it's gone into the ocean, the water has expanded, thermal
47 expansion so that contributes to sea level rise. And the cryosphere is melting, 665 billion tons

1 of ice each year from Greenland, the melting glaciers of the world and Antarctica roughly
2 one-third each. Greenland faces a two-thirds chance that melting will become unstoppable with
3 another half degree sea of warming that's because once you start to melt the high plateau of
4 Greenland up here and lower it, the probability of rain and more melting increases and then you
5 melt it another summer and you just finally tip it over the edge of where it just melts and the
6 probability of more melting increases as it lowers in elevation. Greenland is exponentially
7 melting looking at snow records going back in time we see that the rate of melting is
8 exponentially increasing and melting now is 50 percent faster than the pre-industrial period and
9 33 percent faster than the 20th century. Antarctica melt has tripled over the past five years and I
10 we add the rate melting acceleration between Antarctica, Greenland and Melting Glaciers, by
11 the end of the century they are currently on track to melt 80 centimeters, and if we add thermal
12 expansion to that we end up with roughly one meter of global sea level rise by 2100 that is
13 melting driven by existing warming. But as I showed you we are continuing to dump CO2 into
14 the atmosphere and that is projected to continue so one meter really should be treated as a
15 minimum.

16
17 This is the sea level contribution from Antarctica starting in 1992, you can see that there was a
18 period of stability in the early 2000s and now it is just extremely rapidly melting. Is this a
19 short-term trend, a short-term variability or is this a long-term pattern? We don't know. And
20 because of this and other reasons the Antarctica ice sheet remains the largest, single source of
21 uncertainty in projecting future sea level rise. But coastal communities can't wait for Antarctic
22 science to clear up, development projects are continuously on going and require a long lead
23 times.

24
25 And so a paper came out earlier this summer called, A Structured Expert Assessment. This
26 was a survey of experts around the world designed to lead to a probability conclusion and the
27 survey found a ten percent probability of two and a half feet of sea level rise by 2100. Now
28 ten percent may not strike you as severe, but if every tenth airplane crashed or if every tenth
29 aspirin gave you a stroke you know these industries wouldn't exist. So ten percent is a
30 sufficient probability on which to base extremely important decisions, expensive decisions or
31 health based decisions. And because emissions are ongoing and sea level is actually going to
32 continue to rise although hopefully it will slow in future centuries we're looking at seven and a
33 half meters in the following century and even higher in centuries after that. So sea level rise
34 doesn't just stop at 2100.

35
36 In addition, it turns out that when you melt the Greenland ice sheet, the gravity of all that ice that
37 was hugging water to it in the North Atlantic releases that water because the gravity goes away
38 as the ice melts and that water flows elsewhere on the planet and it accumulates in the
39 equatorial Pacific. So the region of greatest sea level rise resulting from the Greenland ice
40 sheet melting is...does include Hawaii and the same thing happens with the West Antarctic ice
41 sheet, and the East Antarctic ice sheet and the melting glaciers of the world. So the overall, this
42 gravitational process releasing water from where it is gravitationally attracted to ice masses an
43 allowing it flow where it will brings it into the equatorial Pacific, and so this adds up to a very
44 roughly 25 percent increase in sea level in our neck of the woods compared to the global mean.

45
46 All right, so how are planners dealing with this? It's called scenario planning. NOAA and the
47 Forth National Climate Assessment had provided a number of sea level scenarios. This lowest

1 scenario under that X is simply a linear extrapolation of historical rates of sea level change. The
2 next scenario called the intermediate low takes us not quite to two feet of sea level rise by the
3 end of the century and we know that sea level is currently on track to reach two feet of sea level
4 rise. So now our only minimal legitimate planning scenario is one meter by the end of the
5 century. But warming is going to continue, melting is going to continue accelerating and so
6 there are these other scenarios of one and a half meters, two meters and two and a half meters.

7
8 So this is a chart of potential timing. Our intermediate scenario leads us to one meter by the
9 end of the century. If you are going to plan a project that cannot tolerate a lot of risk you may
10 not want to plan it on this minimum criteria instead something a little more safe, a more larger
11 safety factor and in this case we're looking at about 20 centimeters or a little over half a foot by
12 a decade from now, roughly one foot, a little over a foot here by midcentury and approaching
13 three feet by 2070, and then up to four, little over four feet by the end of the century. That's our
14 intermediate high scenario continuing into future centuries.

15
16 So how do we use this scenario planning in making decisions? If we have risk on one access
17 and project life on another, up here the greatest risk and the longest life are dangerous projects
18 such as power plants, waste and storage facilities, extremely high investment types of projects.
19 These have a low tolerance for risk and so you would want to apply an extreme sea level
20 scenario for your planning. As you come down to less public danger, major public infrastructure
21 such as roads, and housing projects, drainage engineering, you might plan for sea level rise a
22 little less than that, and coming down to more and more risk tolerant projects brings you down
23 into the possibility of losing...using lower sea level rise scenarios.

24
25 But sea level rise while we like to pretend that it looks like this, it actually looks like this and we
26 know that we get these King Tides, we get these early arrivals of long-term sea level rise that
27 then go away. And in Hawaii our King Tides tend to occur in the summer time beginning in April
28 and all the way through until August. We are closest to the moon, the water is warm and so it's
29 expanded and then sometimes we can get an additional element called a mesoscale eddie
30 which is a circulation system that migrates through the Hawaiian Islands all the time, they're
31 about the size of the big island and they are circular bodies of water where the center of them is
32 a little higher, several inches higher than the surrounding mean sea level. So if you stack all
33 these things on top of them you can get King Tides occurring in the summer time in Hawaii, and
34 these have been modeled by Phil Thompson and crew at the Hawaii Sea Level Center. They
35 state the transitions from occasional to chronic flooding and they mean King Tides here can
36 occur in less than a decade.

37
38 So here are the NOAA scenarios. This is the intermediate low that doesn't...that we've rejected
39 because it doesn't match the current rate of sea level rise. Here's the intermediate which
40 reaches one meter by the end of the century, and the intermediate high which reach one and a
41 half meters by the end of the century but we're only looking at these up to midcentury. And
42 these are flooding days per year so depending on which scenario you believe will occur, in the
43 decade of the 2030s we might have from a month's worth of flooding days per year to three
44 months' worth of flooding days per year. And simply a decade after that we're up to four months
45 and more of flooding days per year. In other words, the frequency of flooding quadruples from
46 50 days per year to 200 days per year on average from the 2030s to 2040s.

1 What does King Tide flooding look like? It is called storm drain backflow where salt water
2 comes out of our drainage system and flows down the gutter. Where the ground water in our
3 urban areas which we know rises and falls with the tides, the ground water comes up and
4 breaks through the land surface making a wetland in an area where we don't want a wetland,
5 and if it happens to rain when the water table is high and the drainage infrastructure is
6 backflowed with sea water, in other words, if it's high tide during a King Tide this rain has
7 nowhere to go and we get this unexpected, sudden urban flooding taking place. This is
8 Dillingham Boulevard in Honolulu. And the highest tides of the year in the summertime in
9 Hawaii occur at about 5 o'clock or 6 o'clock in the afternoon and that's when we're all going
10 home. So that's when families are trying to come back together, picking up kids at school or
11 camp or whatever daycare they had, but floods like this can stop traffic in its tracks. In Honolulu
12 at least we also have polluted ground water. This is World War II diesel fuel so that will rise up
13 to the surface as the water table rises with the sea level rise and we also have several hundred
14 cesspools and septic tanks which of course will also lead to pollution. And as sea level rises our
15 summer...well, our seasonal swell, you know the stuff we take our surf boards out to and surf
16 will punch further and further into our communities. At two feet of sea level rise in the
17 community of Ewa Beach we see dozens of homes flooding with a six foot face height. So
18 basically a head high or slightly over head face height every summer with two feet of sea level
19 but with three feet of sea level rise we've now crossed a tipping point, a critical point where
20 every summer the entire community gets these swell events running across all the properties
21 and this is where building comes in and free board comes in as a way to reduce the damage.

22
23 We've modeled this in the primary urban core. Here's one foot of sea level rise. This is Waikiki
24 and Kakaako. We model ground water flooding, drainage, infrastructure flooding and marine
25 flow over the shoreline. At one foot of sea level rise we see a lot of ground water flooding and
26 some drainage infrastructure. At two feet of sea level rise individual pink dots are...individual
27 storm drains that are backflowing with sea level rise and again between two and three feet of
28 sea level rise we see a rapid acceleration of this flooding. And the red lines are segments of
29 road where the flooding is over six inches, standing pools of water over six inches is an
30 engineering standard where small vehicles are capable of flooding and stalling. And if you get a
31 stalled vehicle in a road with a pool of water that upsets enormously the use of that segment of
32 road. But we're on to more than just three feet of sea level rise, we're looking at four and five.
33 So we're working very hard in Honolulu on figuring out how to adapt to this problem.

34
35 All right, the erosion problem, obviously is one that Maui is very familiar with. Your beaches,
36 many of your shorelines are experiencing net withdrawal or retreat that's what a shoreline does
37 when sea level rises. If a beach is going to continue to exist with rising sea level it needs to
38 move landward or you need to sand on it. We also have pollution related to this as well and we
39 have major infrastructure there's your Kahului wastewater plan.

40
41 Roughly 14...\$15 billion of roadway are exposed to the erosion problem today according to the
42 Department of Transportation. So we have a model of coastal erosion. What we have done is
43 to take aerial photographs from pre-World War II time to and identify the edge of the beach and
44 at each one of these transects we can build a time series of shoreline positions this one going
45 back to the 1920s or 30s and you run a lineal regression through this sequence and you can get
46 a rate of shoreline change.

47

1 In this case it's negative so you have erosion, but we have found from this data that many
2 beaches are accreting, many beach are eroding and they're all doing that at different rates
3 although the average is that 70 percent of beaches across the state are chronically eroding. So
4 this represents past behavior driving by past sea level rise and we know from the Honolulu tide
5 gauge that sea level has been rising for over a century. We can extrapolate this forward to the
6 end of the century and that's what Maui and Kauai have done as one of the ways they calculate
7 a setback is to extrapolate historical shoreline change.

8
9 But we know that sea level is accelerating and so to model this effect we use the
10 intergovernmental panel on climate change scenario of continued greenhouse gas emissions
11 which is the pathway that we are on and we develop a geometric model which is in wide use
12 around the world known as the Bruun rule, in fact the Bruun Rule assumes that shorelines
13 exposed to sea level rise will migrate landward and upward. So our current shoreline and sea
14 floor, sandy sea floor is the solid line but with a rise in sea level we'll see the dashed line
15 becoming the new shoreline. So you get a little erosion here.

16
17 The Bruun Rule is a simple engineering rule that is actually adopted in policy at several
18 locations around the world as what they use to inform various types of policy codes in the
19 coastal area. So if we have our historical rate of change, this is an eroding shoreline, so the
20 shoreline is moving landward and we were to extrapolate that into the future and then we apply
21 our Bruun Rule to that, the sum of both of them leads to this accelerated erosion which is our
22 model result. If we have an accreting shoreline extrapolated into the future and this is Kailua
23 Beach and we apply the Bruun Rule accretion continues for some period of time, in this case
24 mid-century and then slowing arcs down and erosion starts. So historical accretion leads to a
25 reduction in future erosion. Historical erosion leads to an acceleration of future erosion in our
26 model. Another way to look at it is here's our modern sea level which may be causing coastal
27 erosion. If we raise sea level, the shoreline will retreat additionally and also go up and the net of
28 these is the model product or if your historical shoreline has been accreting and we apply our
29 model for sea level rise then the net of these is less accretion compared to the historical
30 accretion. And we can apply this model in various ways.

31
32 Today on Sunset Beach on the north shore of Oahu we see little red squares around houses
33 that currently have seawalls, the yellow line is the DLNR 20-foot buffer and if we apply our...and
34 today we have 18 building on Sunset Beach that have seawalls representing about 10 percent
35 of the length of Sunset Beach at one-foot of sea level rise, our model predicts we jump up to
36 60 percent of the shoreline and 109 buildings needing seawalls based on the 20-foot buffer of
37 DLNR which is the trigger at which you can go in and apply for an emergency permit. So if we
38 allow seawalls as our primary response to this problem we're going to see the continued
39 disappearance of important beaches.

40
41 Here's the Honokowai area so the Hawaii Sea Level Viewer where you can see the model
42 results. Here's the Honokowai area and the red line which you are considering as a element of
43 your new setback is shown there and the coastal erosion here, the red line can be plotted for
44 3.2 and 2 and 1 and half a foot of sea level rise. On the north shore of Oahu we have a
45 combination of wave run up at 3.2 feet of sea level rise and the 80 percent probability, by the
46 way the red line is a probabilistic line which says there's an 80 percent probability that lands
47 mauka of the line will not erode, and I thought I had taken these slides out, so this allows us to

1 look at different responses, adaptation responses in places that we are finding difficult to
2 relocate from.

3
4 Our modeling was published in Nature Scientific Reports, in fact it won an award, and was
5 included in the State Hawaii Sea Level Rise Vulnerability and Adaptation Report, and here's the
6 viewer that we just looked at, and the state report recommends combining all of the hazards
7 related to sea level rise and drawing a line around the outside of them and calling this a special
8 exposure district, a sea level rise exposure area. And I'll wrap it up with the last few slides.

9
10 So I've said a little bit about setbacks, that hazard area, the sea level rise exposure area on
11 Oahu at the City and County we are...we are going to be discussing how to use that in the
12 context of the SMA which is a State area. We are also looking at our setback on the Island of
13 Oahu and considering changes in that. Building codes are important for the hazards, the
14 intense hazards, and hope I've...I hope you see that I recognize this problem as one that has a
15 single trajectory, that it is accelerating and that it is long-term, and this famous quote from the
16 Dutch, if you wage war with water you will lose, and so our options are to yield and elevate or
17 relocate or if this is a beach to put sand on it.

