

**MAUI PLANNING COMMISSION
REGULAR MINUTES
NOVEMBER 12, 2019**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Chairperson Lawrence Carnicelli at approximately 9:02 a.m., Tuesday, November 12, 2019, Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.

Mr. Carnicelli: The Maui Planning Commission of November 12, 2019 is now in session it is 9:02 a.m. My name is Lawrence Carnicelli, I am the Chair. Also with us today is Vice-Chair Christian Tackett.

Mr. Tackett: Good morning Chair.

Mr. Carnicelli: Good morning. Commissioner Castro.

Mr. Castro: Good morning Chair.

Mr. Carnicelli: Good morning. Commissioner La Costa.

Ms. La Costa: Aloha Chair.

Mr. Carnicelli: Aloha. Commissioner Pali.

Ms. Pali: Good morning.

Mr. Carnicelli: Commissioner Thompson.

Mr. Thompson: Top of the morning.

Mr. Carnicelli: Good morning. And Commissioner Freitas.

Mr. Freitas: Aloha, good morning.

Mr. Carnicelli: Good morning. This morning Commissioner Gomes and Commissioner Robinson, I was thinking of this first name but not his second name is they're excused. So, we do have quorum. Also, with us is Planning Director Michele Chouteau McLean.

Ms. McLean: Good morning Chair.

Mr. Carnicelli: And Corporation Counsel Mr. Hopper.

Mr. Hopper: Good morning.

Mr. Carnicelli: Good morning. So please silence all of our noise making devices and just so everybody knows here at the Planning Commission what we do is we take each item one at a time and we take testimony after we've heard the presentation from the applicant on each item

1 that way you can be further educated before you give testimony so just so you guys know that.
2 Director.

3
4 Ms. McLean: Thank you Chair. There are three public hearing items on agenda this morning.
5 The first one is a transmittal of Council Resolution No. 18 – 195 referring to this Commission a
6 Proposed Bill for Zoning Changes from Open Zone and R-3 Residential District to R-1
7 Residential District for a 6.943-acre property located off of South Kihei Road at
8 TMK: (2) 3-9-004:141 in Kihei. This item has actually been rescheduled to November 26th
9 meeting so that will be at your next meeting. However, Chair if there are members of the public
10 here who wish to testify, they may do so, but the Commission will not be discussing this item
11 today and no action will be taken today.

12
13 **B. PUBLIC HEARINGS**

- 14
15 1. **MICHELE MCLEAN, AICP, Planning Director, transmitting Council**
16 **Resolution No. 18-195 referring to the Maui Planning Commission a**
17 **Proposed Bill for Zoning Changes from Open Zone and R-3 Residential**
18 **District to R-1 Residential District for a 6.943-acre property located off of**
19 **South Kihei Road at TMK: (2) 3-9-004:141, Kihei, Island of Maui**
20 **(CIZ 2019/0001) (T. Furukawa)**

21
22 **Item is rescheduled to the November 26, 2019 meeting.**

23
24 **No action will be taken.**

25
26 Mr. Carnicelli: Great. Thank you, Director. Would anybody like to testify on this particular
27 item? Please come forward.

28
29 Ms. Kai Nishiki: Aloha Chair, Members. My name is Kai Nishiki and I understand that this has
30 been rescheduled. However, I do have some significant concerns about this property. It is
31 directly across the street from one of the most well-used public accesses for our
32 residences...for our residents and that this area really needs a master plan. There is a lot of
33 issues regarding beach parking in this area and I'm very concerned that this project will further
34 impact an area that is already undergoing a lot of changes with the Kahoolawe Island Reserve
35 Council which is across the street. They're gonna be doing a whole bunch of renovations and
36 adjusting that area in a significant way. There's problems with Keawakapu Beach parking and I
37 know that I have spoken with Councilmember Kelly King in regards to area and that perhaps
38 this area really needs to be master planned and not just be parceled out and decisions made
39 parcel by parcel. It's kind of a dangerous thing.

40
41 And also, they're proposing this area that has been largely used as kind of like a open area,
42 open space for our community and now that they want to, they want to do a residential
43 neighborhood in this area and I know that there's some concerns about the long-term
44 affordability of the homes that are being proposed in this area. So, I know that our community is
45 very concerned about this situation that's occurring down there and although I know that this is
46 going to be on a future agenda please be aware and do your research about all of the concerns
47 that there are concerning this project. Mahalo.

1
2 Mr. Carnicelli: Thank you Ms. Nishiki and you will have a chance to come back on the 26th and
3 speak to it as well.

4
5 Ms. Nishiki: Yes, thank you.

6
7 Mr. Carnicelli: Any questions for the testifier? Seeing none, is anybody else like to come
8 forward and speak to this particular item? Then if there are no objections we'll ahead and close
9 public testimony. Director.

10
11 Ms. McLean: Thank you Mr. Chair. The next item is a request from Michael and
12 Mi Ra Finnegan for State Use Commission Special Permit in order to operate Hale O Ka Pua
13 B&B, a two-bedroom bed and breakfast home in the State Agricultural District located at
14 2350 Aina Mahiai Place at TMK: (2) 4-4-020:036 in Lahaina. Jared Burkett is the Project
15 Planner.

16
17 **2. MICHAEL and MI RA FINNEGAN requesting a State Land Use Commission**
18 **Special Permit in order to operate Hale O Ka Pua B&B, a two-bedroom bed**
19 **and breakfast home in the State Agricultural District, located at**
20 **2350 Aina Mahiai Place, TMK: (2) 4-4-020:036, Lahaina, Island of Maui.**
21 **(SUP2 2019/0008) (J. Burkett)**
22

23 Mr. Jared Burkett: Good morning Chair, Commissioners. The Kaanapali Coffee Farms is an
24 agricultural lot with a lease to the association to manage the farming thus the majority of the lot
25 is farmed with 3.15 acres out of the 4.466-acre lot leased for coffee farming. There are two
26 homes located on the property. The owner lives in the main farm dwelling. The second, the
27 second farm dwelling is proposed for the bed and breakfast which is a two-bedroom, two-bath
28 dwelling. But this SUP2 is being brought before you today because you are the deciding body
29 for special uses for properties in the State Agricultural District that are under 15 acres. The B&B
30 Permit application did not have a trigger to be brought before the Commission and may be
31 approved administratively by the Department. So, you're just here to discuss the SUP2.

32
33 The applicant's consultant, Debbie Mitchell is...has a presentation that she'll give and then we'll
34 be available to answer any questions that you may have after the applicant's presentation and
35 the testimony I can give the Department's analysis and recommendation. So, if there are no
36 objections Debbie can give her presentation.

37
38 Mr. Carnicelli: Thank you Jared.

39
40 Ms. Debbie Mitchell: Good morning Commissioners, Director and Counselor. My name is
41 Debbie Mitchell and I am here on behalf of Mike and Mi Ra Finnegan in their application for a
42 Special Land Use Permit to operate a bed and breakfast rental home at 2350 Aina Mahiai.

43
44 The home is located in West Maui just north of the resort area at Kaanapali and mauka of the
45 highway. Moving in you'll see the other businesses and developments around the home.
46 Again, north of International Colony Club which has come before you before. The Kaanapali
47 Coffee Farms is a approximately 50-lot development that is on the slopes of the West Maui

1 Mountains. You'll see just to the north the West Maui Airport and just directly west is the
2 Kaanapali Resort area.

3
4 Moving on on the layout of this property there again, you'll see the approximately 50 lots and
5 idea of where the Lot 36 is which is the subject to this hearing today. Here is an aerial view, you
6 can see the lots set out and delineated by the roads. The subject property the black arrow is
7 just pointing directly over the main home and the home just to the south of that, the small home
8 is the rental property. Here's a direct view overhead you see the nice long driveway coming in
9 from the street. There are the required two parking spaces for the rental as well as the garage
10 for the owner's residence. There is a nice wide turn around driveway there so that no one will
11 be backing out into the street. They can turn around and face directly forward as they leave the
12 property.

13
14 This is a little bit of information on, I gave this to you on the handout about how the coffee farms
15 works. This is a handout that's given to new owners that talks about the dwelling site which is
16 set aside for the main home and the cottage or workshop, art studio, anything like that. They
17 have community guidelines which govern directly how those structures should look. So
18 basically, the majority of the property there and the coffee farms is utilized for the direct planting
19 and farming of the coffee beans. It is a gated community so it is not open to the public. Should
20 this be granted in order to operate the B&B each guest will be given a specific gate card which
21 will be activated upon their approval and deactivated upon their departure so there won't be
22 anybody running around with gate codes. They'll have strict control over who has those and
23 when they have them.

24
25 Some views around the property shows the long driveway there from the street and as you see
26 it's surrounded by the growing coffee plants. The bed and breakfast location has two bedrooms
27 and therefore, it has the requisite two parking places for it. The total lot size as Jared
28 mentioned is 4.466 acres and although the bed and breakfast ordinance allows separate
29 booking in the case of the B&B, the owners agree and it can be made part of the conditions that
30 they will only rent to a single party and not multiple parties. There again, as we mentioned
31 there's plenty of parking, there's plenty of maneuvering area for cars so that meets, definitely
32 meets the requirements of the ordinance. The exterior of the home and the views from all four
33 sides.

34
35 Here's the layout of the property...actually the floor plan of the house itself shows the living
36 room, kitchen, two baths and two bedrooms. Some photos of the interior, the kitchen and dining
37 room, living room, two bedrooms both of which has the proper egress in case of fire.

38
39 Little bit of information, more on the coffee farms, again a lot of this is repetitive, we have...there
40 are approximately 50 lots between four and eight acres. Again, as we mentioned there's one
41 acre is set aside for the buildings. The way the coffee farms works is each lot owner has to be a
42 member of the Kaanapali Owners Association and so all the lots are encumbered by this lease
43 where the homeowner's association is the farming tenant. The owners pay monthly
44 assessments to the association and those support the farm operations. The owners don't have
45 any right or responsibility of plant or harvest the crops. They are entitled rent proceeds but
46 those are allocated directly to the association to defer costs and all the revenues generated by
47 the farming operations offset the expenses incurred. A little...few pictures of the actual

1 harvesting process. It's very interesting how it's done and the large harvesters there as you'll
2 see.

3
4 So, onto the administration part of this. All the neighbors within 500 feet were notified twice
5 about the permit application and the public hearing and additionally an ad was placed in the
6 Maui News about today's hearing. One protest letter was received from a neighbor within the
7 500-foot radius. Five other letters of protest were received from neighbors outside that 500-foot
8 radius. In terms of support, three letters of support were received from owners within the
9 500-foot radius one of which owns two parcels so that effectively comes out as four lots
10 supporting. Five more letters of support were received from neighbors outside that radius one
11 of which owns two parcels again so the total number of support letters we received were eight
12 representing ten lots. Four of the six adjacent neighbors are in support of this application and
13 no adjacent neighbors protested. The coffee farms homeowner's association does not prohibit
14 these types of operations and they rely on established County ordinances, so yourselves to
15 qualify these operations. Again, here's a support map showing the subject property and the four
16 support...supporting lots directly adjacent. No protests were received from any adjacent lots.
17 There was one protest received just to the west and you'll see that is on the edge of the circle
18 there.

19
20 So even though most of the protestors were...that we...the letters we received were outside of
21 the 500-foot circle the owners took great care to answer those, those concerns that those...any
22 neighbor might have. Of course, there's always the concern about increased traffic and
23 damage to roadways, noise partying, strangers in the neighborhood. So those are fairly typical
24 to these types of applications. The one that's specific to Kaanapali Coffee Farms is the Coffee
25 Borer Beetle and this is a parasite that is very damaging to the coffee beans so great diligence
26 must be taken to avoid bringing any...you know someone else would, a guest were to drive to
27 another place that has that, another farm that has that particular pest and then come back
28 there's fear it would get started at that property.

29
30 So, solutions that we offer for those particular concerns of neighbors this is just a two-bedroom
31 cottage and it at maximum can only allow four people on site. One car per bedroom so there
32 can only ever be a maximum of two cars. There is very strict house rules that are in place that
33 enforce quiet hours, prohibit partying, on-street parking, the fact that the neighbors live on the
34 property right next door will help ameliorate those particular items because they will be there to
35 provide oversight. All guests will be screened by them as well so they will again by being on
36 site will deal with anything...(inaudible)... The owner...again, the owners have volunteered to
37 have a minimum seven-night stay so that is not gonna be something that turns over every two
38 days, two, three days, it's gonna be a minimum of seven days and that is also something that
39 could be added as a condition to approval. And again, the owners will utilize the cottage for
40 themselves so it's not a constant flow of visitors.