18
19 I want to end with the experiences that I have seen people display in reaction to this so there
20 are the five stages of grief, right and the first as soon as you hear, oh my God, Maui is going to
21 use the red line for the setback, it's shock, and then for certain people, no, no, no, they're not
22 gonna do that, then they get pissed, right? They're not gonna do that, and they start picking
23 away at the model, what's wrong with the model, what's right with the model, they're gonna
24 negotiate. In the end, we need to accept, sea level rise is accelerating, it's not going to stop.
25 This is science, this is factual, and I just want to end with that, and thank you for your time.

26
27 Mr. Carnicelli: Thanks, Chip. So at this point in time what we're gonna go ahead and do is
28 open up for public testimony. P. Denise would you grab the sign-in sheet please?

29
30 Ms. McLean: The Department has some follow up slides that get into the specifics of the
31 proposed rule amendments but if you want to leave it at this, we've gone over those with you
32 before.

33
34 Mr. Carnicelli: Yeah, let's go ahead and do that then. Is that, is that with this, is this second
35 thing is here Jeff?

36
37 Ms. McLean: Yes.

38
39 Mr. Carnicelli: This is Jeff's thing? The revisions? As long as we can pump through them
40 pretty quickly that's...I think that we can do that.

41
42 Ms. McLean: But my guess is that testimony is more geared to the specifics of the proposed
43 amendments.

44
45 Mr. Carnicelli: Yeah, I thought it was gonna be too, so...okay, cool. All right, then I think there's
46 some people...P. Denise let's put that back 'cause I think there's some people that walked that

1 want to be able to do that. Jim, you're never short-winded, you're like me. So is there a short-
2 winded person that's gonna do this part?

3
4 Mr. Jim Buika: Well,...this is all brand new so you guys are the guinea pigs for this so I can't
5 say too much about any of these slides.

6
7 Mr. Carnicelli: Okay.

8
9 Mr. Buika: That's one positive thing. But we've done is Tara, Keanu, Jeff and myself is we
10 have...one of the questions that came last time from the commission was what are the impacts
11 to properties on the shoreline of adopting the new 3.2 feet of sea level rise? And we thought
12 that what we would do is rather than trying to quantify globally on the island how many parcels
13 are impacted, what are the types of things that homeowners, hotels, condo properties will be
14 coming to the Planning Department for approval under these new rules. So where are the
15 impacts, what are the scenarios for where are the impacts, and what where are...what are the
16 scenarios where this overlay of the new 3.2 feet of sea level rise really doesn't make a lot of
17 difference. And bottom line we can kind of parse into if somebody...and we have some
18 scenarios that are built, but for you mind, if somebody is coming in on a vacant lot on the
19 shoreline or they want to...or they just bought a property that has an old plantation house,
20 they're gonna tear down the plantation house and build a large home on it, that new home it's a
21 large investment, one to two, to three million dollars so if we put it...if we place it on a regular or
22 on our current shoreline setback it is as we just saw it will be at risk very soon, and that's there's
23 that investment backed expectation that if the County permitted that structure we should be able
24 to protect it also so the coastal ecosystem becomes at risk. So for new property or new
25 structure what we want to do is we want to take that 3.2 feet of sea level rise into account
26 because that structure will be here for 70, 80 or 90 years. So in 70, 80 or 90 years we will have
27 sea level rise, coastal erosion on that parcel. So these are the...so that's, that's the one case
28 for new construction where we want to build more mauka and take sea level into account.

29
30 The other inclusions in the...in our shoreline rules is we're allowing some more leniency for
31 existing structures and as you know most of our shoreline is already developed. So if we want
32 to do existing improvements to homes there's very little Impact from the rules. So these new
33 rules will impact the new structures the most. So these are the scenarios I'll go through.
34 Demolition of existing structure and construction of a new structure, lanai enclosures, interior
35 renovations, additions to existing structures. So these are permits that we would see, right?
36 Asking for an additional dwelling, new construction, setback on a deep lot, reconstruction of a
37 deep lot, deep lot meaning a big, wide lot, 500-600 feet deep, legal nonconforming structures on
38 deep lots, these older homes on deep lots, an undeveloped lot with a large setback.

39
40 So I'll go through these real quickly and so you but first we'll go back to Kahana Bay, 1979.
41 That's the Valley Isle and the Royal Kahana and I'll just ask the rhetorical question that you
42 don't need to answer, I'll answer it for you, but what's wrong with this picture? Right, this is
43 1979, and that Valley Isle right now is, I'll show you this picture here, it's threatened right now
44 right with coastal erosion at its, at its feet right there, the structure in the center. So obviously
45 they had a big parking lot back there and we would want to, under our new rules move it back
46 so we're not dealing with the situation as we have now. So this demolition of an existing
47 structure and construction of a new structure. So here's our...to give you some sense of where

1 we're at. We have the ocean, the beach on the right and then we're going to move back and
2 that outline's the depth of the lot, right. The ocean, this is our pre-2003 setback, here's our
3 current setback and here might be the existing new erosion line. So examples are South Maui
4 vulnerable homes. There are some areas where the setback is way back with 3.2 feet of sea
5 level rise here. So in this scenario if we have had 1,200 square foot structure built in 1960 the
6 estimated value is one million now, what we're doing is we're...the people are going to tear it
7 down and they're going to propose a 7,499 square foot house, \$3 million construction value and
8 putting it at the current shoreline puts it at risk to sea level whereas we know erosion line is back
9 here through the structure. So there's an opportunity to move it back, so but if we do allow this
10 under our current rules, there is an investment backed expectation that this structure should be
11 protected here.

12
13 So under our new rules we have what's called a minimum buildable area which under our rules
14 talks about a minimal buildable depth is provided if new construction intersects with the erosion
15 hazard line. So we have 15-foot front yard setback at the road, plus 40 feet out from that
16 setback plus the width here. So if the lot is 95 feet wide, typical lot, so you can build on 75 x 40
17 which is 3,000 foot first floor, 3,000 foot second floor so you can still build a 6,000 square foot
18 home. So that's under our proposed rules for new setback. And here we have accommodated
19 for sea level rise. You are allowed to...okay, this is that same, same scenario. You are also
20 allowed to renovate under our new rules the existing 1,200 structure that's in our setback
21 currently and you are allowed to build an additional structure with that but outside of the erosion
22 line, not here onto this structure so that's still the same scenario.

23
24 So renovation of structures, this is scenario two, lanai enclosure, say your structure is this large
25 here, currently our rules do not allow lanai enclosures in the shoreline setback area. This
26 represents the...the red represents the shoreline, the lanai here. Under our new rules we will
27 be allowed to enclose non-structurally enclose that lanai even though it's in the setback area
28 here. So we have additional permitted structures and activities within a shoreline area so this is
29 important, non-structural single-story enclosures of existing, lawfully established roofed
30 residential lanais, decks, patios, balconies, carports or similar structures that are accessory to
31 single family dwellings and multi-family dwellings and that are included in the definition of floor
32 area in Title 19 of Maui County Code. So that's a leniency that we're adding here under our
33 rules, non-structural enclosure of a lanai within that erosion zone.

34
35 Scenario three, interior renovations of this existing new home that was built ten years or I guess
36 it would be built earlier than that, interior renovations will be allowed, non-structural interior
37 maintenance, repairs and renovations to existing lawfully established structures that involve no
38 expansion, no ground disturbance and do not increase the density or intensity of use such as
39 paint, floors, carpets, cabinets, interior walls and doors, et cetera. So interior renovations will be
40 allowed.

41
42 Scenario four, addition to existing structures that are makai of the next erosion hazard line will
43 not be allowed. So we would not allow this new proposal here to add onto an existing structure
44 which is a common activity. Right, it's something people do. However, you can create an
45 addition, new construction that is outside mauka of the hazard zone, the hazard line.

46

1 And additional dwellings, this is Scenario five, so proposed rules will not allow an addition within
2 the proposed high hazard zone, additional dwelling here. However, what we will allow is the
3 second story structure outside of the existing hazard line so you can see still improve, add to
4 your structure.

5
6 So for new construction, again, this is what I was pointing out at the beginning, so now we're
7 shifting to Scenario six, construction of setbacks...new construction on setbacks with deep lots.
8 So a deep lot is 600 feet no matter what the erosion line is up front here, the average lot depth
9 that we have now would be one-quarter of 600 feet which is a 150 feet. So even though we
10 have a large erosion hazard line still fairly near the 150-foot setback, the existing 150-foot
11 setback is...shows that there's relatively no change, absolutely basically no change for these
12 big lots, so this would be like North Kaanapali, some of the hotels. So a deep lot subjected to
13 150-foot setback what happens there is the current setback and erosion hazard line are about
14 the same. So there is a reduction of risk to flooding and erosion and there's minimal change
15 there. So Honua Kai, the brand new hotel they built was built out 150 feet and the erosion
16 hazard line, they're over 3.2 feet is about the same. So there's no impact to some of the newer
17 hotels in Northern Kaanapali.

18
19 So going to Scenario seven on reconstruction, again on a deep lot we're looking at Wailea,
20 okay, reconstruction on deep lots we have the same scenario where we have a 150-foot
21 setback on say a hotel in Wailea. So we have a 150-foot setback, the current setback and
22 erosion line are about the same and we have reduced with that 150-foot setback we have
23 reduced hazards fairly well. If we had our hazard line we'd move it back a little bit here, but this
24 is a typical hotel with some accessory dwellings, a pool, cabana, things like that in the 150-foot
25 setback. So there's really no change for the larger hotels or properties in South Maui.

26
27 This is an example of that last scenario here. Renaissance Wailea, the first one in, the northern
28 one in Wailea and you can see the location here in the location map. This is the...now it's the
29 Andaz Hotel. So what they did our current setbacks of a 150 feet is when they, they shuttered
30 the entire hotel and reconstructed. They took out these, these buildings in front. They could
31 have renovated here inside the 150-foot setback line but they wanted to modify it. So what they
32 did is, okay our erosion rate, the erosion rate setback is 80 feet according to our current rules,
33 but...so the average lot depth of a 150 feet overrides that. It's the greater of the two. So we
34 took this 940-foot depth lot and up to...our setback can be a maximum of 150 feet out here so
35 what we've done is the front buildings were demolished so we have the erosion setback line of
36 80 feet, under rules we have the 150-foot setback, lot depth setback and what they've done is
37 they constructed new structures outside of that 150-foot line. So if you look at the 3.2 feet of
38 sea level rise which will be our new setback they have pretty much accommodated with these
39 new buildings outside that setback area and we would...under our new rules they would have
40 had to move those back slightly, but you can see that for these big lots our 150-foot current
41 setback and the 3.2 feet of sea level rise for our new setbacks doesn't make much difference at
42 all to any of these bigger properties so there's no impact on these larger areas or minimal
43 impact.

44
45 Going to Scenario eight, almost there, legal non-conforming structures on deep lots. Again, that
46 same deep lot, legal non-conforming structures, these are structures, older structures that were
47 built in the 60s and 70s, north shore, Spreckelsville is very common, we have these big, deep

1 lots, condominiumized lots, we have three or four owners on a property. They are within our
2 150-foot setback line, and say this would be different, families, different structures. They are
3 legal, non-conforming structures and under our new rules there will be minimal change in the
4 setback here, the 150-foot setback is here, the new erosion line is here. So if we had an
5 undeveloped lot with a new large setback, this would be South Maui, say Keawakapu so now
6 we're back to a not a 600-foot lot, but this is a 100-foot here by 75-foot lot. Our current rules we
7 could build it this close to the ocean. Our erosion hazard line goes way back and consumes
8 most of the lot in a lot of these areas. It's a big, sand dune, sand pile with erosion rate we know
9 that these structures will be threatened, so what this would...so for these homes here the
10 buildable area we have an opportunity to move back under our new rules and potential
11 shoreline protection to secure the investment so what we would do again is as I showed in that
12 scenario one, we would move back to a minimum buildable area and even though that last lot
13 was...you had 7,500 square foot single-story structure that we could build right now, you can
14 still build a 6,000 square foot two-story that takes most of sea level rise over time into account
15 so that we don't have to deal with protecting it in the future.

16
17 So this is a real life example similar to down in South Maui, took it from the sea level rise viewer
18 where we have...where this erosion hazard line setback, you can see the road, this is South
19 Kihei here way down by Wailea and the erosion hazard line is 3.2 feet setback here and these
20 are some of the existing homes built, the setback right now is 75 feet under the erosion lot...or
21 the average lot depth of 300 feet, under our new minimum buildable area you would have a
22 40-foot wide area to build and 80 percent of the width from the side yard setback and you would
23 pretty much be accommodating sea level rise. It will be at your doorstep in 70 to 100 years the
24 life expectancy of that structure.

25
26 So those are nine scenarios that we've gone through and out front too obviously some
27 additional things we will always strive to do as the shoreline team is to enhance the dune out
28 front and we can share many examples of what we're doing and to elevate is so a lot of the
29 applicants come in we try to work with them to protect their structures as much as possible
30 especially under our current rules where they can build more makai at risk.

31
32 So these were the nine scenarios and to keep it short I won't go back through them but the idea
33 being these are typical types of projects that would come to us, not many of these would even
34 come to you they would be done administratively by the Planning Department, and mahalo, any
35 questions? I'll leave at that.

36
37 Mr. Carnicelli: Excellent work.

38
39 Mr. Buika: Thank you.

40
41 Mr. Carnicelli: Great job, Jim. Thank you very much. So yes, Director?

42
43 Ms. McLean: Thank you, Chair. Before going into public testimony, I just wanted to make a
44 couple of comments. First, is that the Department will be holding public meetings in West Maui,
45 South Maui, the North Shore, as well as Central Maui over the next couple of months. We'll be
46 doing a postcard mail out to all affected properties by the shoreline rules announcing those,

1 we'll also do press releases, so forth, to publicize those and those are just public meetings for
2 the public to see a presentation and ask questions.

3
4 I also want to emphasize that the proposed new setbacks would either use the erosion hazard
5 line, would use a shoreline map by the Department, in some situations the existing setback
6 formula could be used or there is a process to request an amendment to that which is an
7 administrative process that's just handled by staff. So if there are differences in that area,
8 proposed engineering solutions, beach nourishment, that setback can be amended through an
9 administrative process with the staff.

10
11 At the last meeting, there was discussion about separating out some of the easier SMA
12 amendments. We talked about that that is a possibility. For now we're keeping them together
13 because they are linked in a lot of ways but certainly that's still a possibility.

14
15 And lastly, when the existing setbacks were established back in 2003, staff and the UH Sea
16 Grant Extension Agent at time so one of Tara's predecessors wrote up a memo of the process
17 to update the rules and the same comments that we're hearing today were raised at that time
18 and we will make that available and distribute that and they are important arguments and I'm not
19 trying to be dismissive of those but those turned out to not be as, as scary and as financially
20 impactful as people worried back then, so we'll make that available. And so I just wanted to put
21 that information out there. Thank you, Chair.

22
23 Mr. Carnicelli: Awesome, thank you. The sky is not falling. So I think what we're gonna do is,
24 is we would before we...is if my fellow commissioners agree, I think we should take public
25 testimony. Most of you that want to testify on this item have been here for three hours and I
26 really appreciate your patience. So I think that we, we should take public testimony before we
27 break for lunch if you guys are okay with that, but I think before we take public testimony, let's
28 take a five-minute break and give our rear ends a break and we'll come back in five and then
29 we'll take public testimony, okay? Thanks, guys.

30
31 A recess was called at 11:46 a.m., and the meeting was reconvened at 11:53 a.m.

32
33 Mr. Carnicelli: The Maui Planning Commission meeting of October 22, 2019 is back in session.
34 What we're gonna do now is take public testimony on Item D of the agenda, and just to remind
35 everybody you will have three minutes to testify, at three minutes will say time and then I will
36 ask to conclude. Our first testifier is Duane Fisher. Also, when you come up I'll ask you to
37 identify yourself then I'll ask you if you will be truthful. Please state your name.

38
39 Mr. Duane Fisher: Good morning, Mr. Chair, Members of the Commission, my name's
40 Duane Fisher.

41
42 Mr. Carnicelli: Duane, do you promise to be truthful?

43
44 Mr. Fisher: I do.

45
46 Mr. Carnicelli: You have up to three minutes.

1
2 Mr. Fisher: Thank you. So I represent Hilton Grand Vacations and Blackstone Real Estate.
3 Blackstone's the owner of the Grand Wailea. Just getting up to speed on these new rules. I
4 was just very recently engaged, but wanted to express at least a few concerns about these and
5 in particular it feels like this is happening very, very quickly and without real input from all the
6 stakeholders in particular resorts and hotel owners are the groups that I'm particularly interested
7 in today. And as you know, tourism is the backbone of the economy not only on Oahu but here
8 on Maui as well, a tremendous source of tax revenue.

9
10 Our concern is there may be real unintended consequences from these rule changes and so
11 we'd like to ask the Commission to just take a deep breath and pause and perhaps involve other
12 stakeholders.

13
14 I'd like to read from this sea level report, the 2017 report which seems to be the basis of a whole
15 lot of what's going on today. Recommendation Four from that report which is found on
16 Pages 234 and 235 says, first of all, the priorities should be identified based on a number of
17 social, cultural, economic and environmental factors aligned with shoreline protection and
18 preservation priorities and in consultation with communities as part of the community
19 development planning process. Recommended actions also consider funding for land
20 acquisition and beach restoration activities through public-private sector partnerships as well as
21 explore other alternative actions to help protect beaches. In other locations, groins or other
22 beach stabilization structures and sand nourishment may be needed to maintain beaches in
23 front of development. Sand nourishment may also need...be needed to areas that lack natural
24 sand deposits. So we applaud the beach nourishment that was being done, I would note all of
25 that's being done without these rule changes.

26
27 Recommendation Action Number Seven, the State should conduct a more detailed impact
28 analysis to understand the full economic impact to the state and the counties of both reducing or
29 mitigating the impacts of sea level rise compared to not doing anything. For commercial and
30 industrial uses, impacts that would need to be considered include job loss, secondary and
31 tertiary business impacts and impacts to the tourism industry statewide. For private properties
32 impacted by sea level rise, the impact would be tremendous for families as well for the
33 county...as county tax coffers

34
35 So in sum, we'd like to ask that perhaps a task force be created or there's some mechanism
36 where our people, the people in the resort development world on Maui could participate in the
37 formulation of the rules rather than having the rules kind of foisted upon us without that
38 opportunity to participate.

39
40 Ms. Takayama-Corden: Three minutes.

41
42 Mr. Fisher: That's all I have.

43
44 Mr. Carnicelli: Thank you, Dwayne. Right on time. Three minutes. Any questions for the
45 testifier? I'll just, one point of clarification there's no action that we are gonna be taking today
46 just so everybody can understand that is we are not taking action today, and as the Director had
47 stated there's going to be community...what, four community outreaches, South Shore, North

1 Shore, West Maui, Central. Also, we as a commission, that all, all people affected would be
2 mailed out a postcard, so it's... there is a process that's gonna happen and we're doing all that
3 we can to do that community outreach is for it is that you...we're talking about. So just so you
4 know that.

5
6 Mr. Fisher: We appreciate that. I think we'd just like a little bit more than kind of these, these
7 outside public forums.

8
9 Mr. Carnicelli: Then you can reach out to the Director personally. So I think—

10
11 Mr. Fisher: I think everybody would like to do that.

12
13 Mr. Carnicelli: Okay, great, thank you very much. Our next testifier will be Patty Cadiz.

14
15 Ms. Patty Cadiz: Hello, my name is Patty Cadiz.

16
17 Mr. Carnicelli: Patty, do you promise to be truthful?

18
19 Ms. Cadiz: I absolutely do.

20
21 Mr. Carnicelli: You have up to three minutes.

22
23 Ms. Cadiz: Thank you. I really appreciate the input here it's obviously we're dealing with a very
24 important problem and I think we're off to a good start. My concerns are the same as I
25 expressed at the last meeting is that I believe that the erosion hazard line as drawn by the sea
26 level rise viewer has flaws. It's the three flaws that I named last time.

27
28 It assumes that the...if there ever was a sandy shoreline and that sandy shoreline eroded it will
29 erode at the same rate that it always eroded whether it runs into a seawall like in Lahaina, a cliff
30 face of basalt like in Kuau, a three-story sandy dune like in Spreckelsville or a flat sandy plain or
31 a marsh like in Kealia Pond it doesn't account for a change in substrate, so this erosion hazard
32 line is pretty arbitrary. It also has...it's disjointed. There's a place for example at Kanaha where
33 the, one of the beaches was accreting so that erosion hazard line goes way out to sea, a few
34 hundred feet out to sea, and then at the point where it's a groin right at the lifeguard tower it
35 drops in about a 150 feet onto a beach that was eroding very quickly up until 20 years ago, now
36 it's one of the fastest accreting beaches in the state. So the erosion hazard line is...it's wrong
37 there and it's also based on old data. It doesn't, it hasn't accounted for accretion that's
38 happened in the next...for the last 20 years or so. I think the data like we discovered at the last
39 meeting, the data is about 20 years old.

40
41 And the other thing that the model assumes is that nothing has been or ever will be done that
42 could mitigate the sea level rise. But I think that the beach restoration effort or presentation by
43 Mr. Buika and Ms. Owens show that there's a lot of things that can be done to mitigate coastal
44 erosion. I brought a lot of pictures, but they showed most of them, but I brought two that they
45 didn't. One is this, this is an exhibit to show that Maui's beaches are narrow ribbons of sand,
46 basically precarious little ribbons of sand along the shoreline. You can see in this example,
47 that's all the sand there is. This shoreline's already eroded back to basalt and volcanic clay,

1 and even where there is sand in some places, the sand is so shallow that the crabs are throwing
2 up clay from their holes. So if we retreat off this beach we're not going to have a sandy beach
3 and this is the case for most of Maui's north shore beaches where so much of the sand was
4 mined off the beach. So I'm very concerned that if we embrace a policy of retreat first as
5 opposed to preservation we will not end up with sandy beaches.

6
7 The other pictures I want to show you is from Sugar Cove. This is what happens when you
8 retreat from the sandy beach. You get turbid, red water because the clay is eroding. You get a
9 beach that's basalt rocks and clay, this is at low tide so you can see what's going on.

10
11 Mr. Carnicelli: And that's three minutes.

12
13 Ms. Cadiz: Any questions?

14
15 Mr. Carnicelli: Any questions for the testifier? I'm sorry.

16
17 Mr. Robinson: I have a question.

18
19 Mr. Carnicelli: Oh, Keaka's got a question for you.

20
21 Mr. Robinson: What's the third picture?

22
23 Ms. Cadiz: The third picture is after the restoration effort that was done at this beach. Because
24 it was eroded back to the clay and the basalt rocks they got permission to build a rock, three-ton
25 boulder rock revetment the length of the property, and that stopped the clay from eroding into
26 the water. But the other part of the solution was adding sand in front of that boulder revetment
27 not only to protect the boulder revetment but to create a public sandy beach and that's what this
28 private property has done. They've protected their property with the boulder revetment, they've
29 protected the water quality and they've created a public beach, nice blue water, the sand acts a
30 a filter layer and this is an example of an engineered restored beach that could be duplicated
31 throughout the state, throughout the county if our rules make it possible, and the proposed
32 shoreline rules changes basically would make these properties straight into non-compliance or
33 non-conformity status so before they could even ask permission to continue this good work,
34 they would have to come in and ask for a variance which is cumbersome and expensive and I
35 see you shaking your head.

36
37 Ms. McLean: It's not true.

38
39 Ms. Cadiz: Okay. Well, the front three properties are all behind the erosion hazard line so
40 anyway...

41
42 Mr. Carnicelli: Thank you, Patty. Any other questions for the testifier? Thank you very much.
43 Wayne Hedani, former Planning Commission Chair.

44
45 Mr. Wayne Hedani: Good morning.

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47 Mr. Carnicelli: Good morning.

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Mr. Hedani: I swear to tell the truth.

Mr. Carnicelli: Thank you. State your name for the record.

Mr. Hedani: Because I don't think well on my feet, I committed all of my thoughts to writing which you have before. Aloha, Chairman Carnicelli and Members of the Commission. Thank you for the opportunity to provide testimony. My name is Wayne N. Hedani and I'm here before you today as President and General Manager of Kaanapali Operations Association, Inc. or KOA for short. KOA represents over 6,000 units in the Kaanapali Beach Resort which employs over 5,000 employees and generates over \$3 billion dollars in annual economic contribution to the County of Maui and the State of Hawaii.

Our resort is almost 60 years old having first opened units in 1960. It has been recognized as one of the first master planned destination resorts in the world and incorporated many environmental initiatives before ecology became a popular catch phrase.

The current setback proposal has many of our members concerned about its impact to individual resort properties and the ability of these properties to insure their properties and to respond appropriately to sea level rise. We believe that further discussion is appropriate at this time and a one size fits all solution may not be appropriate. We recognize that sea level rise occurring and will require adjustments. How and when these adjustments occur will extend decades into the future. Addressing the impacts will require flexibility and innovation and please do not initiate factions which will make continuing operations difficult or impossible to surmount when dealing with this problem. Allow for innovative solutions and flexibility to respond with thoughtful measures which may not even exist today with evolving technologies.

Our resort is initiating actions to preserve and restore the beaches at Kaanapali in accordance with the counties preferred guidelines. Together with the State of Hawaii we'll be coming before this Commission to ask you to allow us to proceed with a beach restoration project which will exceed \$11.8 million dollars. This is a first step in addressing sea level rise and beach erosion and will help to preserve a public trust asset our beaches.

We continue to work with the industry...Please continue to work with the industry to address their concerns regarding setbacks. Do not rush into a solution which may have unintended adverse impacts to many in our community. Thank you.

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

Mr. Robinson: I do, Chair.

Mr. Robinson: Mr. Hedani, can you tell me you guys have a current restoration project that's gonna hopefully get kicked off real soon here.

Mr. Hedani: What's that?

1 Mr. Robinson: You have a current restoration that is hopefully will be started soon. It's been a
2 long wait.

3
4 Mr. Hedani: We have a current restoration project that we've been working on since 2006.

5
6 Mr. Robinson: Yeah. My question is, is with this restoration project and the topography of the
7 height of the restoration is there a plus for the height of the sand that's being brought in that's
8 planned.

9
10 Mr. Hedani: The way the project is currently designed what we're gonna be doing is
11 reestablishing the shoreline that existed in 1988 for the section of beach in the Hanakaoo cell in
12 front of the Hyatt and Marriott. So that will be extended out by the 42 feet that Tara talked about
13 earlier. For the sand cell which starts at Hanakaoo Point and goes to Black Rock, it's a shifting
14 kind of a sand cell so in those cases what we'll do is we're not gonna extend the beach out into
15 the ocean for that entire sand cell. What we will do is take 25,000 cubic yards of sand and add
16 it to the existing dry beach berm in that location from the Sheraton to the Kaanapali Alii
17 basically. So three, three and a half feet of sand on the dry dunes on that section and extending
18 the beach out in front of the Hyatt and Marriott which are the most affected you know by erosion
19 at this point back to where it was in 1988 so we're not impacting coral or any other thing that
20 already existed you know during that date.