41
42 Again, as I mentioned before there's not a reusable gate code that will be given out. They will
43 be provided a key card activated upon arrival and deactivated upon departure. The owners
44 have done some research on the Coffee Borer Beetle and they'll require that the guests
45 positively acknowledge in the rental agreement that they have been provided this information
46 and they will not visit any other coffee farms where this...while they are staying at this property
47 and again, we will be limiting the occupancy to a single party rather than the two parties.

1
2 So, in summation this is a permit application for a Special Land Use Permit to operate a bed
3 and breakfast operation. The owners will be next door monitoring the guests and mitigating
4 noises...noise and traffic. They will be available at all times for any complaints or concerns of
5 neighbors and they will educate their guests on the Coffee Borer Beetle and the responsibility of
6 staying on a working coffee farm. So that's our presentation today. Thank you so much for
7 listening and we hope you'll consider our application and approve it. I do have the owner here,
8 Mr. Mike Finnegan who would like to say a few words to you as well.

9
10 Mr. Carnicelli: Okay, Debbie before you go, I just have one real quick question.

11
12 Ms. Mitchell: Sure thing.

13
14 Mr. Carnicelli: As logistically when you send out your notices did you actually send a notice to
15 Kimo Falconer, i.e., the...you know the coffee farms, the farmers, you know like—

16
17 Ms. Mitchell: Right. I only—

18
19 Mr. Carnicelli: Did they get noticed and if so, did they weigh in?

20
21 Ms. Mitchell: I just followed the list provided by the County from the County website.

22
23 Mr. Carnicelli: Okay.

24
25 Ms. Mitchell: So that's what it went to. I didn't send anything additional.

26
27 Mr. Carnicelli: That's fine.

28
29 Ms. Mitchell: All right. Mike.

30
31 Mr. Carnicelli: Thank you. Mr. Finnegan.

32
33 Mr. Michael Finnegan: Good morning Chair and Members.

34
35 Mr. Carnicelli: Good morning.

36
37 Mr. Finnegan: I'm Mike Finnegan. My wife, Mi Ra Finnegan is here with me today. I'd like to
38 first start by thanking Chair, Commissioners, the Planning Staff for the time you've taken with
39 our application. We really appreciate the efforts. We are a retired Army family. We have been
40 blessed with the opportunity to return to Hawaii after a few tours here and make Maui our home.
41 I just have a few points I'd like to add for your consideration this morning.

42
43 One, we realize the importance of preserving the agricultural land. That was part of the
44 attraction of moving to Kaanapali Coffee Farms is that a large portion as you heard 70 percent
45 of our lot would remain in active agriculture. So, we very much support it. We see this as a
46 great opportunity to preserve that land. We also see that it's an opportunity to educate people.
47 A lot of people like to come to Maui and to other places for ecotourism and agricultural tourism.

1 We see this as an opportunity to reach out to certain people and educate them. I've already
2 talked to the County Extension Office and the State Extension Office asking for information to
3 help put together educational materials about Maui agriculture and about the importance of
4 agriculture both historically and contemporary.

5
6 As Debbie mentioned we also take seriously the Coffee Borer Beetle. We think we're gonna go
7 beyond what's being done right now to prevent the Coffee Borer Beetle from coming into the
8 farm by educating people that are gonna come here in advance to let them know that there is
9 this invasive pest that's out there and here's what needs to be done to prevent it from coming
10 into this farm and ask them to positively affirm that they understand that and take that
11 responsibility as being one of our guests.

12
13 The second point I'd like to make is that we've listened to our neighbors. We understand that
14 they've raised concerns about traffic and about strangers in the neighborhood. While we may
15 not share those concerns fully, we do understand them and so we're trying to take measures
16 that will help the limit the traffic flow, limit the turnover, make it less intrusive to anyone around
17 us. We want to be good neighbors, good homeowners. Just like any good homeowner I don't
18 want what goes on on my home to impact my neighbors, so I'm...by living there I'm gonna make
19 sure that any of our guests abide by this...the house rules and abide by just good neighborly
20 practices and that's maybe the third and final point I'd like to make is that we're residents, we're
21 living here. We plan to be here for a long time. We want to be good neighbors, we want to be a
22 good part of the community, we want to be good stewards of the land. We also, by having this
23 opportunity for us we'll also be taxpayers, we'll also be employers of people on the island and
24 be contributing to a stronger Maui community we hope. So again, I just wanted to thank you for
25 time in considering this and appreciate the efforts. Thank you.

26
27 Mr. Carnicelli: Thank you very much, appreciate it. So, at this point in time what we'll do is
28 we're gonna open up the floor for public testimony. And just so everybody knows you will get
29 three minutes, three minutes only. That's not three minutes and 30 seconds or four minutes
30 and that's just to be fair to everybody. We do want to hear what you have to say, but please
31 limit your testimony to three minutes. Also, I will ask you, I will basically swear you in and when
32 you're done the applicant actually has the opportunity to ask you questions if they so choose
33 just so you guys know that. That being said, our very first person to sign up for this item is
34 Shelly Timmons. That's okay, don't need to be nervous.

35
36 Ms. Shelly Timmons: Okay, good morning everyone.

37
38 Mr. Carnicelli: Please state your name for the record.

39
40 Ms. Timmons: My name is Shelly Timmons.

41
42 Mr. Carnicelli: Shelly you have up to three minutes. Oh, wait, wait, I'm sorry, I forgot to ask you
43 if you were going to be truthful.

44
45 Ms. Timmons: Oh, I'm gonna be truthful.

46
47 Mr. Carnicelli: Okay, thank you. Now you have up to three minutes.

1
2 Ms. Timmons: My name is Shelly Timmons and I'm here on my behalf of husband
3 Trent Timmons and I. We are the closest neighbors to Mi Ra and Mike. Her address is
4 2132 Aina Mahiai. So, we live right above them and their cottage is the closest proximity to our
5 home. We are a hundred percent...sorry...

6
7 Mr. Carnicelli: That's okay, I've cried here too, so it's...truthfully, I have so it's okay.

8
9 Ms. Timmons: We are a hundred percent supportive of their application for a B&B. We have
10 lived in our home...we've lived on island for six years, we've visited the island for 20 years and
11 our children went to school here. However, in July we did move off island, one of our children
12 wanted to finish school on the mainland and so we rented our home for a year. So, but our
13 intention is to come back. At one point the house was on the MLS, I wanted to clarify that point
14 because someone said that we had sold our home. It is not for sale it is off the MLS and we
15 plan on coming back here when our son graduates from high school next year. Again, we love
16 this island and we love the people that live near us and that's why we want to move back and be
17 near them. So, I'm sorry if I'm emotional, I don't know why, so that we're in 100 percent support
18 of what they want to do and we believe that they've always been extremely professional and
19 courteous neighbors. When we were building our home they were very actively involved in
20 watching the process of the building of our home and then when we moved in and lived in our
21 home prior to moving away in July, we lived there for a year they were great neighbors and are
22 great neighbors and I think that they will conduct their business in a very professional way, so
23 thank you.

24
25 Mr. Carnicelli: Thank you. Michael do you have any questions for the testifier?

26
27 Mr. Finnegan: No.

28
29 Mr. Carnicelli: Okay, thank you. Our next testifier is Kai Nishiki.

30
31 Ms. Kai Nishiki: Good morning Chair.

32
33 Mr. Carnicelli: Please identify yourself.

34
35 Ms. Nishiki: My name is Nishiki.

36
37 Mr. Carnicelli: Do you promise to be truthful?

38
39 Ms. Nishiki: I do.

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

42
43 Ms. Nishiki: Mahalo. I'm here to testify in opposition to this proposal. In many of the meetings
44 before the Community Plan Advisory Committee we have heard numerous testifiers saying that
45 they do not want any more visitor accommodations that short-term rentals and B&Bs have taken
46 over our housing market. So, while I do not support this proposal, I do support long-term
47 housing, I support agriculture and I support jobs that...this applicant says that they're gonna

1 provide jobs. We don't need jobs, we need long-term housing and this B&B steals yet another
2 rental unit from the long-term housing market. This is a ag subdivision and there have
3 been...you can look in your binders, there are...there's testimony in there that says that this sort
4 of enterprise could severely and negatively damage the coffee farm that is in existence there.
5 And while you know I'm not a great proponent of coffee I do support agriculture and food
6 producing agriculture, but still like this is agriculture and you're going to put in a short-term rental
7 in an ag subdivision that coffee farmers are saying that this could cause damage to the farming
8 operation. So that...just on that alone, it should be denied. Not even taking into consideration
9 the massive housing crisis that we're...that we are experiencing right now in West Maui and all
10 over and why this is even a proposal I have no idea. Also, just as backup our Community Plan
11 Advisory Committee did transmit a letter to you folks saying that we do not want any new visitor
12 accommodations or expansion projects to be approved and I think this is kind of in line with that.
13 This is a short-term rental, this is for visitor accommodations and this is something that we don't
14 really want in West Maui. So, I believe the community has spoken. This is not something that
15 we desire in our community and I urge you to deny this application. Mahalo.

16
17 Mr. Carnicelli: Thank you. Michael do you have any questions for the testifier? Okay, thank
18 you. Commissioners any questions, no? Anybody else like to speak to this particular item?
19 Junior come on.

20
21 Mr. Junior Nakoa: Howzit, Junior Nakoa from Lahaina.

22
23 Mr. Carnicelli: Junior do you promise to be truthful?

24
25 Mr. Nakoa: Yeah.

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

28
29 Mr. Nakoa: Shoots. Sorry braddah but the timing is wrong. Us Lahaina people we tired of all
30 this kine B&Bs and short-term rentals and all the stuff. We neva get nothing affordable
31 workforce housing in Lahaina that was promised to us by all these hotels that was built on
32 Kaanapali. K and all the houses that's built on the Kaanapali Hillside, sucks sorry, I just pau yell
33 at the Mayor. But um, we just done, we're done tired, brah, 2,700 homes supposed to be built
34 here in Lahaina, I sorry in Lahaina and for the working people, for us guys. We over it. K, we
35 just when listen to testimony from the dummy William Aila telling us he, he...they like build us
36 Hawaiian homes by Lei Alii and Honokowai you know what I mean? Build those buggahs first,
37 take care of us first. I get three minutes but I don't know neva mind. But yeah, nuff already. No
38 worry...no, no, I going be hea planny already. I'm giving up everything fo come stop this kine
39 development, anything, hotel...all these hotels gotta stop, get planny. Planny of them, I deal
40 with the general managers at Kaanapali 'cause of the injection wells and all that crap, but nuff
41 already brah, I going educate about the kanakas and how to get...I know nobody like come over
42 hea. I no like come ova hea, and I still come ova hea. But we going make everybody come
43 already brah we stay piss, stay crazy, stay mad. Yeah, braddah I sorry I don't know your project
44 I don't know where the heck the damn thing stay, the thing stay in Lahaina, I'm attacking all
45 Lahaina you know what I mean? Stop with this kine stuff. Take care of us that live hea all my
46 life. I almost 50 next year. I live hea all my life and I still no mo shit, you know what I mean?
47 Work for the hotel industries and they neva build us nothing, they neva build us nothing, zero.

1 And I think you know about it, well we kinda educated you about it and we're gonna look for it
2 today. I goin get da kine my lawyers from da kine Oregon, we're gonna work on finding all the
3 stuff, those homes dat supposed to be promised to us by KOR, by Hyatt, by the Westin, by
4 Honua Kai, all these hotel they wen up all and ruin our...the dodo wata that we gotta deal with.
5 We going stop um, I sorry I'm done, I going talk all...I don't talk you guys language but going
6 educate the people, come ova hea make noise cause we getting pushed out. We tired already
7 getting pushed out and braddah I don't know you personally but I going start...I going stand up
8 for...I going...we going stop everything before they start...until you guys start building our
9 homes. Help the State which is the DHHL get the infrastructure so we can build the Hawaiian
10 homes den we good.

11
12 Mr. Carnicelli: Thank you Junior. Michael do you have any questions? Commissioners?
13 Thank you. Is there anybody else who would like to come forward and testify on this particular
14 item? Please come forward.

15
16 Mr. Justin Brunold: Hello, my name is Justin Brunold.

17
18 Mr. Carnicelli: Hi Justin, do you promise to be truthful?

19
20 Mr. Brunold: I do.

21
22 Mr. Carnicelli: Okay, you have up to three minutes.

23
24 Mr. Brunold: I'll make it short and sweet. I live in the neighborhood and I'm in support of their
25 application. So, I just want to kind of be out here, let everyone know that there's another person
26 in the neighborhood that's definitely in support of this application. Thank you.

27
28 Mr. Carnicelli: Thank you. Any questions for the testifier? Justin come back please.
29 Ms. La Costa.

30
31 Ms. La Costa: Thank you Chair. Where do you live in relation to the subject property please?

32
33 Mr. Brunold: So, I have Lot 13. I haven't began building yet, so I do live down the street, but I
34 plan on building in that neighborhood.

35
36 Ms. La Costa: Approximately how far away?