21
22 Mr. Robinson: Is there any, any berm that's gonna be constructed or it is just restoration of
23 sand?

24
25 Mr. Hedani: It's just restoration of the beach itself and addition to the dry beach berm for that
26 one Kaanapali Beach cell.

27
28 Mr. Robinson: Of the 25,000 tons what type of, what type of feet are we looking to regain as far
29 as the beach. I saw some report of 42 feet which is you know 13 yards, maybe 14 yards, I
30 mean, are we getting more than that or is that all we're getting?

31
32 Mr. Hedani: The way the project is designed right now 50,000 cubic yards of sand will be added
33 between Hanakaoo Point and we'll also restore Hanakaoo Beach Park, so we're gonna extend
34 the beach out in front of the beach park as well as all the way up to the end of the Marriott
35 basically by about 42 feet, between 35 and 42 feet. The rest of, the rest of the sand cell in the
36 Kaanapali cell from the Kaanapali Alii to Black Rock the edge of beach will basically stay the
37 same.

38
39 Mr. Robinson: Do we think that we adding the sand also not into the ocean but on top of that,
40 do you think that sand might hopefully stay in that area and then move and extend the beach
41 further out naturally?

42
43 Mr. Hedani: The idea is that adding additional sand to that particular sand cell would help to
44 mitigate to some degree, it won't solve the problem completely but it might help to mitigate to
45 some degree the extent of erosion that occurs during severe storm events. In severe storm
46 events in Kaanapali, they can...our total project is 75,000 cubic yards of sand, it would be the
47 largest project within the State of Hawaii next to the Iroquois Point project that was just

1 completed that included T-head groins. We're not including any groins in our project because
2 we didn't want the appearance of the groins in front of the resort basically and to affect surf
3 breaks and those kinds of considerations. But a major storm can move 70,000 cubic yards of
4 sand overnight within the resort so we're doing what the County wants us to do in terms of
5 beach restoration. It's a very expensive project and there's no guarantees once that project is
6 done that the sand will stay there you know it may stay there for ten years, it may stay there for
7 a week, we're not sure and we don't know until we try, and that's what we're gonna do, we're
8 gonna try.

9
10 Mr. Robinson: Thank you.

11
12 Mr. Carnicelli: Commissioner La Costa.

13
14 Ms. La Costa: Thank you, Chair. Thank you, former Chair Hedani for coming today. So I'm
15 listening to you and you're saying that you don't have any guarantee, you're spending these
16 millions and millions of dollars to try to repair what nature has taken away. What kind of
17 scientific input have you had, true T-groins aren't the most beautiful things to look at, but that
18 versus the effect, the net effect of the storms and taking away all of the sand which of course
19 affects our tourism have you spoken with scientists of one versus the other?

20
21 Mr. Hedani: From the outset back in 2006, the first thing that we did was invite Dr. Fletcher to
22 come address our group to try to get us up to speed on what was happening within the resort
23 and what the possible solutions was. One of the suggestions that he had was T-head groins but
24 T-head groins was something that we really wrestled with from the standpoint of from an
25 amenities standpoint you know it's kinda like looking out onto a part of a harbor as opposed to
26 romantic islands floating off in the distance in crystal clear water you know in front of it. So
27 there was, there was some concern about that and whether or not it was even possible to do
28 something like that was another concern because a lot of people would have environmental
29 concerns about that if you're putting groins on top existing coral reefs and those kinds of
30 situations, yeah.

31
32 Ms. La Costa: Thank you.

33
34 Mr. Hedani: Thank you.

35
36 Mr. Carnicelli: Thanks. Commissioner Thompson.

37
38 Mr. Thompson: So after 14 years of working on this, how long will it take to do the restoration?

39
40 Mr. Hedani: Between 30 and 60 days if everything goes well.

41
42 Mr. Carnicelli: I remember 25 years ago six months of the year you'd play volleyball in front of
43 the Alii and then six months of the year you'd play volleyball in front of the Sheraton, right, back
44 and forth, it's probably still the same, although not so much the sand any more.

45
46 Mr. Hedani: Well, we're working with the State and we're working with the State's timeframe so
47 it's like being pregnant for six years now.

1
2 Mr. Carnicelli: Do a C-Section.
3
4 Mr. Hedani: Do a C-Section.
5
6 Mr. Carnicelli: Thank you very much. Oh, I'm sorry, Commissioner Freitas has a question for
7 you.
8
9 Mr. Freitas: I have a question. Thank you. As we know that the rules have to apply to all and I
10 think that what we listened today I think there's some other areas on the island that are very in
11 danger of the erosion. For your hotel chain that you are...the association, I think that your
12 whole ocean front are pretty safe, I'm trying to...I mean, but in addition to what you're doing I
13 think it is...is there anything, any projects that your hotels want to do over there that's is what's
14 making you want us to or what us not to proceed with this because I walk that beach, I jump in
15 the water and Hiuwai with travel agents and I've seen different things going on, but I think that
16 you guys have structures or things that this really affects correct me if I'm wrong.
17
18 Mr. Hedani: I know most of the new buildings that have built in Kaanapali have been built with
19 the existing 150-foot setback so they're outside of the danger zone for the most part. The older
20 buildings were built with a 40-foot setback so in those cases when they were built in 1960 you
21 know the buildings were placed much close to the shore. So there is some impact that's gonna
22 occur due to erosion for those particular structures. For the buildings that are 60 years old in
23 some cases they're almost at the end of their economic life so the idea of demolishing the
24 structure and reconstructing the structure is a possibility. Several of the hotels have already
25 considered that and have applied to the County for permits for new development of their
26 property so it's not outside of the realm of possibility. We are exposed because most of
27 Kaanapali is sand with topsoil on top of it where you have the hotels. And part of the problem is
28 when erosion occurs that topsoil ends up into the ocean and it damages the reef, and so what
29 we're trying to do is work with the County, restore the beaches, use the beaches as a buffer to
30 prevent that from occurring so that we protect the reef through that means.
31
32 Mr. Freitas: Kinda like we have to do both at the same time. Thank you.
33
34 Mr. Carnicelli: Thanks, Wayne. Next testifier is Mark Deakos. Doctor, Dr. Mark Deakos, sorry.
35
36 Dr. Mark Deakos: Thank you, Chair. I'm Mark Deakos.
37
38 Mr. Carnicelli: Do you promise to be truthful?
39
40 Dr. Deakos: I do.
41
42 Mr. Carnicelli: You have up to three minutes.
43
44 Dr. Deakos: I'll be quick. So one comment on these, the setbacks, sea level rise don't really
45 care how far back you are. It cares about your elevation. So we heard about the brand new
46 Honokai, Honua Kai, it's 150 feet back, if you plug it into the sea level rise viewer that Chip was
47 talking about you'll a lot of that is under water in 50 years, and that's with the three-foot rise, and

1 we know now that probably more realistic a six-foot rise. So we gotta keep that in mind. It's not
2 about setback, it's about elevation.

3
4 We heard a bit about Sugar Cove, you may want to ask the fishermen how much they
5 appreciated that beach replenishment, again, beach replenishment looks great on the surface
6 for a postcard and tourists when you depend on the marine environment you see a very
7 different story play out so there's tremendous impacts there.

8
9 You also hear about, you know, there's been tons of beach replenishment projects on the
10 East Coast and a storm comes in a few months later, all that's gone. We heard Mr. Hedani talk
11 about that. They don't know if their \$10 million project is gonna be there or not in ten years. So
12 when we talk about retreat being cost inefficient, we really gotta factor in you know how much
13 money, you want to pour into a project that may be washed out overnight. Hear a lot about
14 concern about the economy, the Travel Channel, look on there, what you're gonna see, you're
15 gonna see coral reef, fish, you're gonna see turtles, you're gonna see all the marine ecosystem
16 wildlife that's what draws people here.

17
18 So, when you're thinking about tourism and your hotels and the beaches, think about the
19 offshore environments, those ecosystems that really drive the tourism and the fact that we
20 heard 60 year old buildings in Kaanapali they're almost ready to be rebuilt makes no sense to
21 rebuild these in the current location. So that's all I got.

22
23 Mr. Carnicelli: Thank you. Any questions for the testifier? Thanks, Mark. Tom Jenkins.

24
25 Mr. Tom Jenkins: Before I start can I have a little clarification of that, of that what's up there for
26 everyone? Is that okay? The A and the B, let's say A comes out to 250 feet, could you use B
27 and get a certified shoreline and go with the 150 feet? That's my understanding...

28
29 Mr. Carnicelli: Jeff Dack is gonna answer your question before you start your testimony.

30
31 Mr. Jeff Dack: In parts of the Maui Island that haven't had the benefit of having erosion hazard
32 areas survey...all that work done in 2003 and then updated now, the formula up on the screen
33 would apply. So outside of the populated areas of North Shore, west side and South Maui such
34 as in Hana that's where this would apply. So in those situations, yes, the 200-foot would be the
35 default setback outside of those populated beach areas but you could still in those situations
36 also see what your setback would be based upon the current kind of formulation using certified
37 shorelines. So again, they would be applicable in just the least populated areas.

38
39 Mr. Jenkins: Okay.

40
41 Mr. Carnicelli: Thank you for that clarification. So please state your name for the record.

42
43 Mr. Jenkins: Tom Jenkins.

44
45 Mr. Carnicelli: Do you promise to be truthful?

46
47 Mr. Jenkins: Yes, I do.

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Mr. Carnicelli: You have up to three minutes.

Mr. Jenkins: So basically since I was here last year you answered a lot of our questions. You did seem like you changed, you took Chapter 202, the SMA and you put it into the shoreline and kinda merged everything. So that's where a lot of things was confusing at first. So right now we're not doing anything with 202. I do really consider some this to be taken land. I got lucky. The property that...my family property is at the end of Stable Road it's 400 feet deep. Our line's right about in the middle, maybe not quite that, they moved the new red line, right next door it took the whole property away. So this is a, this is a problem. Now think about it. If you that was your land and I'm all set and he's not and we're right next to each other that's a big issue.

And the reason is, so then I took it, I looked at the viewer, I'm only talking about the North Shore, and I went through and checked it out and there's errors with it. It's not consistent. It varies up and down. All of a sudden at a beach you'll see a line and then it stops where the rock is, but even where the rock area is it comes back. Kuau is a perfect example of that. It is not ready to use. It's great that you're doing all this thing but it's not quite ready for prime time. It has to be discussed, this impact...(inaudible)...you know how is it going to affect properties that are in(inaudible)... one. There's shoreline properties, and if you're in ...(inaudible)...one, now you're...(inaudible)...has an area, the blue area, now you're considered shoreline. The buildable area was brought out, and you're thinking that's it's two floors, well no, not necessarily cause you're in a velocity zone, you're elevated. I'm at Stable Road you're elevated up to elevation 19, so if you add that up you could only get one level, that's not 6,000 square feet of living, that's 3,000. See that's another thing that's another thing you have to factor in.

Let me think, I do like the fact that you get rid of the certified shoreline because really a lot of times it doesn't make any sense so that was a good thing. I just really feel that it needs to be held back, looked at cause that's potential lawsuits, it's truly taking land. It would be look at the viewer, go parcel by parcel, check how it affected everyone cause there's situations that people are gonna go okay, I used to be able to have a house and two ohanas now I guess that's the rule, no I can barely get a house in 'cause it's engulfed everything and you get the last 40 feet. So this is too rushed, we're not ready for this. It's great, but we're not ready. We should adopt the SMA though, that's a good thing. That's about it.

Mr. Carnicelli: Thank you, Tom. Any questions for the testifier? Thank you. Is will Spence Spence still here or did he leave? Bud Pikrone. Close enough to be in the Pizon. Pikrone, got it. Please state your name for the record.

Mr. Bud Pikrone: My name is Bud Pikrone.

Mr. Carnicelli: Do you promise to be truthful?

Mr. Pikrone: I do.

Mr. Carnicelli: You have up to three minutes.

1 Mr. Pikrone: I'm the General Manager of the Wailea Community Association and I'm kinda here
2 on behalf of the community. We consist of hotels, condos, homes and businesses and many
3 along the shoreline and so we're all concerned about sea level erosion. So it seemed the data
4 and the assumptions that are presented here today I think is really good start and it's been
5 going on for a while so it's long start, but it's moving.

6
7 That such conversations are being had is encouraging and I'm even further encouraged that the
8 conversations will continue at the community level that's something that I think really needs to
9 be done so we can localize the analysis of the shoreline and ascertain some of the changes or
10 differences in the shorelines cause a one size fits all approach probably isn't going to work
11 everywhere. I saw an example up here of the Andaz and showed that everything was pretty
12 much safe. There are other maps and actually that map that there's a whole building that's
13 inside that flood zone and yet it's on a high rocky shoreline right at that point so I'm not sure as
14 others have brought up if the substrate matter has been taken into consideration but these are
15 things we can find out in these meetings and I look forward to that. Because if it is uncertain to
16 a lot of people of what's going to happen, you know the possibility of losing their ability to
17 maintain their future whether a business or personal investment is going to be something that's
18 gonna scare them quite a bit and affect the future of a lot of people.

19
20 So we all care about the shoreline public beaches. I mean we even maintain the beaches and
21 the shoreline accesses because not that they're just important to the viability of the businesses
22 there but because the public enjoy them so much and those facilities are there for the public.
23 So we are more than willing to work with the Planning Department here in the future in any way
24 we can to further this discussion so that the Commission here can make a confident and
25 informed decision on the future. Thank you.

26
27 Mr. Carnicelli: Thank you very much. Any questions for the testifier? Seeing none, thank you
28 very much. Rob Hoonan.

29
30 Mr. Rob Hoonan: Aloha.

31
32 Mr. Carnicelli: Please state your name for the record.

33
34 Mr. Hoonan: Rob Hoonan.

35
36 Mr. Carnicelli: Rob, you promise to be truthful?

37
38 Mr. Hoonan: I do.

39
40 Mr. Carnicelli: You have up to three minutes.

41
42 Mr. Hoonan: I want to thank everybody, Chairman, Planning Director, everybody here and
43 especially the presentations we saw today where great thought and work into it. We had a lot of
44 answers today and some things that we were kind of asking about and wondering about, but
45 what I want to make sure is and you've heard it before here is that we want to make sure this is
46 collaborative effort, community wide, something it is something that we all understand. I'm very
47 happy that there's these outreach meetings coming up. Those questions will be asked and it's

1 very important that we have those. So I want to make sure that you understand that our hotel
2 industry we want to malama the kahakai, we want to make sure the beach is there for
3 everybody, public access, our industry also we want to do the right things so we're a resource
4 for you. If there's anything we can do, please reach out to us and I do appreciate the offer to
5 have these collaborative meetings in the communities themselves. Thank you very much.

6
7 Mr. Carnicelli: Thank you. Any questions for the testifier?

8
9 Ms. La Costa: Question.

10
11 Mr. Carnicelli: Commissioner La Costa.

12
13 Ms. La Costa: Thank you. Mr. Hoonan, what organization do you represent which hotel
14 please?

15
16 Mr. Hoonan: I'm at the Wailea Beach Resort, I'm the Director of Engineering. I was the past
17 President of the Engineers Council here on Maui. I'm a member of the Maui Facilities and
18 Engineers Leadership Council right now. So we reach out to a lot of people. Michele presented
19 at one of our meetings recently and we're there to be a resource for you if you need it in any
20 way.

21
22 Ms. La Costa: Mahalo.

23
24 Mr. Carnicelli: Thank you.

25
26 Mr. Hoonan: You're welcome. Aloha, mahalo.

27
28 Mr. Carnicelli: Director.

29
30 Ms. McLean: Chair, if I could add. Thank you for your testimony. This is a group largely of the
31 facilities managers of a number of the hotel, resort and condo properties. We presented a few
32 months ago on the west side, this Thursday we're going back, Tara and I are going back
33 Thursday to another meeting in South Maui, so we are trying to target our outreach as well as
34 doing the broader community meetings.

35
36 Mr. Carnicelli: Thank you very much, Director. Thorne Abbott.

37
38 Mr. Thorne Abbott: Aloha, Thorne Abbott—you have a handout—

39
40 Mr. Carnicelli: Thorne, do you promise to be truthful?

41
42 Mr. Abbott: I promise to be truthful.

43
44 Mr. Carnicelli: All right, you have up to three minutes.

45
46 Mr. Abbott: Mahalo nui loa. My name's Thorne Abbott. I'm with Coastal Planners, I'm a
47 consultant that does a lot of oceanfront planning and I think one thing that's really lost in this

1 conversation is the sea level rise exposure area nothing is prohibited. I could build a ferris
2 wheel next to the shoreline if I want. I just have to get a permit for it. I have to get an approval
3 that approval rests with you folks. So none of these maps are showing something that's
4 prohibited. It's showing a risk area. It's common sense. It's been in our face as Chip pointed
5 out, Dr. Fletcher pointed out. It's very obvious that we're gonna be inundated and we need to
6 deal with that. So really what it should be, the new set of rules should not be about what's
7 prohibited but rather regulating where on a lot you can do things and what kind of construction
8 you should use. For example, what I just passed out to you is a handout, it's actually from
9 Shelly Habel it's how many individual wastewater systems are gonna fail in Honolulu with
10 ...(inaudible)...sea level rise. There's gonna be a lot of them that fail and we should really be
11 considering that issue as rising...as the seas rise the wastewater is not going to be just able to
12 dissipate down so that's something we want to regulate, what kind of wastewater system do you
13 have? Do you have a cesspool, do you have a septic, do you have an aerobic system or a dura
14 system?
15

16 The other thing is why are we so addicted to slab on grade construction. If you're slab on grade
17 you can't really move, yeah, but if you're post and pier you can pick the building up and relocate
18 it. Also, the waters from a flood or a storm can flow under your building. Right now we already
19 have a Flood Development Permit. It's arduous, it's a pain in the neck. I'll be first to tell you
20 that it really is, but it makes common sense, right?
21

22 So, the other thing I would say 15 years ago we stood up here, Chip gave a presentation about
23 erosion rate setbacks. Everybody got upset, why would your setback be different than mine?
24 Why...you live on lava rock, I live on sandy beach it should be equitable. I should have 20-foot,
25 you should have 20-foot, it should be same. Yet, who knew that a beach migrates, shifts very
26 quickly in a short period of time, and so lava rock I might be safe, built on a rock the house isn't
27 going to fall down I think there's some carpenter back in like 1 A.D. that said that, gee common
28 sense, build on the sand, the winds came, the storms came, the floods rose, the rain came
29 down and the house crashes with a big boom. This is just about using common sense to
30 indicate where your hazards should be and you develop around that.
31

32 And the last thing I'd day is as Michele pointed out a lot of these same concerns were voiced in
33 2003 that there were going to be takings, people were going to burn down their neighbor house
34 so they would have to rebuild further mauka and our property values were gonna plummet,
35 none of those things happened, in fact it's a great asset, people come to me all the time and say
36 how can I protect my beach asset, where do I build so I know that I have a beach in 50 years
37 'cause that's why I'm buying the place 'cause there's a beach there, that's what makes it
38 valuable.
39

40 Mr. Carnicelli: Thanks, Thorne.

41
42 Mr. Abbott: So that's what this is from.

43
44 Mr. Carnicelli: Thank you very much. I think you bring up some very, very valuable points
45 'cause moving the line itself doesn't change anything right? So it's like...you know I mean,
46 different types of building materials I think obviously we'll get into that at a deeper level and
47 hopefully when you guys do your community outreach stuff you can talk about those types of

1 things as well, this isn't just about the line, right. So thank you for bringing that up.
2 Commissioner Freitas.

3
4 Mr. Freitas: Real quick. I know you only had three minutes and you were talking fast, did I hear
5 you right and did you say if you put a slab on dirt it will go nowhere even with water and wave
6 movement?

7
8 Mr. Abbott: The slab can...thank you for the question. The slab can certainly be under scoured
9 by the point is, you can't...you know the old plantation house you can pick it up and relocate it
10 or if you have a big storm event and the waters come and flow in, they're gonna flow
11 underneath the house. You don't have that if you do slab on grade. And if the sea rises, the
12 ground water is going to rise a well, and there's no escaping that so you're gonna have water
13 seeping in from the side, from the back of our house, front of your house, the seaward side, the
14 mauka side, so that's why you know, slab on grade construction is not bad, it's less expensive,
15 it's faster to do and it's appropriate in some locations like somebody mentioned about well what
16 if I'm on a you know 15-foot cliff, why can't I do slab on grade there? Yeah, go right ahead, that
17 makes absolute sense, but not when you're in a erosion prone area. You know think about just
18 all it is get me the data about where I should build so I can maximize my footprint. And frankly
19 all the hotels if I can add that I've been in after we had the shoreline rules in 2003 based on
20 erosion rates a lot of the hotels came to the Planning Department wanting to know where is that
21 beach gonna be in 50 years 'cause I want to make sure I build around that to maximize that
22 asset 'cause that's what I sell to my tourist.

23
24 Mr. Carnicelli: Thank you, Thorne.

25
26 Mr. Freitas: Thank you.

27
28 Mr. Carnicelli: Any other questions for the testifier? Thank you.

29
30 Mr. Abbott: Mahalo.

31
32 Mr. Carnicelli: Ms. Nishiki.

33
34 Ms. Kai Nishiki: Aloha, good morning.

35
36 Mr. Carnicelli: Please state your name for the record.

37
38 Ms. Nishiki: My name is Kai Nishiki.

39
40 Mr. Carnicelli: Do you promise to be truthful?

41
42 Ms. Nishiki: Yes, sir.

43
44 Mr. Carnicelli: You have up to three minutes.

45
46 Ms. Nishiki: Mahalo. I am the current Chair of the West Maui Community Advisory Committee
47 and a member of the newly seated Mayor's Tourism Advisory Committee as well. We just

1 finished our meeting and rushed over here to get to this meeting so mahalo for having this on
2 the agenda.

3
4 Many...I'm very glad that there's gonna be further community outreach because a lot of our
5 community members can't be here at meetings at 9 o'clock on a weekday unless you get paid to
6 be here like a lot of the tourism folks so I'm glad that you guys are gonna have that.

7
8 In West Maui, we are experiencing the most severe impacts of sea level rise and of resorts and
9 homes built top close too the shoreline. At a recent planning conference that a lot of the people
10 in this room attended there was a focus on sea level rise and the mantra was be proactive not
11 reactive in protecting our beaches, public access and preventing property loss and so I really
12 applaud the Maui County Planning Department in being proactive and putting forth these new
13 shoreline setback rules. I testify a lot, and sometimes I'm critical of the Planning Department,
14 but on this one, I'm on your team so mahalo, Michele.

15
16 Let's see, in regards to beach restoration, I believe, and I'm a supporter of the Kahana Beach
17 restoration project, and while I do support it, I do believe that it's a short-term solution and
18 requires significant long-term investment and therefore I believe that there should be conditions
19 put on beach restoration projects that there be an end of life. We're all mortal so are buildings,
20 there should be an end of life plan and that was kind of something that was also discussed in
21 the planning conference.

22
23 I've heard testifiers today and all over in tourism saying that there's...that these rules are gonna
24 impact tourism, there's going to be job loss, you know one testifier said we're not ready. The
25 ocean does not care if we're ready, it's coming and we need to be proactive in that. Job loss,
26 let's create jobs. This is a new green economy that could be generating jobs. Tourism, tourists
27 don't come here to sit on a seawall, to look...to look at a...I mean in those slides we're talking
28 about oh, look we're gonna have hundreds of sea walls, do we want to look like this is like we're
29 the pool and there's no beaches, like this is not what our tourists come here for. We need to be
30 thinking about what's gonna happen if we don't respond proactively to tourism, to beaches, to
31 reefs, to homes and businesses.

32
33 And I also do not support, I do not support splitting the rules in regards to setbacks and the
34 shoreline, the SMA Rules. A lot of people who want to split them just want to take the carrots
35 and not the stick. We gotta take the whole thing here so mahalo.

36
37 Mr. Carnicelli: Thank you. Any questions for the testifier? Thank you.

38
39 Ms. Nishiki: Thank you.

40
41 Mr. Carnicelli: That's it for people that have signed up on the sheet. Is there anybody else that
42 would like to come forward and testify at this time? Chip, you'll be here after lunch, yeah?

43
44 Mr. Fletcher: Yes...(inaudible-not speaking into a mic)...

45
46 Mr. Carnicelli: Okay. You're gonna have plenty to say, we got plenty questions for you brah.

47

1 Mr. Rod Antone: Hi, I'm Rod Antone. I'm the newly minted Executive Director of Maui Hotel
2 and Lodging Association.

3
4 Mr. Carnicelli: Well, congratulations Rod. Do you promise to be truthful?

5
6 Mr. Antone: I don't start till tomorrow so I'm actually not getting paid right now.

7
8 Mr. Carnicelli: Do you promise to be truthful?

9
10 Mr. Antone: I promise to be truthful for the next three minutes for sure. I just want to say that
11 the hotels and resorts want to...they know this is coming. I've skipped over to acceptance. The
12 line's going all the way up, okay. But it's how, how do we...and we want to work with the
13 community, we want to work with the County, it's a thankless job and the Planning Department I
14 know I got all the complaints as a Communication Director. You guys get blamed for stuff you
15 do, you guys get blamed for stuff you don't do, and this is an action that needs to happen, it's
16 how and how do we work with you guys and is it ready to go out to the community right now? Is
17 there more research, is the data complete, are there more studies that could happen. I don't
18 have an engineering degree but I know a little bit about communication and once you present it
19 to the public, if it's not presented the right way things can go wrong very, very quickly and you
20 can't get that back especially with social media so just we'd like to work with your guys maybe
21 sit down and talk and that's it, and thanks very much for all your hard work.

22
23 Mr. Carnicelli: Thanks, Rod. Any questions for the testifier? No, you're good.

24
25 Dr. Chip Fletcher: Just really quickly...

26
27 Mr. Carnicelli: Please identify yourself for the record.

28
29 Dr. Fletcher: Chip Fletcher.

30
31 Mr. Carnicelli: Chip you promise to be truthful?

32
33 Dr. Fletcher: I do.

34
35 Mr. Carnicelli: Okay.

36
37 Dr. Fletcher: Back in 2003 when Maui County changed its setback at that time the
38 FEMA National Flood Insurance Program reduced the insurance premiums for the entire island
39 under the Community Rating Program. So when a community such as an island shows
40 proaction in terms of increasing safety from an insurance point of view, the NFIP recommends
41 that the premiums be reduced so there was a savings throughout the island at that time and I
42 would expect there would be again with this setback. Thank you.

43
44 Mr. Carnicelli: We'll get into that later I think too. So awesome, thank you. Any questions for
45 the testifier? Seeing none, anybody else like to come forward and testify on this particular item?
46 Okay, so if there are no objections we'll go ahead and close public testimony. I know at least
47 has...has to leave and sooner rather than later, do you guys wanna just push forward?