37
38 Mr. Brunold: We're on the same street, 700 feet.

39
40 Ms. La Costa: Thank you.

41
42 Mr. Carnicelli: Thank you. Anybody else wish to testify on this particular item? Then seeing
43 none, without objections we'll go ahead and close public testimony.

44
45 Mr. Freitas: If I have questions for them, do I?
46

1 Mr. Carnicelli: Yeah, yeah, that's what we're gonna do now is we're gonna go ahead and take
2 questions from the Commission for the applicant and/or the Department. So, do you want to
3 start?

4
5 Mr. Freitas: Sure.

6
7 Mr. Carnicelli: That's what you get for speaking up. Commissioner Freitas.

8
9 Mr. Freitas: This is for Debbie and Mike. As I looked at the written support and opposition, I
10 noticed that seven of the ones that received seemed like a template, kind of a Xerox copy and
11 there were about four or five that were genuine letters written in opposition. There was one
12 person that wrote and I kinda want to go back to when people purchased the property what was
13 their understanding and one lady says every single lot owner in our neighborhood as received
14 specific written notice in regards to neighborhood and it's ...(inaudible)...intent not to allow
15 short-term rentals or bed and breakfast properties within our gates. Can you comment on that?
16

17 Mr. Finnegan: Yes. So, when we bought our lot to be clear when we sat with the developer and
18 sat with the real estate agents we said we'd like this opportunity to rent as a short-term vacation
19 rental or a bed and breakfast is there anything that stops us from doing that? No, there wasn't
20 anything. The letter...I was confused when I saw what was written there. There was a letter put
21 out, I'm going back about 18 months, two years ago that talked about illegal rentals not
22 permitted rentals, it was about illegal rentals. There is nothing that the community has put out at
23 least if it's been put out it hasn't been put out to all homeowners about opposition to permitted
24 short-term vacation rentals or bed and breakfast. It was a letter and I could dig back and find it
25 perhaps, but it was about illegal rentals and that people were concerned about and I share that
26 concern that's why we're here. We want to make sure that we do this right and follow the rules.
27

28 Mr. Freitas: Thank you. I guess there's no one here that can confirm that then, but thank you.

29
30 Mr. Finnegan: Yes.

31
32 Mr. Carnicelli: Thank you. Commissioner Thompson.

33
34 Mr. Thompson: No questions.

35
36 Mr. Carnicelli: Commissioner Pali.

37
38 Ms. Pali: I have a question for the applicant. Firstly, thank you for attempting to do this the right
39 way and being transparent about it 'cause we appreciate that. I wanted to just dig further about
40 you saying that you live here and it being your home. You know, in Maui County we have a lot
41 of people that say Maui is their home but they're not always here. Sometimes they are part-time
42 homeowners, sometimes they are here six months out of the year or eight months or ten
43 months, can you just clarify when you say you live here do you have any other second homes
44 anywhere else that might take you away from Maui for more than a couple weeks at a time?
45

46 Mr. Finnegan: So, I travel a lot for work rarely anywhere more than ten days personally at a
47 time just 'cause I'm back and forth. I spend a lot of time in Japan. But since we finished the

1 home first with the cottage in January of last year and then the main house in June, we've spent
2 the vast majority of our time here. We still have a home in Virginia that we've had for 17 years.
3 My wife has been back there trying to clean it out so we can get rid of that house but this is
4 intended to be our permanent home. We've gotten our driver's licenses moved here. We
5 intend to spend the majority of our time here in Maui.

6
7 Ms. Pali: So just to clarify, you will be remaining as physical occupants and not more...not
8 away from the physical home potentially more than two weeks at a time?

9
10 Mr. Finnegan: Yes, I think that's an accurate way to say it.

11
12 Ms. Pali: Thank you.

13
14 Mr. Carnicelli: And just for clarification a B&B, a B&B cannot have guests if the owners are not
15 on island.

16
17 Mr. Finnegan: And we understand that.

18
19 Ms. Pali: Well, and I was just trying to establish is it a real primary residence or not.

20
21 Mr. Carnicelli: Right, no, fair enough. So, is your house in Virginia up for sale?

22
23 Mr. Finnegan: Not yet.

24
25 Mr. Carnicelli: Okay.

26
27 Mr. Finnegan: We're got 17 years' worth of stuff, that's being kind that need –

28
29 Mr. Carnicelli: Reminds me of the old George Carlin skit about stuff, right?

30
31 Mr. Finnegan: Yeah, we gotta get rid of it.

32
33 Mr. Carnicelli: Commissioner La Costa.

34
35 Ms. La Costa: This is for the petitioner please. First of all, thank you for your service and I hope
36 you had a restful Veteran's Day.

37
38 Mr. Finnegan: Thank you, yes.

39
40 Ms. La Costa: So, I have a question. How long have you actually lived on Maui?

41
42 Mr. Finnegan: So, we began occupancy of the cottage in January of 2018, and my wife and I,
43 she more than I because of my travel for work have been here almost constantly since then with
44 a couple of breaks off island for medical or to be back and cleaning the house in Virginia. So
45 almost two years at this point.

46
47 Ms. La Costa: Thank you. Have you previously rented this cottage?

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Mr. Finnegan: No.

Ms. La Costa: And my last question is, you can tell someone don't cross the street when there's a flashing hand but people still do it.

Mr. Finnegan: Yes.

Ms. La Costa: How do you expect to stop people from going up to Keokea to Grandma's Coffee and being around a lot of the coffee farms up there or going someplace else and having that possibility of infestation. How are you going to guarantee or can you that they are not going to bring back any kind of pests to Kaanapali Coffee Farm?

Mr. Finnegan: So unfortunately, unless we put a quarantine around the farm there is no way to guarantee. Right now, there are some signs and that's it. There are a few signs that say there's a Coffee Borer Beetle problem and please don't come in. That doesn't stop the construction equipment coming from Hana to come in there and work. It doesn't stop people from driving in. It doesn't stop mountain bikes and motorcycles from going around the gate. We're gonna try and use education and try to persuade people that do the right thing, don't bring that...don't risk this farm. I think we're going further than as being done right now by either the association or you know the farm itself. We're trying to educate people to this more than putting up the few signs that are out there right now.

Mr. Carnicelli: Commissioner Castro any questions?

Mr. Castro: Yes. Mr. Finnegan—

Mr. Finnegan: Yes.

Mr. Castro: As one Vet to another, thank you for your service.

Mr. Finnegan: Oh, thank you too.

Mr. Castro: I have a question on this turnaround.

Mr. Finnegan: Yes.

Mr. Castro: Is it wide enough to accommodate a fire truck?

Mr. Finnegan: I believe so. I think...we've had large construction equipment go through there so I think maybe not your largest hook and ladder type truck but a regular size fire truck, yes, I believe so.

Mr. Castro: 'Cause I believe there is a requirement for the size of the roadways for a fire truck to turn around.

1 Mr. Finnegan: Yeah, it was built within Code. So, whatever the County Code is that's...it's built
2 within that and signed off by the Fire Department.

3
4 Mr. Castro: Do you know what's the closest fire hydrant?

5
6 Mr. Finnegan: Yes, immediately across the street from the driveway. I don't know if you can
7 see it on the picture but there is one there.

8
9 Mr. Castro: And the property is gate by key, electronic...(inaudible)...

10
11 Mr. Finnegan: Yes. There's push button keys, there's key cards, and there's codes. So, the
12 way we would work this is when somebody comes to be a guest they would show up, they
13 would have a gate code that they put in. What that gate code does, doesn't open the gate it
14 dials me wherever I happen to be in world and either my wife or I are going to be on the
15 property because we have to be there when a renter is on property, we then can let them in.
16 When they get to the house they'll be given as part of their check-in they'd be given a key card
17 that they use while they're on island while they're staying in the house and they leave that key
18 card behind when they depart. If they depart with our key card, we have the ability to go to the
19 security office and deactivate that card.

20
21 Mr. Castro: Does the fire department have access to the gate?

22
23 Mr. Finnegan: Yes, yes.

24
25 Mr. Castro: So, we can find out if that turnaround is in compliance to accommodate fire trucks?

26
27 Mr. Finnegan: Yes, we can look into it. The Fire Department has signed off on it.

28
29 Mr. Carnicelli: The Director will answer that question for you.

30
31 Ms. McLean: Commissioner Castro, the requirement for the fire truck turnaround has to do with
32 the roadways not so much on an individual piece of property. So, I don't believe there's a
33 requirement for a fire truck to be able to turn around on an individual piece of property when you
34 talk turn around ability that's the roadway that accesses properties.

35
36 Mr. Castro: The only reason I ask that because a few years back there was a issue Upcountry
37 where the road wasn't wide enough for the fire truck and to turn around so that's why I'm asking
38 that question. Thank you.

39
40 Mr. Carnicelli: Commissioner Tackett.

41
42 Mr. Tackett: I have no questions.

43
44 Mr. Carnicelli: Thank you. I have a couple questions, one is...actually not for you just yet. It's
45 either...it's gonna be for Jared possibly is I can't remember...I don't know nine months, a year
46 ago something like that we had it was either an STRH or a B&B in the coffee farms come before
47 us and in that we granted intervention to the contested case where are we on that contested

1 case, do you know. Is that a curve ball out of nowhere for you? Debbie if you have, if you have
2 knowledge then please come forward.

3
4 Ms. Mitchell: Debbie Mitchell. Yes, the owner of that property decided that it was not worth the
5 money and time so she sold the property and is no longer living there.

6
7 Mr. Carnicelli: Okay.

8
9 Ms. Mitchell: So that's over.

10
11 Mr. Carnicelli: Okay, thank you. Actually, Debbie while I have you here could you go back one
12 slide...one or two slides and I just want to go to some of the concessions with which you had
13 talked about. So minimum stay seven days. So, you're already conceding to that?

14
15 Ms. Mitchell: Yes, correct. That can be made one of the conditions.

16
17 Mr. Carnicelli: Single party only.

18
19 Ms. Mitchell: Last bullet point and that can also be part of the—

20
21 Mr. Carnicelli: Okay. Four guests is just by Code or by the Ordinance.

22
23 Ms. Mitchell: Right. Correct, two bedrooms.

24
25 Mr. Carnicelli: If we're gonna have one party, four guests, one car?

26
27 Ms. Mitchell: Possibly. The Ordinance says we must provide two spaces.

28
29 Mr. Carnicelli: Well I get it, but I'm just saying is if we have one party with four people, they
30 don't need two cars.

31
32 Ms. Mitchell: I would say so.

33
34 Mr. Carnicelli: Okay, let's ask Michael.

35
36 Ms. Mitchell: Mike.

37
38 Mr. Finnegan: Actually, in the letter I sent out to the neighbors within 500 feet when we sent out
39 the original, I had said that we would also limit to one car.

40
41 Mr. Carnicelli: Okay, what other limitations did you tell your neighbors that you would be okay
42 with?

43
44 Mr. Finnegan: Most of them are in here, seven days, single party, one car. That we would have
45 people affirm against visiting other coffee farms while they were saying with us. I believe those
46 were the things I offered in the letter that we would do.

47

1 Mr. Carnicelli: Got it. Have you ever spoken to Kimo Falconer, the gentleman that runs the
2 coffee farm?

3
4 Mr. Finnegan: No, I've never had the opportunity...(inaudible)...

5
6 Mr. Carnicelli: Trying to think what other questions I had at this time. Mr. Hopper, can we
7 actually condition I guess that the guests can't go visit coffee farms is that...other coffee farms
8 is that even possible to make that a condition?

9
10 Mr. Hopper: I'm not sure how you would enforce that sort of condition.

11
12 Mr. Carnicelli: Right, that's—

13
14 Mr. Hopper: Yeah, I wouldn't see how that would be possible to enforce. At this point you
15 could, you could have a...have them have a letter, but you know are gonna kick the person out
16 of the short-term rental home or the bed and breakfast home at that point that would be the
17 concern.

18
19 Mr. Carnicelli: Right. As far as house rules if he said if we were going to make those as far, as
20 far as house rules.

21
22 Mr. Hopper: If you want to condition that that's fine, but I'm not—

23
24 Mr. Carnicelli: Again, enforcement is gonna be our issue, okay.

25
26 Mr. Hopper: That's what I would say.

27
28 Mr. Carnicelli: Okay.

29
30 Mr. Hopper: That's probably true of all of the house rules as well. But if they're there that would
31 perhaps be a potential deterrent but actually enforcing that would be the difficult thing.

32
33 Mr. Carnicelli: Okay.

34
35 Mr. Hopper: Are they going to monitor where they go, I guess if they get a complaint from
36 someone else saying hey, I saw your visitor up here.

37
38 Mr. Carnicelli: Got it.

39
40 Mr. Freitas: Chairperson, can I share something?

41
42 Mr. Carnicelli: Yeah.

43
44 Mr. Freitas: Regarding what you said there are a lot of wild coffee growing in places like lao
45 and if people want to go hiking—

46
47 Mr. Carnicelli: Sure.

1
2 Mr. Freitas: They could pick that up anyway, so by saying going to another farm I don't think
3 that's gonna do it.

4
5 Mr. Carnicelli: Agreed. It's just...and the other part 'cause part of this conversation last we had
6 it was someone that does not have a B&B or even let's say they have friends come visit from
7 Virginia, right they don't get this permit right and they have friends come visit from Virginia or
8 their next door neighbor has somebody come visit from Oregon, there's no conditions on any of
9 those people either so that's...it's just trying to be prudent 'cause I just remembered from the
10 last time we had this conversation that you know the Coffee Borer Beetle was the big concern. I
11 mean that is a big concern and in a way is doing it this way more aware than say just somebody
12 having guests come from the mainland to visit them. I don't know the answer to that question
13 right now, but just trying go...so you guys want another round of questions? You guys have
14 other questions? You guys do you have other questions? Commissioner La Costa.

15
16 Ms. La Costa: Thank you Chair. Mr. Finnegan are the guests going to be using your pool?

17
18 Mr. Finnegan: No.

19
20 Ms. La Costa: Okay, thank you.

21
22 Mr. Finnegan: Chair if I could offer on the Coffee Borer Beetle. I went through the same
23 thought process that you're going through. What can we do that is more than is being done
24 right now to protect? So right now, a guest comes there or a worker that comes there or a
25 delivery person that comes there there's nothing that tells them or restricts them in a, if you will,
26 a positive way. There's just signs that you know say that there is a risk. We're trying to go
27 beyond that. We're trying to educate people and depend to bid on people's goodwill to do the
28 right thing.

29
30 Mr. Carnicelli: Thank you. Jared, I did think of my other question. Just to clarify no guests of
31 the guests, correct? Guests are not allowed to have guests.

32
33 Mr. Burkett: They're not allowed to have guests that stay overnight.

34
35 Mr. Carnicelli: Okay. But they can come visit. Guests can visit the other guests?

36
37 Mr. Burkett: I don't recall anything in the ordinance restricting that just that they can't spend the
38 night. I mean that could be something discussed as a condition.

39
40 Mr. Carnicelli: So, then Mr. Finnegan...

41
42 Mr. Finnegan: Sir.

43
44 Mr. Carnicelli: No, I'm not a sir, trust me I'm not a sir. Are you okay with no guests visiting the
45 guests 'cause I mean that basically...is it just ends up with more traffic right.

46

1 Mr. Finnegan: Yes, no it's...just talking to Debbie about it, that was one of the things that was
2 on my mind, I hadn't thought about putting that in the letter when I sent it out originally but
3 restricting outside guests of guests, yes, we don't want a lot of people coming in. This goes to
4 the question of parties. I don't want somebody to rent, you know to be in...take our bed and
5 breakfast for a week and then have a blowout on the weekend and invite a bunch of people
6 from outside. We don't want to allow that.
7
8 Mr. Carnicelli: How many times a year will you have friends and/or family come stay in that
9 unit?
10
11 Mr. Finnegan: Hard to say at this point.
12
13 Mr. Carnicelli: Roughly, one, six?
14
15 Mr. Finnegan: No, I think it will be six, seven, eight times a year.
16
17 Mr. Carnicelli: So, if you do not get—
18
19 Mr. Finnegan: And relatives like to come to Hawaii.
20
21 Mr. Carnicelli: Okay, so if you do not get this permit, you're still gonna leave it vacant for your
22 friends and family to come visit?
23
24 Mr. Finnegan: Yes.
25
26 Mr. Carnicelli: Okay, thank you. Ms. La Costa.
27
28 Ms. La Costa: Back again.
29
30 Mr. Finnegan: Yes.
31
32 Ms. La Costa: Thank you. So, mentioned that you rented your home when you back to Virginia
33 and in keeping with Junior's and Ms. Nishiki's comments about long-term rental is that a
34 consideration that you thought of for the cottage?
35
36 Mr. Finnegan: We've not rented the home when we back.
37
38 Ms. La Costa: Okay.
39
40 Mr. Finnegan: No, I'm sorry, if there was that impression, no we've not rented this out at all, and
41 we're trying to figure out what to do with our house in Virginia at this point.
42
43 Ms. La Costa: Okay. So, have you thought about using the cottage as a short...or a long-term
44 rental?
45

1 Mr. Finnegan: We thought about it but to the point of family and friends wanting to come to visit
2 we want the flexibility to be able to share not just with new friends, but with our existing friends
3 and relatives as well, so...

4
5 Ms. La Costa: Thank you.

6
7 Mr. Carnicelli: Any other questions, comments? Seeing none, Jared would you please give us
8 the recommendation?

9
10 Mr. Burkett: The Department has determined that the State Land Use Commission Special
11 Permit complies with the applicable standards for an unusual and reasonable use within the
12 State Agricultural District and therefore the Department is recommending approval of the SUP2
13 subject to the seven standard conditions at least and you can include others if you wish. And
14 then in consideration of the foregoing the Planning Department recommends that the
15 Maui Planning Commission adopt the Planning Department's report and recommendation as its
16 findings of fact, conclusion of law and decision and order and to authorize the Planning Director
17 to transmit the written decision and order on behalf of the Planning Commission.

18
19 Mr. Carnicelli: Thank you. And then Director if you...I believe you as you always do so well
20 scribbled a couple of notes adding in some of the things that the applicant has also agreed to?

21
22 Ms. McLean: Yes, thank you Chair. One option to address these would be simply to amend
23 Condition No. 6 which currently reads, that the applicant shall develop the property in
24 substantial compliance with the representations made to the Commission in obtaining the
25 SUP2. Failure to so develop the property may result in the revocation of the permit and so that
26 could be amended by adding a second new sentence so that the condition would read, that the
27 applicant shall develop the property in substantial compliance with the representations made to
28 the Commission in obtaining the SUP2. These include but are not limited to requiring guests to
29 stay a minimum of seven nights, renting to one party only, restricting guests to one car per
30 party, restricting guests from having outside guests and providing rigorous personal education
31 to guests about the Coffee Borer Beetle. I should modify that, renting to one party at a time
32 only.

33
34 Mr. Carnicelli: Right, okay. So that...is we'll have that as the recommendation by Staff. Do I
35 have a motion? Commissioner Freitas.

36
37 Mr. Freitas: Motion to vote.

38
39 Mr. Carnicelli: Motion to approve? Motion to approve as recommended by Staff by
40 Commissioner Freitas. Do I have a second? Seconded by Commissioner Thompson.
41 Discussion on the motion. Commissioner Freitas.

42
43 Mr. Freitas: I really think when I look at the map of those that are for and for those that are
44 against I kinda think that the immediate community, I feel the majority are against this, this
45 request.

46
47 Mr. Carnicelli: Okay, thank you. Anybody else would like to speak to the—

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Mr. Tackett: Clarification. Is your motion in favor of or against?

Mr. Carnicelli: Is your motion to approve or deny?

Mr. Freitas: I was doing a motion to vote.

Mr. Carnicelli: Oh no, we have to have a, we have to a motion one way or the other first and then we vote. So are you...I guess we'll go ahead and remove that motion. Are you okay with removing your second? Okay, so the motion would be either to approve as recommended by Staff or whatever you want it to be or to a motion to deny that's basically where we are right now or a motion to defer. Those are kinda our three options right now. So, does anybody have a motion to approve, deny or defer?

Mr. Freitas: A motion to deny.

Mr. Carnicelli: Motion to deny by Commissioner Freitas. Do I have second to the motion? Seconded by Commissioner La Costa. Now we'll go ahead and speak to the motion again. So, I'm gonna let you go ahead and clarify your motion to deny.

Mr. Freitas: When I looked at again the adjacent neighbors I kinda think that he was required to give a 500-foot radius and those people of course all voted or were for him. Yet that those that weren't required to receive the letter and that didn't receive any letter there's a good number outside that gave really meaningful reasons in opposition and I took that because I think those neighbors and those people that live there for the reasons that they purchased was enough for me to say, you know what no short-term.

Mr. Carnicelli: Thank you. Mr. Hopper.

Mr. Hopper: Just for some clarification on Page 9 of your staff report it goes from 9 to 10, there are the criteria for a State Land Use Commission Special Use Permit and there's criteria A thru E, those go over the criteria for consideration for a State Special Permit. Again, this is not a approval of a bed and breakfast home permit, it's a State Special Permit under HRS 205-6 and if there's gonna be a denial I would recommend that you review the criteria and you've gone into it a bit with the protest letters which is I think probably goes to Item B, the desired use would not adversely affect surrounding property. But if there's any other basis that the Commission would like to add in there it may assist staff if there is a denial in drafting the findings of fact, conclusions of law and decision and order. Again, that goes...that's Page 9 and 10 of your staff report and that goes over the criteria for granting or if they do not meet the criteria, denying the permit.

Mr. Freitas: Okay, sorry.

Mr. Carnicelli: Thank you. That's okay.

Mr. Hopper: No, no you're there.

1 Mr. Freitas: So, I would like to deny based on B, the desired use will not adversely affect
2 surrounding property.

3
4 Mr. Carnicelli: Great. Thank you. Yeah, 'cause as he said he's gonna have to write up a
5 decision and order to be submitted, so that's...so great. Commissioner La Costa.

6
7 Ms. La Costa: Thank you Chair. I concur. It has to do with Condition B. My concern in a past
8 life I worked for Kaanapali Coffee Farm and I know how hard it was for them to get the farm up
9 and running this was in 1997-98. It was incredibly difficult for them to get the farm up and
10 running and they are doing an incredible job and their biggest concern is the Coffee Borer
11 Beetle. The fact that the Finnegans did not contact Mr. Falconer and chat with him about what's
12 going on with the coffee farm and their concerns is the reason I seconded the motion.

13
14 Mr. Carnicelli: Great. Thank you. Would anybody else like to speak to the motion?
15 Commissioner Tackett.

16
17 Mr. Tackett: So I'm also not in favor and the reason I'm not in favor is the first reason is
18 because the driveway that people are gonna be using seems to be in very close proximity to the
19 coffee and then the second reason I'm not in favor is because you guys all bought in that
20 neighborhood and you guys all share that risk and you guys all have guests, but for one person
21 to profit for it and then to be able to bring a different type of guest in I believe that wouldn't be
22 fair to the other people that have bought in there. So, you guys are all...every time you let
23 somebody in that gate you guys are all assuming a risk. It's a risk that all of you guys are taking
24 together, but when, when somebody gets something special, something special that they get to
25 profit from now, now you're adversely affecting the neighborhood, you could, you could have a
26 debacle that could destroy that coffee farm. Now if a guest comes in, a guest of the guest
27 comes in and nobody's doing anything special that's just something that you guys all kind of
28 bought into together, but if one person is doing something, something for profit and these aren't
29 people that are living there all the time and these are people that are gonna go to lao Valley.
30 There's lots of coffee farms in lao Valley. There's random coffee farms all over the place,
31 so...and not even coffee farms, just random coffee plants, you know, just, just I mean I know
32 people that have a house with the coffee plant, so you know that's why I'm not in favor of it, but I
33 definitely appreciate your service to the country and I do thank you for that, but that's my take
34 on the whole thing.

35
36 Mr. Carnicelli: Thank you. Would anybody else like to speak to the motion?
37 Commissioner Pali.

38
39 Ms. Pali: I'll just say that you know it's helpful when we have no opposition letters, but we are
40 here to support the community and follow the existing rules and it's difficult when there's
41 opposition letters and a commonality in some of the issues is the public they don't feel like
42 they're heard and so we have to take the opposition letters seriously. So that's the only
43 comment.

44
45 Mr. Carnicelli: Thank you. Would anybody else like to speak to the motion? I guess I will as
46 well just to reiterate what Commissioner Freitas had mentioned which is the adverse effect to
47 the neighborhood. I really remember the last one that came before us and not that that is the

1 same as this one, but the neighborhood was vehemently against having any sort of visitor
2 accommodation in the neighborhood. I'm sure you're wonderful neighbors. The one thing that
3 I'm gonna I guess ask or request is that if this motion does pass and you are in fact denied that
4 you would consider putting a family in there, in your ohana, that you would consider if you really
5 want to be a part of the community and be a part of you know West Maui, I would just ask or
6 request that you put a family in that unit. Rents on West Maui are exorbitant so I'm sure you'll
7 get a healthy amount for that being the setting that it is and the beautiful property that it is. But
8 just to consider that and when you family comes to visit that they can stay with you in your main
9 house and that you can put a long-term tenant in there. So that's if this motion does in fact
10 pass. So, would anybody else like to speak to the motion? Seeing none, Director.