1 Commissioners, do you want to take lunch or I mean I guess we could eat in front of everybody,
2 we could keep going, are you guys...you guys okay to keep going? Okay. Okay, at this point in
3 time why don't we go ahead and take questions from the Commissioners for either staff or for
4 Chip at this point in time on the presentations. Commissioner La Costa.

5
6 Ms. La Costa: Thank you, Chair. My question goes to Planning Director. I have heard from the
7 many testifiers that elevation is a concern, the substrate is a concern and one size does not fit
8 all. So when the sea viewer was initiated was there just an algorithm that calculated how far the
9 sea rise would go within X amount of months or was it eeeny, meeny, miney, mo or did they
10 actually look at the substrates and the...what is there already and the elevation?

11
12 Ms. McLean: I love that you think I could answer that question. Chip made it up to the podium
13 before I could even finish processing it. I do want to make one comment on one size fits all, and
14 I'd also appreciate Chip's input on that part of it. It's not one size fits all because the proposed
15 setbacks have a variety of options so there...one of the main ones being the erosion hazard line
16 and then in the areas where the erosion hazard line isn't mapped having the Department map
17 and having a setback based on that line, but that there are scenarios where the current formula
18 would apply, and then also the opportunity to factor in other considerations such as beach
19 nourishment, engineering solutions through an administrative process. So there are really four
20 different options for determining the setbacks so I would, I would say it's not one size fits all, it's
21 there are the preferred Plan A options but then there are other options as well. But I'd like to
22 hear Chip's input on that and then on the question about the substrate.

23
24 Dr. Fletcher: I think it's a very legitimate concern to worry about the red line on a substrate
25 that's not likely to erode, hard rock. There was no, there was no effort to look at the substrate
26 that the red line sits on. The red line assumes that there is nothing in the way of that will
27 change the historical rate of shoreline change other than sea level rise so revetments and sea
28 walls are ignored. That's done on the assumption that they don't last forever unless they are
29 continuously repaired and we didn't want to assume they would be allowed to be continuously
30 repaired and so...and it just became to granular to be able to do that with all our modeling.

31
32 And I'm totally in support of the idea of doing a...sort of a GIS analysis here of taking the
33 geology, the digital geology layers that exist, looking at where the red line does unreasonable
34 things like jogs way out into the open ocean. That is a result of the algorithm, the model, and
35 we didn't have the funding or opportunity to go along it and make granular adjustments to it. So
36 I think that's...that can be done in a fairly straightforward way without a huge expense and a
37 huge amount of time to sort of do some tailoring on that red line.

38
39 Mr. Carnicelli: If could follow up on what she's saying 'cause when you saying nothing gets in
40 the way including reef, correct, that part of your modeling does not include reef?

41
42 Dr. Fletcher: Right, so the modeling takes as given the historical rate of shoreline change and
43 so if there was reef there, fine. If there wasn't a reef there, fine. Every 20 meters or 66 feet
44 along the shoreline there is a unique rate of shoreline change—

45
46 Mr. Carnicelli: Right.

47

- 1 Dr. Fletcher: --that feeds into the model. So we don't need to worry about the reef or anything
2 else in terms of the natural context. We will take 100 years of natural shoreline change and
3 then we will apply this very generalized geometric Bruun Rule and add the two together, natural
4 rate and the Bruun Rule and we come up with a future rate of change. So correct.
5
- 6 Mr. Carnicelli: I guess part of that though too is as some of the testifiers and I've spent hours on
7 the view finder just going...I'm granular on it. But you know there's areas where it may not
8 necessarily...like one of my favorites, the two places I keep going to are Kalama Park in Kihei
9 and Front Street in Lahaina. You know, where those are the two where I just look at the line
10 and I go—
11
- 12 Dr. Fletcher: Wait a minute...
13
- 14 Mr. Carnicelli: --that's not working, you know. So inherently then I have a distrust on the model.
15
- 16 Dr. Fletcher: So that gets into what are the assumptions that go into it.
17
- 18 Mr. Carnicelli: Right, right and I've drilled down on that too.
19
- 20 Dr. Fletcher: When we look at our historic aerial photographs we only measure the location of a
21 shoreline as long as there's a beach there.
22
- 23 Mr. Carnicelli: Right.
24
- 25 Dr. Fletcher: In Lahaina, we had beaches up until I don't know, 40s, 50s or 60s. Then we
26 stopped measuring the shoreline location and we calculate a rate for the previous decades and
27 then we extend that into the future, but Lahaina's not going anywhere so having a rate of
28 change that goes up into the Front Street and beyond really isn't meaningful unless you want to
29 know if Lahaina were allowed to be natural what's the best estimate of where the shoreline
30 would reset itself if given the opportunity then you have some information.
31
- 32 Kalama, same thing. You've got a great big revetment there and the rate of change in the
33 model is based on before that revetment went in '72 or '74, whenever it was.
34
- 35 Mr. Carnicelli: Right.
36
- 37 Dr. Fletcher: So those are just some of the details of the model that the planners know and that
38 we have shared in workshops back, you know 15 years ago and they're written down there, but
39 you know it's hard to get to that stuff it requires...
40
- 41 Mr. Carnicelli: Yeah, if you...like 'cause I got the view finder up on my computer right now and
42 you know, you go to okay, what are the assumptions and then even okay, go to okay, the report
43 that was published and I can read through that. Yeah, I got all geeked out on it.
44
- 45 Dr. Fletcher: The public doesn't do that and so I understand exactly what your point is.
46

1 Mr. Carnicelli: Right, yeah 'cause if you're...the admission is yes there are flaws to it, but when
2 all you see is a bright red line it's like hang on a second there are flaws to this, there have to be
3 flaws to this but I guess the part that is is that you're admitting your flaws so thank you.

4
5 Dr. Fletcher: May I comment to that?

6
7 Mr. Carnicelli: Of course.

8
9 Dr. Fletcher: I wouldn't call them flaws I'd call them assumptions.

10
11 Mr. Carnicelli: Assumptions, okay based assumptions.

12
13 Dr. Fletcher: So that's where a sort of granular remapping of the line would make sense. Okay,
14 we come across Kalama what we do we want to do with the red line here?

15
16 Mr. Carnicelli: Right. Well, and it also seems to be that there are anomalies not only like just
17 say Front Street but like you know some of the testifiers there's some that like two red lines
18 cross over each other, you know, and then there's okay it start, stops, starts, stops, and it would
19 actually be helpful I know that if we're gonna go to those different options let's say that GIS in
20 the Department is going to say okay, here's the shoreline that we're gonna go 200 feet from
21 there, connect or like show that with the red line would be really helpful I think not only just for
22 us but the people that are gonna be affected by this.

23
24 Dr. Fletcher: Absolutely, those are spots where we need to ask okay, what happened here?
25 Why is it doing this?

26
27 Mr. Carnicelli: Right. Commissioner Robinson.

28
29 Mr. Robinson: Thank you. Yeah, I don't think any of us is denying sea level rise, so I think
30 that's good you know, but it again this is not a vacuum as well, you know, and the input that
31 we're going to do the reach out and you know there's different things and I'm a believer in
32 engineering, I'm a believer in options instead of acceptance. Had a testifier that you know talk
33 about wanting to leave things for his grandkids, well I want to leave beaches for my grandkids.
34 Talk about saving reefs you know the reef is...the sand is on the reef now, I want to take the
35 sand off the reef and put it back onto the beach where it used to be, you know then the reef
36 might grow, if the reef grows maybe the waves will break soon and the maybe the erosion might
37 be a little less 'cause reefs, there's less erosion, less wave heights, so you know there's a lot of
38 like you said you know assumptions, you know there's a lot of different things we can look at. I
39 don't think every situation is created equally.

40
41 I think, I think when you look at our resort areas, I think they have resources to help, to help
42 support their properties than homeowners do. I think there's a, there's certain homeowners that
43 you know, that chose you know the different devices such as walls instead of graduals that
44 we've over the past few years we've switched to, we can make those change. And I think the
45 things that we're looking at are you know, it's pretty bad you know 80 years from now, but that's
46 80 years from now, I mean, you know there's no way that we should take ten years for our sand
47 restoration project. That is ridiculous, that's something that legislation we have to fix. You

1 know, I mean, we shouldn't be waiting for the Army Corp of Engineers, we should be able to you
2 know develop something that's going to happen now, I think that you know, we also, you know
3 about the weight of the lava that brought, you know our islands down besides the sea level
4 raise, you know we had that kind of combination happen the last couple years, and you know
5 we didn't talk about that as well.

6
7 So I want to make sure that people hear that that we're listening to everything. I think we're
8 meeting with everybody but it's not going to be where everybody gets to choose what they want.
9 You know, this is a County board, this is what we're here for, but we're here to listen, we're here
10 to make sure that it helps everybody and it might be zoned in different areas, you know, like I
11 said you know, I hear a lot about topography, right, the topography should be where the line is
12 not the setback. Andaz was a perfect example. It's on a elevated cliff with 150 feet back, you
13 know, we're not going to have to worry about that place, and we all have topography maps you
14 know. Real estate everybody has topography maps and so I think that's something that could
15 be overlapped very easily in your scenario. I don't think it's something that we have to try and
16 do it new, I think it's just hopefully you could just layer it and then I think we can work towards it.
17 I don't think something is going to happen soon even though we know it has to be done, I think
18 50 feet is drastic, I think we can look at different scenarios 'cause we haven't tried that many
19 things. Iroquois Point like I stated at the last meeting I think is a success story, you know, but
20 you know it's how long are we going to study to do studies.

21
22 You know sand is sand, sand can always be moved. If we restore sand we can always get the
23 sand to move away, you know, I think there might be some things that we can look at to where
24 we if you're gonna do a restoration you might have to do a groin because we don't want to
25 disturb something too far back and forth, you know I'm not sure and I'm well aware with the
26 Bruun in Kailua, the sand coming back and moving, you know Lani Kai they have, you know it's
27 like some of these areas in Kihei people, we have the people that build walls and so where the
28 sand used to go and develop beaches the sand then goes down and moves on the other side,
29 right? It's every action has a reaction. So, I think more information is better but that we all have
30 to, we have to look at all different things and not every scenario is going to be same and that's
31 gonna be the challenge I think in front of us. Thank you.

32
33 Mr. Carnicelli: Thank you. Commissioner La Costa.

34
35 Ms. La Costa: Aloha, thank you Doctor, I appreciate very much your incredible and to me,
36 frightening reality of what's happening and hopefully other people in the nation and the world will
37 understand it. Koolina, the little ponds that are built in Koolina, those are manmade groins are
38 they not?

39
40 Dr. Fletcher: Not groins but coves.

41
42 Ms. La Costa: Okay, coves. So how does the wave action and what is the accretion and what's
43 the other word that it leaves—

44
45 Dr. Fletcher: Erosion.

1
2 Ms. La Costa: Erosion, thank you it sounds like. How is that, that area affected by those
3 coves?
4

5 Dr. Fletcher: So Koolina sits on a limestone bench, an old reef that's actually three to five
6 meters above sea level. Waikiki and Kakaako sit on an old wetland that originally was at sea
7 level so Koolina is a sort of place that we discussing as a potential future of tourism or a future
8 place where sea level rise is not going to immediately shut things down. Waikiki is much more
9 problematic. The coves are cut into the limestone and the sand is made up of the ground up
10 limestone and placed there. Now when you grind up limestone to sand size and then place it, it
11 tends to lightly re-cement. If you ever go to Fort...not Fort,...well, Fort DeRussy or the Hilton
12 Hawaiian Village there's a beautiful, wide beach there in Waikiki but you want to wear a bike
13 helmet on it and that's because it's ground up limestone that re-cements. This stuff is the exact
14 same chemistry as concrete cement. So the beaches at Koolina, they bring sea engineering in,
15 in fact, once a year to re-maintain them and to keep them steep and keep them from sloughing
16 down. Keep in mind that waves build beaches as well as erode them. So if you completely
17 isolate a beach from wave energy gravity will essentially, we eventually flatten that beach down
18 and it will slip right down to mean sea level and you know it's another form of erosion. But the
19 coves I think are overall a really good thing. I just pointed out a couple of the negatives, but if
20 you maintain that beach in various ways I think that's a successful model Koolina.
21

22 Ms. La Costa: Thank you.
23

24 Mr. Carnicelli: So Chip I would be remiss if while you're here we didn't talk about the disclaimer.
25

26 Dr. Fletcher: What disclaimer? Oh, the—
27

28 Mr. Carnicelli: The disclaimer, we gotta talk about the disclaimer so on the view finder for those
29 of you that don't know the original disclaimer basically said that this is not to be used a planning
30 tool, that you...what we talked about that each individual area should be viewed on its own
31 merits, yada, yada, yada, and then magically on November 27, 2018, the Climate Change
32 Commission went into executive session, came out of executive session and poof we now have
33 a new disclaimer that doesn't have any of that stuff on there. So I'm gonna give you this
34 opportunity to address that please.
35

36 Dr. Fletcher: So when we undertook this modeling it was the first time it had ever been done.
37 The sea level rise impact modeling done by other municipalities round the country had done
38 what's known as bathtub modeling where you simply raise sea level digitally and see where the
39 water flows. We did that as well as applied our erosion model as well as applied a wave run up
40 model at several increments of sea level rise so it's was a more dynamic approach. We had it
41 published it in the peer review literature, scientific literature which is the gold standard for
42 scientists and everybody involved from DLNR to the scientific team to the consulting team
43 TETRA Tech we all just thought we should take a great deal of caution in pushing this out and
44 so that disclaimer went up.
45

46 In the meantime, we published our methodology, we published it not only in a scientific journal
47 but it was Nature Scientific Reports which is a very prominent journal and it went through peer

1 review very well and as you've seen it's won an award for one of the most highly read papers in
2 2018 and there have been no negative comments. Typically a paper that is, that is heavily used
3 somebody will write a negative comment on it and that's ...(inaudible)...and we haven't had
4 that, so...and simultaneously hungry for tools the counties and the state went forward in using
5 the products despite the disclaimer to start to build policies and programs to adapt to sea level
6 rise,. And so in recognition that people were running with it for policy purposes and that it had
7 been published, the disclaimer was replaced or removed and everybody involved made the
8 decision to embrace the use of this modeling for helping our community adapt to sea level rise.
9 That's the...there's not a great deal of nefariousness behind the curtain that's just how it
10 happened.