11
12 Ms. McLean: Thank you Chair. The motion is to deny the State Special Permit primarily
13 because it does not meet the second criteria about adversely affecting surrounding property.

14
15 Mr. Carnicelli: All those in favor please raise your hand. That is six. Sorry, Mr. Finnegan, I
16 appreciate your efforts, I appreciate you really trying to do it the right way that goes a long way
17 with us. We do appreciate that.

18
19 **It was moved by Mr. Freitas, seconded by Ms. La Costa, then unanimously**

20
21 **VOTED: To Deny the State Land use Commission Special Permit.**
22
23 **(Assenting – K. Freitas, P. D. La Costa, D. Thompson, K. Pali,**
24 **C. Tackett, S. Castro)**
25 **(Excused – K. Robinson, T. Gomes)**

26
27 I believe at this point in time we're go ahead and take a...or I guess are we ready to do this?
28 Who's the?

29
30 Ms. McLean: Ryan are you ready?

31
32 Mr. Carnicelli: Ryan, are you ready or...

33
34 Mr. Quigless: Yes.

35
36 Mr. Carnicelli: Okay, we can go unless you guys need a break? You wanna just go? Okay,
37 five-minute recess?

38
39 A recess was called at 10:04 a.m., and the meeting was reconvened at 10:11 a.m.

40
41 Mr. Carnicelli: The Maui Planning Commission meeting of November 12, 2019 is now back in
42 session. Director.

43
44 Ms. McLean: Thank you, Chair. Next, we have a request from Tatiana Botton for a Short-Term
45 Rental Home Permit in order to operate Hale Nalu, a three-bedroom STRH located in the
46 County R-1 Residential Zoning District and State Urban District on approximately

1 5,022.47 square feet of land located 33 Nalu Place at TMK: 2-6-002: 023in Paia.
2 Ryan Quigless is the project planner.
3

4 **3. TATIANA BOTTON requesting a Short-Term Rental Home (STRH) Permit in**
5 **order to operate Hale Nalu, a three-bedroom STRH located in the County**
6 **R-1, Residential Zoning District and State Urban District on approximately**
7 **5,022.47 square feet of land located at 33 Nalu Place, TMK: (2) 2-6-002:023,**
8 **Paia, Island of Maui, (STPH T2016/0005) (R. Quigless)**
9

10 **The matter is being brought before the Maui Planning Commission for**
11 **review because there are at least two permitted short-term rental home**
12 **operations located within 500 feet of the subject property.**
13

14 Mr. Ryan Quigless: Aloha and good morning, Commissioners.
15

16 Mr. Carnicelli: Good morning, Ryan.
17

18 Mr. Quigless: My name is Ryan Quigless with the Maui County Planning Department. As
19 stated, we meet here today on behalf of the Planning Department and the applicant,
20 Tatiana Botton regarding a request for a Short-Term Rental Home Permit to operate Hale Nalu,
21 a three-bedroom home in the State Urban District and County R-1 Residential District on
22 approximately 5,022.47 square feet of land located in Paia at 33 Nalu Place, Maui, Hawaii.
23

24 We meet here this morning because the public hearing requirement was triggered by two or
25 more short-term rental homes operating within 500 feet of the subject property. There are
26 seven total short-term rentals operating within 500 feet of the property. At this time, I'd like to
27 also note a few details regarding the application and the staff report.
28

29 The first item is that the notice of public hearing was mailed twice on two separate dates. The
30 first date was July 12, 2018 for a scheduled hearing with the Maui Planning Commission on
31 August 14, 2018. The project was removed from the August 14, 2018 meeting agenda due to
32 unresolved conflicts in the Paia-Haiku Community Plan and the Short-Term Rental Home
33 Ordinance. The project was rescheduled for the public hearing after changes in legislation were
34 adopted. The projects that were on hold during the changes in legislation were allowed to
35 proceed after the changes were adopted. In total there were three public notice mailings for this
36 application, one in 2017, one in 2018, and one in 2019 and the public notices generated no
37 neighbor objections to the proposed use.
38

39 And the second note that I'd like to note as well is that the notice of application mailing date
40 recorded in the staff report is June 30, 2016 is now being corrected to read, June 30, 2017. The
41 applicants also have no Request for Services on file, they have no neighbor complaints or
42 violations with County on file and the Department has not received any letters of opposition to
43 the proposed short-term rental home from the public.
44

45 After the Department analysis and review of the project, the short-term rental home impact to
46 the surrounding community is not expected to negatively affect the existing character of the

1 community nor be a detriment to the existing shoreline environment. Commissioners, do you
2 have any questions for either myself or the applicant at this time?

3
4 Mr. Carnicelli: Ryan, is the applicant going to do a presentation or no?

5
6 Mr. Quigless: Actually, Tom Croly is here and he can also speak as well afterwards.

7
8 Mr. Carnicelli: Okay, let's do that.

9
10 Mr. Quigless: Pass it to him.

11
12 Mr. Carnicelli: Yeah, we'll pass it to Tom and then we'll do public testimony and then we'll come
13 back to you.

14
15 Mr. Quigless: Sounds great.

16
17 Mr. Carnicelli: Great, thank you. Mr. Croly.

18
19 Mr. Tom Croly: Hello, Chair. Tom Croly, and Commissioners. The applicant contacted me in
20 2016 and said she was interested in pursuing a short-term rental permit for the home that she
21 occupies for a good portion of every year. In the past, when she wasn't occupying the home it
22 was vacant and she had had some security problems, some security issues that she felt that
23 having the home occupied as a short-term rental might help address those problems. I helped
24 her put together the application and it was a home that I felt was exceptional and it met all of the
25 requirements. Unfortunately, because that was 2016 and now it's 2019 it's like why did it take
26 so long? And I think some of you were familiar with the issue that came up regarding the
27 conflict between the Paia-Haiku Community Plan and the Short-Term Rental Ordinance and the
28 practice of the Planning Department to that point as far as issuing permits. I do want to point
29 out that since the applicant's application came in 12 short-term rental permits were granted in
30 the Paia-Haiku Community Plan area and eight of them were in the SMA, some of them were
31 granted by this Commission, some of them were granted administratively, but since her
32 application came in in 2016 there were 12 short-term rental permits in Paia-Haiku that has since
33 been granted.

34
35 The conflict between community plan and the ordinance was...went to Council and the last
36 Council not the current County Council addressed it and at their final meeting they did...they
37 had, had second reading of making that change but they deferred and said we need to have
38 some more community input. So, this Council took up that measure and there were more
39 community meetings that were held and this Council did resolve that conflict. As part of that
40 resolution, one of the addendums to that said that applications that are in process, that have
41 been accepted as complete may be processed under the old rules so to be clear the new rules
42 say no short-term rentals in the Shoreline Management Area, in the SMA area. This would be
43 the last application I think that would, that would come before you that would be processed
44 under the old rules that the Department had been issuing permits in the SMA.

45
46 The applicant has owned this house for ten years and she has never operated as short-term
47 rental. And she business concerns in Paia and in Maui that bring her here on a regular basis to

1 take care of those. There's no possibility for this particular property to be used as a long-term
2 rental because of the amount of the year that the applicant uses it herself.

3
4 I do want to also note that the staff report I think says that there are six short-term rentals within
5 500 feet, seven, okay thank you. One of those on Nalu Place is a property that was sold in
6 September. The permit associated with that property which was granted in 2012 now goes
7 away and the new owner of that property will not have any opportunity to apply for a permit. So
8 from a perspective of are we adding another one to that we're really just replacing the one that
9 in September went away with the sale of that property, and in the future if this applicant is
10 granted her permit or if any of the people who have permits in this immediate area should sell
11 their property there no longer will be the opportunity for them to apply for a short-term rental
12 permit in the SMA area.

13
14 I'd like to introduce the applicant who can tell you about herself, tell you about you know her
15 plans for the property and so forth, Tatiana would you come up? Thank you.

16
17 Mr. Carnicelli: Thank you.

18
19 Ms. Tatiana Botton: Chair and Commissioners.

20
21 Mr. Carnicelli: Good morning.

22
23 Ms. Botton: Good morning.

24
25 Mr. Carnicelli: Bring that microphone back, yeah there you go, thank you.

26
27 Ms. Botton: Sorry.

28
29 Mr. Carnicelli: That's okay.

30
31 Ms. Botton: My name is Tatiana Botton. I'm happy to be here to present my case after more
32 than three years. As you know, my property is located 32 Nalu Place, Paia, it's oceanfront. I
33 also own the Art Project Paia which is a small gallery in Paia that I've operated for the past
34 five years. I have a full-time employee and I have four, part-term employees that work there. I
35 own a farm in Kula that is currently being used as animal pasture. I have six, full-time
36 employees and three-part-time employees right there. Working with permits to improve
37 infrastructure on the farm land that is currently off grid. I'm also developing a multi-usage
38 property in Kula Malu for some of my employee's lodging because I'm aware of the lack of
39 lodging and affordable housing for people here on Maui. So, I think that shows that I'm aware of
40 the, of the lack of affordable housing here on island and I'm trying to do my part for that.

41
42 With all of these projects, that brings me to Maui quite often which doesn't really allow me to
43 rent the house full time. I occupy the house mostly November, December and then in the
44 summer, April, June and June, sometimes in August. It is either myself, my partner and some
45 friends that occupy the home, otherwise the house stays empty. I have never rented my house
46 short-term and the intention here with the short-term permit is to basically have it occupied when
47 I'm not in town by renters. I hope to provide the renters with a authentic feel of what it is to be

1 on Maui. I feel Paia is a unique place and not everybody has the opportunity to experience that.
2 I feel there's a lot of people who just pass through Paia and don't get that sense of this space.

3
4 For my short-term rental I'm planning to use Trinity Properties if it gets approved with
5 Greg Mebel, who's the agent here. That's, that's about it.

6
7 Mr. Carnicelli: Thank you, Tatiana.

8
9 Ms. Botton: You're welcome.

10
11 Mr. Carnicelli: So, at this point, we'll go ahead and open up the floor for public testimony. We
12 have one person signed up, Francine Aarona.

13
14 Ms. Francine Aarona: Aloha.

15
16 Mr. Carnicelli: Please state your name for the record.

17
18 Ms. Aarona: Francine Aarona also known as Aunty Mopsey, Protect Paia.

19
20 Mr. Carnicelli: Do you promise to be truthful?

21
22 Ms. Aarona: And I do solemnly swear to tell all the truth.

23
24 Mr. Carnicelli: You have up to three minutes.

25
26 Ms. Aarona: Yes, first of all, I really want to thank you or commend you for being our voices, for
27 a lunch and mileage you do much for us, and we know that our voices doesn't fall on deaf ears.
28 I want to read something before I start my testimony.

29
30 I am reminded to be careful of my thoughts before it becomes words, and words become
31 actions, and that my actions do not become habits for they may become your character and
32 your destiny. I am here which is a surprise that will be to all, you and everyone that I am in
33 support of this rental. Primarily it's because I was one of the instrumental people who brought it
34 to the table of the community plan not being amended and all of the hullabaloo began.
35 Unfortunately, Tatiana has had her application in way before the chaos started and just looking
36 at myself and what I just read to you talking about character, I look at people's character and
37 Tatiana has a beautiful character. She has always supported the community in all of the affairs
38 that we brought on hand. It would be unfair for me to oppose that because it is before what we
39 have on the table right now. I am totally against short-term rentals especially on the shorelines,
40 everywhere because we need more homes and what Tatiana is trying to do for the people that
41 work for her and provide lodging, I think it's a fantastic idea. She has a lot of things that she
42 wants to do for the community. So as far as this shoreline rental, I believe that in all fairness
43 that I ask you to allow this to happen because it is the old laws that were provided for her and it
44 would be a shame that others got away with doing their shoreline rentals and whatever that she
45 doesn't have the opportunity to do this especially before the commitments that are being made
46 now. Don't get me wrong, I still will be here to oppose all short-term rentals and B&Bs to a
47 certain extent, but yes, I am in support of this rental on the shoreline--

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Ms. Takayama-Corden: Three minutes.

Ms. Aarona: --because it has happened before the fact.

Mr. Carnicelli: Thank you.

Ms. Aarona: Thank you.

Mr. Carnicelli: Any questions from the Commissioners? Tatiana, do you have any questions for Aunty Mopsey? No, okay. Okay, thank you. Would anybody else like to speak on this particular item? Please come forward. Please state your name.

Mr. Albert Perez: Good morning Commissioners, I'm Albert Perez, I'm Executive Director of Maui Tomorrow Foundation.

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

Mr. Perez: Yes, I do.

Mr. Carnicelli: You have up to three minutes.

Mr. Perez: Good morning. So, as I've stated to the Commission before our policy of Maui Tomorrow is that we are kind of okay with bed and breakfast because people are living on site. We are opposed to short-term rental homes they are taking away from potential rentals. Whenever you have a short-term rental home it raises the value of the property which raises prices for neighboring home purchases and rentals. So, we need to be doing just the opposite.

And I'd like to address the recent revisions to the Paia-Haiku Community Plan and the Zoning Code. So previously the community plan allowed only bed and breakfast while the Zoning Code allowed bed and breakfast and short-term rental homes, I think it was 88 previously. However, even under the old community plan the community plan was clear that visitor accommodations should not be situated near the shoreline. This one is abutting the shoreline, it's right on the shoreline. So...and the community plan revisions that were made are even more clear. In fact, the revisions prohibit short-term rental homes in the special management area. So even though the new ordinance allows pending applications to be processed, the applicant should have known that the community plan already discouraged visitor accommodations not just near but on the shoreline. Also, I think that's really significant and I think you should deny it on that basis.

But also, in the past you've heard from your Corporation Counsel, not Michael, it was somebody else here that you need to have a reason from the SMA Rules to be able to deny a short-term rental home and I think from the Maui Planning Commission SMA Rules 12-202-12 e to h, on Page 202-12 of the rules, it says that there's a prohibition on approving something that is contrary to the State Plan, the County's General Plan, appropriate community plans, zoning and subdivision ordinances. So, I think that gives you the basis to deny this application and I urge you do so. Thank you.

1
2 Mr. Carnicelli: Thank you, Albert. Just so you know, we're not granting an SMA Permit today,
3 that's not what's before us, just so you know.

4
5 Mr. Perez: Right, sorry. You're the Planning Commission...(inaudible)...with the SMA.

6
7 Mr. Carnicelli: There you go. Does anybody else have questions for the testifier? Do you have
8 any? Okay, Tatiana has no questions either. Thank you, Albert. Is there anybody else that
9 would like to come forward and testify on this particular item? Seeing none, without objection
10 we'll go ahead...oh, we got a latecomer. That is okay, that is okay, we'll friendly here, we're all
11 friendly.

12
13 Ms. Cynthia Knox: It's important enough for me to be here.

14
15 Mr. Carnicelli: Please state your name.

16
17 Ms. Knox: My name is Cynthia Knox.

18
19 Mr. Carnicelli: Cynthia, do you promise to be truthful?

20
21 Ms. Knox: Always.

22
23 Mr. Carnicelli: You have up to three minutes.

24
25 Ms. Knox: It will be the longest three minutes of my life, but actually I'm here because I wanted
26 to be in support of Tatiana Botton's...what we're here for and it's not so much to give testimony
27 on the property but on Tatiana herself. I am here gallery manager at Art Project Paia, the little
28 gallery that my husband actually built for her and it's been seven years Tatiana, not five years
29 so we've been having so much fun and, in that time, I've gotten to know Tatiana both
30 professionally and somewhat privately. I mean, we never really know somebody, but because
31 of background which I will not go into here 'cause it's not about me, I have a way of seeing
32 someone and getting to know them directly. My trust factor is not very high with people but I
33 can tell you with Tatiana I trust her heart. I've seen how she does work here, I've seen how she
34 interacts with us, with me, with people that I've seen her with, and I am here to say that Maui
35 would actually benefit from having Tatiana share that heart with Maui because she is not here to
36 change anything of money wise, I mean the gallery we make money but it's not a lot of money
37 because we don't sell anything every day, but we're happy. We've been here, people come to
38 Maui to have different items to take to the rest of the world so ...(inaudible)...more come to
39 Maui. I've been a resident now going on 40 years myself here on Maui. I married a Maui boy,
40 so I've seen the changes that have come, good and bad for Maui in that time. I don't know how
41 I feel about some things, I'm not going to give you that opinion 'cause we all have, but I will tell
42 you that I think you would do a disservice to Maui to not allow this to happen for Tatiana's
43 property and that's what my basis is. Thank you very much.

44
45 Mr. Carnicelli: Thank you very much. Any questions for the testifier? Tatiana, do you have any
46 questions? Okay, thank you very much. Would anybody else like to testify on this particular
47 item? Then seeing none, without objection we'll go ahead and close public testimony.

1 Questions from the Commission? I've got one for your Ryan. So, I'm a little, if I go to Exhibit,
2 from the handout, Exhibit 8, 9, 10 and 10A, or 8, 9, yeah, 10 and 10A, yeah, the pictures here,
3 so first off, I want to go to parking. 'Cause it just, it looks as though we got two guest parking
4 stalls, but they're kinda like jammed in there, I mean that would be as far as impacting the
5 neighborhood it just seems as though a concern that we've got one parking stall that seems to
6 be "a normal one" and then a second one, that's sorta sideways there. It be real easy, you
7 know now suddenly you guest one wants to leave, guest two gotta get out of the way, I mean
8 so, is how narrow is the street for guest two to get out for guest one to then pull out. Like I
9 mean, how much you know back and forth we gotta do here to be able to get in and out.

10
11 Mr. Quigless: So, I'm not sure if you're familiar with Nalu Street there. It's really tiny.

12
13 Mr. Carnicelli: Little bit, but pretend like I know nothing.

14
15 Mr. Quigless: Super tight, inches of turning radius and so if you follow the roofline on 10A
16 there's actually a parking garage that's attached to the unit so guest one's parking is in the
17 garage—

18
19 Mr. Carnicelli: Right.

20
21 Mr. Quigless: And then the courtyard area is where the second—

22
23 Mr. Carnicelli: Gravel or something like that.

24
25 Mr. Quigless: --you come in and then the gate closes behind it. But there, that's kind of typical
26 of that street, each one is the exact same way. You know if you kinda go down that street you
27 head all the way to the end then you're reversing all the way back out.

28
29 Mr. Carnicelli: Right. The other part that's a little bit confusing is 'cause it seems as though
30 when I look at the difference between 8, 10 and then 10A, 10A seems to be a mirrored...you
31 know because I got this...I don't know it's weird, like I'm trying to figure out one of them is a
32 flipped mirror image because of the way that the roof sticks out on the one side or I'm just
33 missing something here is, or maybe...oh, I see that's connecting to the garage. Okay, never
34 mind I—

35
36 Mr. Quigless: It's tight in there.

37
38 Mr. Carnicelli: Yeah, okay. So, it's still tight.

39
40 Ms. McLean: Chair, if I can note that the ordinance allows for B&Bs and STRHs for parking,
41 guest parking to be in tandem.

42
43 Mr. Carnicelli: Right.

44
45 Ms. McLean: And also, because this is an STRH it would be rented to one party so the two cars
46 would—

47

1 Mr. Carnicelli: Would be rented to one party.
2
3 Ms. McLean: Would be rented to one party so the two cars would be together in one party so if
4 they have to shuffle them, they're one group, so they would have to work it out themselves.
5
6 Mr. Carnicelli: And it's two bedrooms, right?
7
8 Mr. Quigless: Three bedrooms.
9
10 Mr. Carnicelli: Oh, it's three bedrooms. Six people total.
11
12 Mr. Quigless: Not including the children, correct.
13
14 Mr. Carnicelli: Not including—
15
16 Mr. Quigless: Not including children.
17
18 Mr. Carnicelli: Correct. Children are people too.
19
20 Mr. Quigless: They are.
21
22 Ms. La Costa: Sometimes.
23
24 Mr. Carnicelli: Sometimes. And then the other part that I guess, you know, I'll go ahead and let
25 somebody else ask a question if they have. Commissioner Freitas.
26
27 Mr. Freitas: Can I have Aunty Mopsey come up I have a question?
28
29 Mr. Carnicelli: No, actually I'm sorry, we can't. No, we already had our turn with her, I'm sorry.
30
31 Mr. Freitas: Oh, okay. So, it's just...
32
33 Mr. Carnicelli: Yeah, I guess unless is...
34
35 Mr. Freitas: No, it's okay.
36
37 Mr. Carnicelli: No, hang on, hang on, hang on. Is there any objections to allowing Ms. Aarona
38 to come up and speak to this? No objections? Okay, go ahead and come up. As a resource
39 person in the neighborhood. Aarona, sorry, I keep mispronouncing your name.
40
41 Ms. Aarona: That's okay, you're forgiven.
42
43 Mr. Carnicelli: Thank you.
44
45 Mr. Freitas: Aloha Aunty Mopsey, I have a question. Five-hundred-foot radius is approximately
46 18 acres and when I looked at the drawing about eight acres of that is water so really, we're
47 looking at about ten-acre square that there's gonna be seven, I believe seven because

1 six...seven minus one, plus one we're at seven will be all congested in that one area. And the
2 Haiku-Paia plan allows for 55 total these types of rentals so about 1/8 of it will be in a ten-acre
3 square mile. I just wanted to ask you because you were for this and you have lived on that
4 street for many years, I wanted to ask you one more time you are okay with that?

5
6 Ms. Aarona: I know where Tatiana's house is. It's more on the shoreline where I am.

7
8 Mr. Freitas: Okay.

9
10 Ms. Aarona: I have the biggest property there.

11
12 Mr. Freitas: Okay.

13
14 Ms. Aarona: And within...I live on Ae so she is located on Nalu up further, three homes down.
15 We...I am surrounded. There's only four neighbors that live in my area, the Kakiuchi's, the
16 Mark's, Awohi, Lopaka and myself. We are surrounded by vacation rentals. So, I view all of
17 that. She is located three doors down from me and when they mention about looters or people
18 that is a concern because we have people that walk the beaches. It is a narrow lane, Nalu,
19 there is however another Nalu Street that is blocked where people could turn around but there's
20 a gate there. But she has sufficient driveway space and you have another large...so yeah, it's
21 tight but where she's located, they're able to maneuver themselves. Yes, so we...you're right, I
22 am surrounded.

23
24 Mr. Freitas: Okay, and you're okay with that?

25
26 Ms. Aarona: That's why I have this.

27
28 Mr. Freitas: All right. Thank you, Aunty. Thank you. Thanks for letting me speak to her. I
29 wanted to hear it one more time.

30
31 Mr. Carnicelli: Of course, you get as many times...many questions as you like.

32
33 Mr. Freitas: And I would like to also add that the rules states when there's two or more that they
34 need to come and get a permit exemption and I ask myself why was it two and not five or six
35 and that we are now in a within this 500-foot radius we have seven. It's kinda gotten a little bit
36 out of control but it's interesting that it got that far.

37
38 Mr. Carnicelli: Thank you. Commissioner Pali.

39
40 Ms. Pali: The planner. On the photos I saw west, east, south and towards ocean. I suspect
41 towards ocean might have been the attempt for north, but the problem was we were just looking
42 at the roofline and I couldn't see past the home so I don't really have a photo which shows sort
43 of a slightly aerial like for instance if you go to Exhibit 3 on the top you can kinda see what's
44 past that and you can see the narrow road, but I don't see where the property is as far as in
45 relation to the ocean, I can't see an ocean shoreline. I can't see anything and the only aerial
46 view photo you have is so blurry I can't see if there's shrubbery protecting the property or what's
47 going on behind the home that's against the ocean and so I'm just having a difficult time of

1 assessing like how this specific property impacts the shoreline. The other thing I have is I don't
2 see any comment about letters of opposition or support and is it that because there was no
3 letters sent in or...

4
5 Mr. Quigless: I think there's a line in the report on that as of October 22nd there was no letters of
6 opposition.

7
8 Ms. Pali: Neither way?

9
10 Mr. Quigless: Yeah, no—

11
12 Ms. Pali: Okay, so I missed that line, okay. Okay, so that was my only comment because I'm
13 kinda struggling with this one because it's one of those things where we, as a community
14 decide, we know this kind of activity is harmful to our community and we've taken measures to
15 put in place to say hey, this kind of activity is harmful. However, on a technicality an applicant
16 can come in and go well, they applied prior to us legitimizing the fact that it's harmful. And so
17 I'm struggling because I love supporting good people, it's just that in the law it doesn't say well,
18 if you're good person your operation that we already have deemed hinders and hurts our
19 community, we'll let you do it 'cause you're good and everyone else is not or whatever that
20 looks like. I love supporting good people, I love supporting people that support the community
21 and so I'm struggling right now with that fact that we all want to protect Paia and we all want to
22 say this activity is harmful but on a technicality the application was predated and so that's just
23 where I'm lying, I'm struggling with that.

24
25 Mr. Quigless: So, if I understand, you're right I think there's two questions there. So, one is
26 kind of a clarification on the relationship to the shoreline and the ocean.

27
28 Ms. Pali: Yeah, 'cause if the property has shrubs and things that kind of separate the property's
29 access to the shoreline it would make me feel better because then you know you don't have that
30 direct traffic flowing into the shoreline, but if it's just wide open and there's that direct access it
31 just would help me understand 'cause the shoreline is the big issue here, how are we protecting
32 it and we have no pictures that show the shoreline and the property.

33
34 Mr. Quigless: I think I can clarify some of that with the analysis portion of the review.

35
36 Ms. Pali: Okay.

37
38 Mr. Quigless: So, if you think about public access, so there's a gate there. There would be no
39 public access regardless if it was a short-term rental or not.

40
41 Ms. Pali: Right.

42
43 Mr. Quigless: So that's the first thing, second—

44
45 Ms. Pali: So, there's a gate in the back of the boundary line?

46
47 Mr. Quigless: Correct.

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Ms. Pali: Okay—

Ms. Aaron: There's a seawall.

Ms. Pali: Seawall, seawall, oh, thank you Aunty. Seawall, okay.

Ms. Aaron: Seawall and there's a ...(inaudible-speaking from the audience)...

Ms. Pali: Okay, thank you.

Mr. Quigless: That's, that's just one of the things.

Ms. Pali: Okay, I didn't see that in the report, sorry, okay.

Mr. Quigless: Yeah, and then so directly if you look at ten...Exhibit—

Ms. Pali: So, there's a lesser of a impact because there's not then direct access. Okay—

Mr. Quigless: Yeah.

Ms. Pali: --thank you for clarifying that. That helps me.

Mr. Quigless: And then the second portion of supporting good people and I think that there's seven others so the existing character of the community is not really affected.

Ms. Pali: 'Cause they're already there.

Mr. Quigless: You could argue that you know there could be changes in the future that would take that back and reverse some of that, but for now it's in line with the existing character of the community.

Ms. Pali: Okay, thank you for that.

Mr. Carnicelli: Hang on a second P. D. So Director and/or Mr. Hopper, Commissioner Pali brings up something I think that we have to address and that is, okay the application got put in prior to the change so the application is grandfathered, it doesn't mean it has to pass, it doesn't mean it has to be approved, but just the applicant can continue forward because it was put in prior to the new ordinance change, correct? We fixed the discrepancy between the STRH ordinance and the Paia-Haiku Community Plan that was fixed but the application was submitted before all of that mishegas started. My question directly though is does an STRH on the shoreline have to conform with...with it before the changes or with the current changes? Because if it's...okay, it was submitted before does that mean it has to conform with what was before or does it mean oh, we submitted before and now it has to conform with the new?

Ms. McLean: Thanks for the question. So for the Commission who might not be familiar with the details of this the Paia-Haiku Community Plan was adopted in, gosh when was it, in the 90's

1 and it has specific language in there that says visitor accommodations shall be limited to owner-
2 occupied bed and breakfast and shall not be situated near the shoreline to protect the character
3 of the area. That was in '94, '95 when the Paia-Haiku Community Plan was adopted. Then in
4 roughly 2012, the Council adopted the STRH ordinance, 2012, 2014 I can't remember when,
5 and that ordinance allowed STRHs in Paia-Haiku with a cap of 88—
6

7 Unidentified Speaker: Anywhere.
8

9 Ms. McLean: --in Paia-Haiku. And so, the Department's position at that time was that well, this
10 came later so this, this is what directs us, this is what Council adopted so we administer the law
11 as Council adopts it. Without going into detail, finally the Department put forward, initiated bills
12 to reconcile those differences, one bill to amend the community plan, and then one bill to amend
13 to STRH Ordinance, and that went to the Council as one of the testifiers mentioned and that
14 was grappled with by Council, and ultimately it got passed by the current Council where they
15 changed both. So now the community plan is specific about B&Bs and says no STRHs within
16 the SMA, a much broader area than the language before saying just the shoreline. And then
17 the STRH cap was reduced down to the number of permits that had been issued already and a
18 handful that were in the pipeline. So, the cap got reduced from 88 down to 55 and is also is
19 specific, none with the SMA.
20

21 In their discussions, the Council was clear that existing permits and actually the ordinance says
22 existing permits can be renewed, can continue to operate even though they were passed under
23 that old language. And they also said permits that are in the pipeline can also be processed the
24 way that they had been before, and so as the testifier said and as the Chair's question is, yeah,
25 the existing ones conflict with the old community plan and some of the ones in the pipeline
26 conflict with the old community plan but the direction that we got from Council was that the
27 existing ones could be renewed and could continue as long as they follow the rules and that the
28 ones in the pipeline could also be brought forward. So, we're administering pursuant to the
29 direction that we got from Council when they made the change.
30

31 Mr. Carnicelli: Awesome. Thank you very much for that clarity. Mr. Hopper.
32

33 Mr. Hopper: That does mean though that you still would have to find just like any other short-
34 term rental home that it meets the criteria of 19.65. You've got that on Page 13 of your staff
35 report and so they still need to meet that criteria and go through that discretionary permit
36 approval. I think the Director did correctly state the situation with the community plan and with
37 the new requirement in the Code that prohibits that prohibits this use in the SMA. However,
38 the...that just means that the application can be processed and there's the option to approve,
39 but yes, you still have to meet the criteria of 19.65 of the Code and that's listed in your staff
40 report and that analysis is there but that's something that you have to still do as part of your, as
41 part of your review is to review that criteria.
42

43 Mr. Carnicelli: Thank you, Mr. Hopper. In regards to this particular topic is there any questions
44 just since we kinda got a flow going? Okay, cool. Commissioner La Costa.
45

46 Ms. La Costa: Thank you, Chair. Jared this is for you please.
47

1 Mr. Quigless: Ryan.
2
3 Ms. La Costa: Ryan, I'm sorry. Blond. Sorry. So, if you will look at Exhibit 9, please? You
4 can't say that, I can.
5
6 Mr. Carnicelli: You're not always blond, come on.
7
8 Ms. La Costa: I know my roots are starting to show, aren't they?
9
10 Mr. Carnicelli: Sometimes you're red.
11
12 Ms. La Costa: It's just whatever my mood is that day. If you'll look at Exhibit 9, it says, new
13 dwelling for Lynne and David Barrett on the bottom of the drawing. When did, when did this
14 house get sold and why is this old floor plan in here?
15
16 Mr. Quigless: I'm going to refer to the consultant on that.
17
18 Ms. La Costa: Okay, thank you.
19
20 Mr. Carnicelli: Mr. Croly.
21
22 Mr. Croly: Commissioner, I'm not sure of the reference to the, to the new house, but—
23
24 Ms. La Costa: ...(inaudible)...
25
26 Mr. Carnicelli: Just for clarity—
27
28 Mr. Croly: Sure.
29
30 Mr. Carnicelli: No, he's got it in front of him.
31
32 Mr. Croly: New dwelling for Lynne and David Barrett. I don't know why that is on there. Okay,
33 the applicant purchased this property in a form where there was a house there and then went
34 through the complete permitting process to build or renovate the house to what it is today. That
35 reference to who that was could just be a mistake of the architect in not putting the...the most
36 current thing, but this applicant purchased this property ten years ago and renovated it and all of
37 the permits are in place for that renovation.
38
39 Mr. Carnicelli: Director.
40
41 Ms. McLean: It looks like the date on that is April 9, 2000.
42
43 Ms. La Costa: It's also not the right TMK.
44
45 Mr. Croly: There you go. So, it was just the wrong tag that was put onto that particular thing.
46 That is the floor plan of the upstairs of this house, but apparently the architect may not have put
47 the correct tag with it.

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Ms. La Costa: Thank you, Tom.

Mr. Croly: Yeah.

Mr. Carnicelli: Great. Commissioner Castro.

Mr. Castro: No questions.

Mr. Carnicelli: Commissioner Tackett.

Mr. Tackett: No questions.

Mr. Carnicelli: Is everybody good for now as far as questions, enough information to make a decision? Great, come forward, recommendation from Staff please.

Mr. Quigless: The Maui County Planning Department recommends approval of the short-term rental home subject to the following 23 standard conditions. I'd like to point out the 23rd condition that lease, that the applicant shall ensure that all guests are educated about Maui Nui's history and culture, about potential detrimental impacts to natural and cultural resources particularly to the coastal environment and nearshore waters. Evidence of such education program shall be provided to the Planning Department prior to operation. There are 22 others if you would like me to go over those at this time.

Mr. Carnicelli: No, I think we have those, but I appreciate that. Motion from the floor?
Ms. La Costa.

Ms. La Costa: Thank you, Chair. I make a motion to approve the application as suggested by Staff.

Mr. Carnicelli: Motion by Commissioner La Costa, do I have a second? Seconded by Commissioner Tackett. Discussion on the motion?

Ms. La Costa: Thank you, Chair. Aunty Mopsey is here and very vocal about her community. She is the protector of the aina, she is kind of the Mayor of Paia if you will and if Aunty Mopsey who lives in very close proximity to this doesn't have an issue with it, then I don't either and we look at everything as we've discussed over and over again, we look at letters of opposition, testimony for and against, and I just feel that, that with what Ms. Botton is doing in the community with her gallery, providing housing, Kula farm, she is a person of the community, she has done this correctly and I think that because there is no net change with the one sale I'm for this application.

Mr. Carnicelli: Thank you. Anybody else would like to speak to the motion?
Commissioner Tackett.

Mr. Tackett: So, I feel the same why. I figure if that's a pretty, that's a pretty vocal part of town. Just blows my mind that nobody's here against it, you know, it's hard to think that something like

1 that would come in front of us without people against it, and then to have Aunty Mopsey who's
2 been there forever, for her to be for it and to have it nothing against it come onto the floor that's
3 pretty much why I seconded the motion. So that's my stance on it.

4
5 Mr. Carnicelli: Thank you. Commissioner Pali.

6
7 Ms. Pali: Yeah, I'd just like to note the record that moving forward we know that we don't want
8 this type of activity and that's why the rules have been updated and changed but again, there
9 has been no letters of opposition and so we don't really have the voice of the community that
10 might be opposing this particular applicant and so it appears that the application is in
11 compliance with laws that predates what's going on today.

12
13 Mr. Carnicelli: Great, thank you. Director.

14
15 Ms. McLean: Thank you, Chair. The motion is to approve the application subject to the
16 conditions provided in the staff report.

17
18 Mr. Carnicelli: All those in favor of the motion please raise your hand. That is five eyes.
19 Opposed. That is five to one. Congratulations, you receive your permit.

20
21 **It was moved by Ms. La Costa, seconded by Mr. Tackett, then unanimously**

22
23 **VOTED: To Approve the Short-Term Rental Home Permit as Recommended**
24 **by the Department.**

25
26 **(Assenting – P. D. La Costa, C. Tackett, K. Freitas, K. Pali, S. Castro)**
27 **(Dissenting – D. Thompson)**
28 **(Excused – K. Robinson, T. Gomes)**

29
30 Mr. Carnicelli: I think at this point we're gonna go ahead and take a five-minute recess, allow
31 the next applicant to set up and let Commissioner La Costa run to the restroom.

32
33 Ms. La Costa: I already went.

34
35 Mr. Carnicelli: Oh, you already went okay.

36
37 A recess was called at 10:56 a.m., and the meeting was reconvened at 11:02 a.m.

38
39 Mr. Carnicelli: ...back in session. Director. Did I get you with your mouth full?

40
41 Ms. McLean: Almost. You timed that, perfectly didn't you?

42
43 Ms. McLean: Chair, next we have a request from R. D. Olson Development for review and
44 comments on the Draft Environmental Impact Statement in support of the Community Plan
45 Amendment from Light Industrial to Hotel for the proposed Windward Hotel, a 200-room hotel,
46 located on approximately 5.17 acres of land, located in the Maui Business Park II Subdivision at
47 778 Haleakala Highway, TMK: 3-8-103:014 (portion), 015, 016, 017, 018 in Kahului.

1 Tara Furukawa is the Project Planner and she's working with the applicant right now on getting
2 the presentation set up. Tara will give a quick procedural overview.

3
4 **C. NEW BUSINESS**

- 5
6 1. **R.D. OLSON DEVELOPMENT requesting review and comments on the Draft**
7 **Environmental Impact Statement (DEIS) in support of the Community Plan**
8 **Amendment from Light Industrial to Hotel for the proposed Windward**
9 **Hotel, a 200-room hotel, located on approximately 5.17 acres of land,**
10 **located in the Maui Business Park II Subdivision at 778 Haleakala Highway,**
11 **TMK: (2) 3-8-103:014 (portion), 015, 016, 017, 018, Kahului, Island of Maui**
12 **(EIS 2018/0001) (CPA 2018/0001) (T.Furukawa)**

13
14 http://oeqc2.doh.hawaii.gov/EA_EIS_Library/2019-10-08-MA-DEIS-Windward-Hotel.pdf

15
16 **The Maui Planning Commission is the approving agency.**

17
18 **The Applicant has also submitted applications for a Community Plan**
19 **Amendment, Change of Zoning, and a Special Management Area Use**
20 **Permit. The public hearing will be scheduled after the Chapter 343 HRS**
21 **process has been completed.**

22
23 **The Commission may act on the following:**

- 24
25 a. **That the Maui Planning Commission is the approving agency of the**
26 **Final Environmental Impact Statement.**
27
28 b. **That the Maui Planning Commission provide its comments on the**
29 **Draft Environmental Impact Statement.**
30

31 Ms. Tara Furukawa: Okay, sorry about that. Good morning Commissioners. This item is under
32 your review because the Maui Planning Commission is the accepting authority for the
33 Environmental Impact Statement or EIS for the proposed Windward Hotel. The applicant is
34 proposing an amendment to the Wailuku-Kahului Community Plan and that triggers the EIS.
35 We want to note especially for our new commissioners that this project has been reviewed
36 previously by the Maui Planning Commission. The applicant initially filed a Draft Environmental
37 Assessment or EA included in August 8th...the August 8, 2018 issue of the Environmental
38 Notice which is published by The Office of Environmental Quality Control. Agency comments
39 were due back on September 7, 2018 and because of the feedback obtained the applicant
40 decided to change course and file an EIS instead of an EA. So, we're today to obtain the
41 commission's feedback on the Draft EIS which was included in the October 8, 2019 issue of
42 Environmental Notice. The 45-day comment deadline is November 22, 2019 so that's why the
43 applicant is before you now. The applicant's consultant, Brett Davis of Chris Hart and Partners
44 is here and he'll do a brief presentation and I'll come back later to obtain your feedback on the
45 proposal. I just want to note that this project is coming to you multiple times for review so this is
46 just to obtain your comments for the Final EIS. Thank you.

1
2 Mr. Carnicelli: Is, is they will have to come back here for an SMA should it keep moving
3 forward.

4
5 Ms. Furukawa: Yes, as well as community plan amendment and change of zoning.

6
7 Mr. Carnicelli: Right, okay. Thank you, Tara. We all plugged in now or no?

8
9 Ms. Furukawa: Almost.

10
11 Mr. Carnicelli: Almost. Recess briefly.

12
13 A recess was called at approximately 11:07 a.m. and the meeting was reconvened at
14 approximately 11:12 a.m.

15
16 Mr. Carnicelli: November 12, 2019 is back in session. So, I believe we'll just go to you Brett.

17
18 Mr. Brett Davis: Good morning Commissioners, my name is Brett Davis, I'm a planner at
19 Chris Hart and Planners and I have brief presentation about the Windward Hotel and the
20 Draft EIS. Let me just introduce our project team, we had an extensive amount of technical
21 consultants who helped develop this EIS and they are available for questions here today.

22
23 The project site as you know is located in close proximity to the Kahului Airport. The project is
24 approximately five acres in size and the land use designations are Urban, Light Industrial, and
25 M-1 Light Industrial zoning and it's located in the Maui Business Park, Phase 2. The Maui
26 Island Plan designation is Urban. This is a map of existing industrial zoning land in Central
27 Maui. This was provided to us from the Maui Island Land and it was important just to show the
28 area of light industrial zoning.

29
30 I'll go over the project description briefly. The hotel has not changed in size since you've seen
31 it. It's 200 units. Landscaping will be used to screen the building where possible. We've added
32 a courtesy shuttle that will provide free transportation within a two-mile radius of the hotel
33 including airport rides. Amenities are included like a swimming pool, dining areas and the
34 project will provide 220 parking stalls and 220 are required. This is a copy of the site plan here.
35 The hotel is centrally located in the middle of the property. And I'd like to bring your attention to
36 this area here. This is a future DOT onramp that will access the Airport Access Road and the
37 timing of that ramp is unknown at this time but it is going to happen and so we wanted to show
38 that we could accommodate that future onramp in the site plan.

39
40 Mr. Carnicelli: Point at it again please.

41
42 Mr. Davis: This area.

43
44 Mr. Carnicelli: Right there, okay. Thank you.

45
46 Mr. Davis: Here's a slide of showing the hotel design and materials. You can get an idea of
47 what it will look like. And I've got a few...four conceptual renderings here just to show you the

1 proposed design elements of the hotel. So, a view of the interior courtyard. In addition, over
2 the summer we did a photo simulation for the project. These three areas in green triangles
3 identify the three locations of where the photos were taken. The hotel is identified there on the
4 plan and so here is View 1, so right now you're up on...you're on the Airport Access Road and
5 you're...if you were to go underneath this there would be that bridge that would take you to the
6 UPS area and the heliport, and here we have the proposed hotel. You'll notice it here on the left
7 with the extensive landscaping and how it...how we imagine it will fit into the site. This is
8 another view if you're leaving Costco and taking a right out of the gas station headed down
9 towards the airport, this is the existing view, and proposed view, you can hardly see any of the
10 hotel. You can see a small little bit of the roof right there and these are all additional landscape
11 planting to help screen the building. The final view is if you're approaching the airport on the
12 Airport Access Road and the hotel will appear on our left there, you can see the hotel and the
13 extensive landscaping.
14

15 As far as the environmental review we published the EIS...(inaudible)...in January and that
16 ended in February and we are currently in the Draft EIS publication review comment period and
17 comment period ends November 22nd, and following that we will prepare comment responses
18 that we receive on the Draft EIS and a Final EIS will be prepared. Thank you for time today.
19 Appreciate it.
20

21 Mr. Carnicelli: Very efficient. Good job. Thank you. At this point in time what we'll do is open
22 up the floor for public testimony. We have a few people signed up. The first one is
23 Aunty Mopsey, protect the airport.
24

25 Ms. Francine Aarona: I have to do another t-shirt then.
26

27 Mr. Carnicelli: Please state your name for the record.
28

29 Ms. Aarona: Francine Aarona.
30

31 Mr. Carnicelli: Do you promise to be truthful.
32

33 Ms. Aarona: Aunty Mopsey, Protect Paia. Yes, I do, I promise.
34

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

37 Ms. Aarona: Okay, I wasn't sure that I could testify on this particular item, but you know it goes
38 down to the plans that we have on board. The Maui Plan replaces this, replaces that or the
39 Countywide Policy Plan and I didn't read all the 15 pages or everything but I...I always go back
40 to the root of what this whole intent is about. If we allow this to happen all those vacant spaces
41 out there that A&B has or will sell out you're gonna see all of this popping up all over and is this
42 really what Maui wants, what we want, the community? Aole. We don't want this. We already
43 have little quaint hotels like Maui Beach and Seaside and we have Marriott and I think that's all
44 we can handle right now. I think we need to think about the people. How we can put people
45 into homes. If you build a duplex or a apartment and says this is for the residents that's fine.
46 They talk about creating jobs for who? For the transits that come, that need jobs to sustain
47 themselves to stay here 'cause that's what you're gonna see. You go into these restaurants

1 that's who you see, you don't see people that live here. You see transit people that make a
2 living. But I go back to this Countywide Policy that acts as a overarching value statement that
3 umbrellas policy documents for the Maui Island Plan and the nine community plans and it
4 provides broad goals, objectives, policies and implementing actions that portray the desired
5 direction of the County's future. I always go back to the goals. You have A to K or A to F
6 protect the natural environment. Are we protecting the natural environment? Preserve local
7 cultures and traditions. Are we doing that? Are we improving the education? Build a school,
8 build some education area. Strengthen social and healthcare services. We're doing really good
9 with the social, I don't know about the healthcare. Expand housing opportunities for residents,
10 bam, that's a big item. Are we doing that or are we just looking to promote—

11
12 Ms. Takayama-Corden: Three minutes.

13
14 Ms. Aarona: --this beautiful Island of Maui for those to come and visit and then they go away.

15
16 Mr. Carnicelli: Thank you.

17
18 Ms. Aarona: Yeah, so...

19
20 Mr. Carnicelli: Any questions for the testifier? Does the applicant have any questions for the
21 testifier? Okay, thank you.

22
23 Ms. Aarona: Thank you.

24
25 Mr. Carnicelli: Kai Nishiki.

26
27 Ms. Kai Nishiki: Good morning. Kai Nishiki.

28
29 Mr. Carnicelli: You promise to be truthful?

30
31 Ms. Nishiki: I do.

32
33 Mr. Carnicelli: You have up to three minutes.

34
35 Ms. Nishiki: Mahalo. Thank you for having this item up on the agenda for the public to offer
36 testimony and suggestions on. I know that this project was listed in the...this weekend's edition
37 of the Star Advertiser amongst ten other hotels that are seeking approval for development or
38 renovations and expansions. And I really believe that we have reached the tipping point as far
39 as tourism for Maui County. There's even talk from many of those who are proponents of
40 tourism about how important it is to manage tourism. Renovating and expanding and building
41 new hotels is not part of management. I mean if we're talking about renovations, I support
42 renovations, but leaving our room, our room count the same. We don't need any more
43 especially we don't need any more pushing into the last affordable areas which is like Kahului
44 and Wailuku. We don't need any more hotels. So, I would really urge that in the EIS that we're
45 looking at the cumulative impacts of not just this resort but the ten other ones that are also
46 adding to the mix, adding thousands of more rooms that we don't really need. There's also the
47 issue of the wastewater treatment facility in Kahului. We put a seawall on one of our most

1 beautiful beaches to protect the wastewater treatment facility from being inundated by the ocean
2 and so now we're just gonna add thousands of more hotels that are gonna impact that. If we're
3 gonna be impacting our wastewater treatment facility it should be for affordable housing only.
4 We do not need any more hotels. So please look at all of the major impacts that will...that
5 should be looked at when we're looking at huge project like this and thank you very much.
6 Appreciate it.

7
8 Mr. Carnicelli: Thank you. Any questions from the Commission? Seeing none, thank you.

9
10 Ms. Nishiki: Thank you.

11
12 Mr. Carnicelli: Stan Franco.

13
14 Mr. Stan Franco: I'm Stan Franco.

15
16 Mr. Carnicelli: Hello Stan, do you promise to be truthful?

17
18 Mr. Franco: I hope so.

19
20 Mr. Carnicelli: All right you have up to three minutes.

21
22 Mr. Franco: I'm not a...I'm not in favor of this hotel and I'll tell you why. I'm a life-long resident
23 of Maui and want to share some of the things that happened to me over a few years now. In
24 1971 I joined the County of Maui workforce with the Public Works Department. Elmer Cravalho
25 was the Mayor and he hired me, well he hired everybody in those days. In one of my meeting
26 with me, he used...he used to love to have meetings and then afterwards he would sit back and
27 kinda have a conversation about some of his ideas and he said to me and to others that were
28 there that his envisioned...his vision of tourism on Maui to provide the jobs that our people need
29 would be centered in Kaanapali and Makena. That's the places he wanted. He did not want
30 hotels in the Kahului-Wailuku area. He wanted to keep that for the local peoples so one
31 thought.

32
33 In 2000, when was it 2008, something like that was on the GPAC I know we had extensive
34 discussions about the issue of keeping Maui, Maui. And when we made final decisions of
35 where the Urban Growth Boundaries were gonna be there were no hotels recommended for
36 Central Maui. We're in keeping with that vision that Elmer had.

37
38 Today, I'm a housing advocate and I see that as was discussed I think Junior discussed earlier
39 this, our people need housing, they need public schools to have room for our children, we need
40 better roads, we need many, many things. We have gotten a lot from the tourist industry but we
41 have to put a lot into our infrastructure both physical infrastructure and social infrastructure.
42 That's the problem we're facing. We need to do that first before we start building more and
43 more hotels on this island. I'm sure that others will speak to this issue has been said that we
44 are...our numbers when GPAC decided how many people per...resident per tourist I think it was
45 one to three, three residents to one tourist. That numbers are exceeded already and we add
46 more hotels like this I think it's the wrong way to go and that's why I speak against this project.
47 Thank you.

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Mr. Carnicelli: Thank you Stan. I have a quick question. Were you on GPAC?

Mr. Franco: Yes.

Mr. Carnicelli: You were. So just a quick question for you this one to three number 'cause I've heard different members of GPAC talk about this. In your recollection how did that number come to be?

Mr. Franco: God, you're asking a old guy to remember things. You know I think there was...I don't know the specific incident but it was a lot of discussion about the concern then that we were gonna be over touring...over tourism here on this island and that was...I think was a subjective number but others can maybe share.

Mr. Carnicelli: Okay, so one to four, one to five, one to...I mean, was there a big huge debate about it, was it kinda like oh this sounds like a good idea?

Mr. Franco: I think it was more than that Lawrence, but there were a lot of discussion as to the number but I don't know specifically how we came with that number.

Mr. Carnicelli: Okay.

Mr. Franco: But there was agreement on that number.

Mr. Carnicelli: Thank you. Any other questions from the Commission? Seeing none, thank you Stan. Junior.

Mr. Junior Nakoa: Junior Nakoa, Lahaina, Maui. Yeah, I going tell the truth.

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

Mr. Nakoa: Okay, yeah, the hotels again, we no need um. We get planny in Kaanapali. Again, give one example, the West Maui the...you guys...the County tell us da kine we gotta watch our water, you know cut back on