11
12 Mr. Carnicelli: Okay. How many journals did you guys submit it to, was it just the one?

13
14 Dr. Fletcher: Just the one.

15
16 Mr. Carnicelli: Just the one.

17
18 Dr. Fletcher: Yes, it was never submitted and rejected.

19
20 Mr. Carnicelli: Okay.

21
22 Mr. Freitas: Can I...I have a question.

23
24 Mr. Carnicelli: Yeah, Commissioner Freitas.

25
26 Mr. Freitas: Thank you. Earlier Commissioner La Costa had mentioned Koolina and there's a
27 little difference with the ocean right outside of those lagoons...call it lagoons because it goes
28 really deep versus some of the area that I think you said we may consider it's actually reef that
29 extends out shallow which creates a great surfing spot for a lot of the locals. I know a lot of
30 people I don't see that really happening in a lot of the resort area that concept of the cove.

31
32 Dr. Fletcher: Absolutely. It's a very different ocean experience there. They...my daughter is
33 the manager of outdoor activities at the Four Seasons at Koolina so every day she comes home
34 and talks about the lack of a coherent safety system up there, the beach boys you know they
35 rely on local guys who understand water to work with the outdoor component of the hotel
36 because there aren't any City and County life guards that are deployed there. There are six-
37 man, and four-man canoes and two-man canoes, there I think a swimming platform. They're
38 not allowed to go outside the cove. A couple weeks ago a four-man was coming in the cove
39 with some guests and it got washed up on the rocks, I probably shouldn't be revealing all this,
40 my daughter is gonna kill me, but they're all told you may not go out and rescue someone, you
41 may not go help someone, which is ridiculous of course, but yeah, it's a very different
42 experience there's not a coral reef right there and they don't want you going outside the cove so
43 very different.

44
45 Mr. Carnicelli: Director.

46
47 Dr. Fletcher: Please don't even tell my daughter that I said all that.

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Mr. Carnicelli: Akaku's not here today so you got off the hook.

Ms. McLean: I will be touching base with Jim and Tara on the seeing if we can factor in the whatever digital geology layers you may have and reviewing those algorithms in areas where the lines don't match up. But if, if the red line can be refined to account for those breaks or overlaps and to account for geology and substrate do you think that's a sound basis for us to use or for this commission to use to establish shoreline setbacks?

Dr. Fletcher: Yes, I think it's a very...I think it was the best available information on where the erosion hazard will be under higher sea level.

Mr. Carnicelli: I think that that is something that we all would welcome you know is that is 'cause I think a lot of the feedback that I got, you know the people that are going have you seen the red line, is wait that's, you know, that's a rocky shore, you know like you know, I know what the substrate is there, dah, dah, dah, dah, dah, so if we could include that I think it would be extremely helpful and taking into account those you know say, whether it be Honokowai or Kahana, I'm sorry Kalama Park, you know where it's like okay, there was this small beach that's no longer there and now there's big revetment or whatever it be so I think that would be very helpful. Anybody else have any comments, questions?

Dr. Fletcher: Can also say there were a lot of places where it made sense.

Mr. Carnicelli: Absolutely, yes, yes. Okay, you know I'm sorry I'm taking the anomalies, so yes. It's because you're here, right, we can talk about the good stuff when you're not here. You gotta answer the hard questions that's why we flew you over here. Any other comments, questions? Jeff you look like you wanted to say something?

Mr. Dack: Yeah, I did at one point. There was mentioned for example, Lahaina and that's where you know I also, and we, as the Department, saw is this red line going up you know couple hundred feet makai of Front Street really makes some sense. So we took another approach to it and that's in the proposed rules, we can visit right now. We...and that's...that can be another approach to coming up with a solution. We can talk about maybe modifying the line, fine tune the line, you can also come up with how you would address different situations with the situation in Lahaina we added a provision we originally didn't have in there that now says in the proposed rules that if you have a situation where you have a public infrastructure, major public infrastructure that is in place such as Front Street for example that it provides a lot more flexibility for even without changing the setback line, it provides a lot more flexibility for what you can actually do within that setback area.

So again, I just wanted to put out that you know not just always change the line, sometimes changing the regulations within...keep the line the same, a couple different approaches, we can look at, look at all of those things and I believe that, you know, I think we probably have a pretty good proposal right now, but you know it certainly improvements can be, can be done and we welcome...(inaudible)...opportunities to converse with the communities.

Mr. Carnicelli: Good, thank you. I think that's it for this particular item. Oh, go ahead.

1
2 Dr. Fletcher: So I'm part of a study group that is looking at Chapter 23, revised ordinances of
3 Honolulu so that's their setback law and we're thinking of taking the approach of identifying, you
4 know you said most of the Maui shoreline but the horse is really out of the barn on Oahu, right,
5 it's been developed like crazy. We're thinking of taking an approach where we identify
6 segments of shoreline that there's a set body of language or a policy that is specific to the whole
7 thing like for instance between Diamond Head and Koko Head on the way out to Hawaii Kai you
8 have sort of light residential development, you have a very narrow eroded beach versus places
9 like Kailua with a huge, wide beach that is still accreting or up on Sunset which is eroding
10 heavily but highly variable and noisy season to season. More of a place-based approach then
11 would bring in the red line, bring in the wave run up, the seasonal wave run up and develop a
12 setback and also some specifics to the SMA which is based on the sea level rise exposure area
13 going back to the use of the word, granular, segment by segment.

14
15 Mr. Carnicelli: I have to agree with you, 100 percent on that. I mean it makes sense. I mean
16 even to think that Kaanapali Beach itself is two separate cells, you know, like...just but to say,
17 okay this particular area...I mean, how big, small are we gonna get?

18
19 Dr. Fletcher: You could really go down a rabbit hole and I've tried to do that and boy I came up
20 with a 137 different segments of the Oahu that won't work.

21
22 Mr. Carnicelli: Right, right, right.

23
24 Dr. Fletcher: So, yeah.

25
26 Mr. Carnicelli: Go ahead Jeff.

27
28 Mr. Dack: Yeah, thank you. There was concern expressed about how long it's taken for
29 example in Kaanapali to get that ready. We don't want to study that to death. I think we need to
30 have a similar concern about these kinds of rules certainly more discussion can happen but the
31 crisis is now, it's happening and I don't think we can wait a huge amount of time to put
32 something in place. So let's have that same kind of concept of moving forward quickly to get
33 something in place that again we would like to have been able to see in Kaanapali and we
34 would like to be able to see quicker reaction when we're actually working on beach restoration.
35 So let's...let's hope we can move forward and not put things off, not kick that can down the
36 road, but you know, move forward and hopefully have the Commission have the opportunity to
37 take some action ...(inaudible)...in their future. Thank you.

38
39 Mr. Carnicelli: Agreed, agreed, and that's where I mean as much as Kai did not want to
40 separate the SMA Rules from the shoreline stuff, if we can march forward on some stuff it does
41 make sense then I think maybe should and not just say like we need to study this to death, but
42 move forward what we can. Jim.

43
44 Mr. Buika: Yeah, I'd just like to say that part of our problem, our shoreline team problem is that
45 we are so absolutely overwhelmed with emergencies, properties that are threatened, failing
46 seawalls, people spending millions of dollars, we haven't had a chance to do proper education
47 and outreach. We're attempting to do that, we're kind of on a daily basis we swirl around and

1 deal with all these issues. We may be present to you and to the community maybe two percent
2 of what's going on out here. There is a crisis going on. There are buildings with sea caves
3 underneath them, with sinkholes underneath corners of condos, 40 seawall properties have
4 failed, and these expenses just to repair these seawalls are multi-million-dollar expenses.
5 It's...seawalls aren't gonna hold back anything we have failed seawalls on Front Street.
6 Anyway, part of our problem is this crisis is growing, we sorely need these rules just to alleviate
7 some of the work and the problems that these people will face in the future. Anyway, we need
8 to do more education and outreach and we are attempting to do more of that obviously by this
9 session and ones coming up in the future and other issues around the island so thanks to all.

10
11 Mr. Carnicelli: And the second presentation you did today I thought was very helpful for people.
12 I thought it was extremely helpful for people so continue that one too. Commissioner Robinson.

13
14 Mr. Robinson: Jim, on that note is, is we have target areas that are really the problem right now
15 instead of the whole state, I mean the whole island. We're trying to, you know, fix the whole
16 island all at once instead of trying to get these target areas. I mean, is there another approach?
17 Let's hit these target areas. I mean, we know that...we know where Kahana's going and we
18 know that shoreline, and we know that South Kihei with just the rise of the ocean it's gonna be
19 our next whole neighborhood flooded, right, cause every time it rains that's what happens. So
20 instead of us trying to get it all done right, maybe we need to, you know, break it down and
21 focus on certain areas first and you know, get that zone or that this area is this and the rest is
22 exempt until we get it together. You know we should allow for areas or associations such as the
23 hotels or different areas that are a larger group, Wailea, and make them work on something to
24 them to bring to you guys to say okay, well we're doing this, this, this, can we be exempt from
25 these rules and let's...cause we spending so much time all over the place, but really it seems to
26 me like this is worst cases is happening in one, in one location. So that's just a
27 recommendation.

28
29 Mr. Buika: I mean, that's, that's valid, we could look at that. One example, a brand-new crisis
30 that we have on our hands is Halama Street. Halama Street short-term rentals they want to
31 build 7,499 square foot homes right at the shoreline. We have major sinkholes, major failing
32 seawalls, it's, it's improper for us to be allowing in my opinion, allowing these major, \$3 million
33 structures that where under our current rules are, are being cited at risk when they
34 should...we're trying, our team is trying as much as we can to educate homeowners without the
35 new shoreline setback that you don't want to build there, you want to build back, you want to
36 elevate, you want to do the minimum buildable area for your own sake. So that's one example
37 where we could take Halama Street.

38
39 Then the other thing that we do have in our rules is if we do adopt these rules
40 Section 12-203-07 request for an amendment to the shoreline setback line established by the
41 erosion hazard line where the approximate shoreline map by the Department. So there is a,
42 there is a safety valve, there's several safety valves here where anybody can, hey, I'm on a lava
43 bluff so your erosion rate doesn't...is inconsistent for my property so they can come in and they
44 could amend it. So—

45
46 Mr. Robinson: Yeah, but...I mean---

1 Mr. Buika: --a lot of these rules is good with amendments.

2

3 Mr. Robinson: --but we don't want 3,000 people trying to turn in their exemptions.

4

5 Mr. Buika: I'm just pointing out that there is a safety valve here for anybody who is concerned,
6 anyway, thank you.

7

8 Mr. Carnicelli: Great, thanks, Jim. Okay, while we have Dr. Fletcher here, now's your time.
9 Shoot arrows at him, ask him questions, whatever you gotta do. I guess that's it. Thank you for
10 taking the time to come over today. Appreciate it.

11

12 Dr. Fletcher: Thanks for asking me.

13

14 Mr. Robinson: More assumptions, more assumptions.

15

16 Dr. Fletcher: Less assumptions, less assumptions.

17

18 Mr. Carnicelli: I guess at this point in time, we're go ahead and move on so then thank you for
19 this. We'll go onto I guess it's Director's Report.

20

21

22 F. DIRECTOR'S REPORT

23

24 1. **MICHELE MCLEAN, AICP Planning Director, transmitting the following**
25 **applications to the Maui Planning Commission pursuant to the provisions**
26 **of the Maui Planning Commission's Special Management Area Rules that**
27 **the following permit transfer has occurred by approval letters dated**
28 **October 7, 2019 and October 8, 2019.**

29

30 a) **MR. KEITH KOOPER, VICE PRESIDENT, ATC MAKENA HOLDINGS,**
31 **LLC AND VICE PRESIDENT, MAKENA GOLF AND BEACH CLUB**
32 **OWNERS requesting a transfer of Special Management Area (SMA)**
33 **Use Permit from ATC Makena Holdings, LLC to Makena Golf and**
34 **Beach Club Owners (transferee) for the Makena Resort H-M Project**
35 **on approximately 23.89 acres at 5400 Makena Alanui Road, Makena,**
36 **Island of Maui, TMK: (2) 2-1-005:086 (SM1 2013/0013) (A. Cua)**

37

38 b) **MR. KEITH KOOPER, VICE PRESIDENT, ATC MAKENA HOLDINGS,**
39 **LLC AND VICE PRESIDENT, MAKENA GOLF AND BEACH CLUB**
40 **OWNERS requesting a transfer of Special Management Area (SMA)**
41 **Use Permit from ATC Makena Holdings, LLC to Makena Golf and**
42 **Beach Club Owners (transferee) for the M-5/M-6/S-7/B-2 Project on**
43 **approximately 47.15 acres on Makena Alanui Road, Makena Island of**
44 **Maui, TMK: (2) 2-1-008:080, 098, 099, 100, and 106 (SM1 2015/0012)**
45 **(SSA 2015/0065)(A. Cua)**

46

1 Ms. McLean: Thank you, Chair. The first item under Director's Report is notification of two
2 Special Management Area Use Permit transfers from ATC Makena Holdings LLC to
3 Makena Gold and Beach Resort, excuse me, to Makena Golf and Beach Club Owners. First is
4 for the Makena Resort H-M Project on approximately 23.89 acres at 54 Makena Alanui Road in
5 Makena at TMK: 2-1-005: 085 and the other is the M-5/M-6/S-7/B-2 Project on approximately
6 47.15 acres of land on Makena Alanui Road at TMKs: 2-1-008: 080, 098, 099, 100 and 106.
7 Again, these are for notification purposes.

8
9 In the packet, we included the affidavit, we included a letter from the principal owner of the
10 transferee as well as the original permit conditions. Are there any questions on this transfer?
11 We are asking staff to provide information on the packet, in the packets of who the transferring
12 entity is. This isn't quite complete but we're getting there with what we request from the
13 applicant or the transferor.

14
15 Mr. Carnicelli: Commissioner Robinson.

16
17 Mr. Robinson: Thank you, Director. So what my question was and I guess is when people
18 come to us for an SMA they bring their expertise, they bring their financial backing, they bring
19 their body of work in Hawaii so when these...and those are all types of things that we help you
20 know with confidence to vote for this and so this affidavit's great that he will promise to do that I
21 think that's a good step and just if you know, it's I wanted to understand, so like Makena these
22 were partners that one partner stepped on and one partner stayed but what I don't know is
23 which partner was it? Was the managing partner that promised us that they have culture people
24 on payroll, that they're gonna develop this, that they run Hokulia on the Big Island you know that
25 they already have something going on or is it just these people the financial and they bought out
26 the lower percentage guys that were hired just to go ahead and get this permit passed. I think
27 that's the type of information that I would, I would, I would like to have otherwise you know I
28 mean is, is do we have to when we give SMA Permits say transfer have to be through the
29 permit 'cause we want to make sure all the principals stay the same. I don't want to go to that
30 because that would be a nightmare for developers but we should still accept some type of
31 semblance, some type of professionalism from them that that what they stated in the application
32 will hold as much is true and you know, I don't know if we have to ask what the percentage the
33 people who are...(inaudible)...because the person who signed this are...he's not a person that's
34 ever testified in front of us before when they got this permit as being one of the partners. Thank
35 you, Chair.

36
37 Ms. McLean: Understood and we're...this was about half way in that direction so future
38 transfers will have more information and actually the gentleman from Makena was here earlier,
39 he wasn't able to stay but he was here to answer questions, so we'll also ask that of future
40 permit transferees if they're able to be here to speak to the commission.

41
42 Mr. Robinson: What the irony was Chair, I mean, the irony was the affidavit's from New York
43 but he picks up his daughter here at school so I didn't understand that signature. So, was that
44 the person that was going to testify today or not? I didn't know there was a County of New York
45 that's new to me too.

46
47 Mr. Carnicelli: Probably New York City County.

1
2 Mr. Robinson: Was Manhattan I don't know.

3
4 Mr. Carnicelli: I don't know. I don't know nothing.

5
6 Mr. Robinson: Forget about it.

7
8 Mr. Carnicelli: We don't need to take action on that.

9
10 Ms. McLean: Yes, that was just for notification purposes.

11
12 Mr. Carnicelli: Right.

13
14 **2. SMA Minor Permit Report**

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

17
18 **3. SMA Exemptions Report**

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

21
22 Ms. McLean: Next we have the SMA Minor and Exemptions Reports. Are there any questions
23 on those?

24
25 Mr. Carnicelli: Seeing none, oh, Commissioner La Costa.

26
27 Ms. La Costa: Thank you. I do have a question about the previous comment from Director for
28 Commissioner Robinson. So when an SMA is filed and you have to list who the principals or
29 the parties are for the project, correct?

30
31 Ms. McLean: Not necessarily.

32
33 Ms. La Costa: Okay. So we wouldn't know and if they wanted a transfer we wouldn't know as
34 Keaka said whether the original five would go away and someone else would take their place
35 just so they got the permit?

36
37 Ms. McLean: In a permit application we require information on the owner of the property and
38 then the applicant if the applicant is different from the owner. And the owner can be an LLC
39 that's created solely for the purpose of developing that project. It doesn't have to be an entity
40 that existed before or has another function. So the permit can be issued in name of that entity
41 and then that entity can sell its interest or the makeup of that partnership can change that's what
42 happened with Makena, but during the permitting process when the applicant is here talking
43 about their project and they explain, you know how they arrived at what they're proposing the
44 Commission asked well, why are you doing this, did you consult with the community, who are
45 your cultural experts, and so the commission has the benefit of all that information. Then when
46 the permit is transferred we don't necessarily know who that new permit holder is and that's the
47 nature of what Commissioner Robinson is asking.

1
2 Mr. Robinson: And with this and with that one it was heavily this is our team, this is our team,
3 this is our team and now the team's gone.

4
5 Mr. Carnicelli: Commissioner Freitas.

6
7 Mr. Freitas: You know, that's the one question I had about that that I read, I also looked at, I
8 believe it was signed in 2015 and if they put in a SMA have they even started because it shows
9 they have to start by July 31, 2020 and that's less than a year and if they're doing a switchover
10 like this, just like he's saying who are these people that they gotta rehire and get their cultural
11 person in and all of these people will they start on time and I'm not sure exactly if it's everyone.
12 How many different ones they had you had listed about four so that was my concern, it was the
13 question I would have asked is are you folks gonna start on that time and if they don't do we
14 give them an extension?

15
16 Ms. McLean: I don't know if they're gonna start on time. Initiation of construction can be a
17 number of things, I mean it can be as simple as putting up your dust fencing, so demonstrating
18 initiation of construction isn't necessarily that hard to do. But if they don't make that date or let's
19 say they do that, but then they're not able to complete construction in five years they can ask for
20 a time extension and the process for a time extension right now is they can get up to a two-year
21 time extension that does get presented to the commission for you to waive your review of that
22 and allow the Department to issue that time extension. There have been cases where the
23 commission has said, no we don't want to waive the review, we want to see the whole thing like
24 in this case, you could say no we want to see who your project team is gonna be or it could just
25 be a two-year time extension where you waive review and allow us to extend.

26
27 Mr. Carnicelli: So on his point then, when we get time extension requests please include any
28 transfers that may have happened to that so we know like okay, if it's one of these guys or gals
29 or whoever it is that isn't our original and they're the ones coming and asking for the extension
30 and I think it's fair that we know sort of the chain of title with a lack of a better way of saying it.

31
32 Mr. Robinson: Yeah, I think they have to do that...(inaudible - not speaking into a mic)...that's
33 why it's in front of us.

34
35 Mr. Carnicelli: Okay, okay, but just to make sure.

36
37 Mr. Freitas: Only because we were talking about different rules for setback and all that, what if
38 now they didn't start yet and these rules go into effect you know, so that's why it's important. If
39 they started then I guess we can't do anything, if they haven't started they should reapply that's
40 what I'm thinking.

41
42 Ms. La Costa: What does happen in that instance where they've gotten a CMA under the rules
43 of 2013, haven't started and now the rules have changed in setbacks and other construction
44 criterion, what happens?

45
46 Ms. McLean: At the end of the rule amendments there should be a section that talks about
47 when they take effect and how they would apply to either permits that might already be in

1 process or permits that have been issued that are still valid that construction hasn't been
2 initiated yet. Typically what happens is the older standards apply to those situations and it's
3 only new building permits, new construction that would be subject to the new rules.

4
5 Ms. La Costa: So if I might Chair is that something that might be reviewed, you know does it
6 make sense to give them, the setbacks prime example, does it make sense to say, yeah it's
7 okay, you applied for your permit in 2013 so you can build 40 feet when their...the red line is
8 inundating their entire project?

9
10 Ms. McLean: That's something where we would get some advice from Corp. Counsel how
11 vested is that permit holder in, in the permits that they have received and are they entitled to still
12 build under those permits if those permits are still valid.

13
14 Mr. Carnicelli: Thank you. So—

15
16 Ms. McLean: We're there any questions on the SMA Minor or Exemptions Report?

17
18 Mr. Carnicelli: Seeing none, so at this point I need to ask to...for a motion to amend our agenda
19 to include I believe it was given to you guys a Decision and Order Denying the Bed and
20 Breakfast Home Permit for the Maui Beachside B&B is we need to add this to our agenda. I
21 need a motion and then we—

22
23 Mr. Robinson: So move.

24
25 Ms. La Costa: Second.

26
27 Mr. Carnicelli: Moved by Commissioner Robinson, seconded by Commissioner La Costa. In
28 order to amend our agenda we need a two-thirds vote so that means we need all six of us to
29 agree to amend to include this. Speaking to the motion, Commissioner Robinson.

30
31 Mr. Robinson: Commissioners this is something, a decision and order from our previous vote
32 and they want to do this, it's just a little bit of housekeeping and that's all this is but because it
33 wasn't on the agenda today we have to vote to put it on the agenda and that's why I made a
34 motion to do that now.

35
36 Mr. Carnicelli: Yeah, Director.

37
38 Ms. McLean: So for the record, this is a Decision and Order denying the Bed and Breakfast or
39 B&B Home Permit for the Maui Beachside B&B, Island of Maui, Hawaii, TMK: 3-2-020: 025.

40
41 At the April 23, 2019 meeting the Commission voted to deny this permit and the application was
42 denied because when asked by a Commissioner the applicant had admitted that they had been
43 illegally operating and would therefore be ineligible to apply for a permit. And so the proposed
44 findings of fact, conclusions of law, decision and order can be adopted by the Commission
45 today to reflect that action that was taken back in April.

1 Mr. Carnicelli: So then this vote is to actually is, is not to make a decision on this but to put it on
2 the agenda so all those in favor of putting it on the agenda please raise your hand. That's five,
3 oh that's six.

4
5 Mr. Freitas: You know what my name wasn't on there so I wasn't sure. Oh, it's just for putting
6 on the agenda.

7
8 Mr. Carnicelli: This is just for putting it on the agenda. So that is six ayes, no noes, no
9 abstentions.

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

12
13 **VOTED: To Amend the Agenda to Add the Decision and Order Denying a Bed**
14 **and Breakfast Home Permit for the Maui Beachside B&B, Island of**
15 **Maui, Hawaii, TMK: 3-2-020: 025.**

16
17 **(Assenting – K. Robinson, P. D. La Costa, D. Thompson, K. Freitas**
18 **C. Tackett)**

19 **(Excused – K. Pali, S. Castro, T. Gomes)**

20
21 **Proposed Findings of Fact, Conclusions of Law and Decision and Order denying**
22 **the request for a Bed and Breakfast (B&B) Home Permit by Lawrence and**
23 **Jacquelyn Longworth in order to operate Maui Beachside, a one bedroom B&B in**
24 **the County Interim Zoning District and State Urban District located at 1382 Hiahia**
25 **Street, TMK (2) 3-2-020:025, Wailuku, Island of Maui. (BBWK T2018/0006)**
26 **(T. Furukawa) (Action was taken at the April 23, 2019 meeting.)**

27
28 Mr. Carnicelli: So now to go to the actual item itself, the Decision and Order. A motion to adopt
29 the Decision and Order by Commissioner La Costa, seconded by...Moved by
30 Commissioner La Costa, seconded by Commissioner Freitas. Any discussion on the motion?
31 Commissioner La Costa.

32
33 Ms. La Costa: Thank you, Chair. As you all know, that's my question that I ask everyone who
34 comes before us for short-term rentals and they were truthful and honest but they did break the
35 law so that's why we voted it against for people who weren't here. So I am in favor to motion to
36 approve the denial.

37
38 Mr. Carnicelli: Commissioner Freitas.

39
40 Mr. Freitas: It's stated that from the time they had agreed to it they cannot run it as a bed and
41 breakfast until one year or two years? So does that by us waiting till next meeting to vote affect
42 that at all? It's from that date, not by a date that we agree or vote on?

43
44 Mr. Carnicelli: Correct. So all those in favor of the motion, please raise your hand. That is five
45 ayes, motion passes.

46
47

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

3 **VOTED: To Approve the Decision and Order Denying a Bed and Breakfast**
4 **Home Permit for the Maui Beachside B&B, Island of Maui, Hawaii,**
5 **TMK: 3-2-020: 025.**
6

7 **(Assenting – K. Robinson, P. D. La Costa, D. Thompson, K. Freitas**
8 **C. Tackett)**

9 **(Excused – K. Pali, S. Castro, T. Gomes)**
10

11 Ms. McLean: We'll circulate it now for signature.
12
13

14 **4. Discussion of Future Maui Planning Commission Agendas**
15

16 **a. November 12, 2019 agenda items**
17

18 Ms. McLean: Last item is discussion of future agendas. You have a memorandum from
19 Mr. Yoshida. For the next meeting there are three public hearing items and one communication
20 item. Are there any questions on these items for the next agenda for November 12th?
21

22 Mr. Carnicelli: Seeing none, I guess...that will be all. I want to say thank you very much to
23 everybody for just pushing through, no lunch and you made it through one meeting.
24 Congratulations. Meeting is adjourned.
25
26

27 **G. NEXT REGULAR MEETING DATE: November 12, 2019**
28
29

30 **H. ADJOURNMENT**
31

32 The meeting was adjourned at 1:30 p.m.
33
34

35 Respectfully Submitted by,
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37

38 CAROLYN TAKAYAMA-CORDEN
39 Secretary to Boards and Commissions II
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RECORD OF ATTENDANCE

Present

Lawrence Carnicelli, Chair
Kawika Freitas
P Denise La Costa
Keaka Robinson
Christian Tackett, Vice Chair
Dale Thompson

Excused

Kellie Pali
Stephen Castro
Tina Gomes

Others

Michele McLean, Director, Department of Planning
Michael Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel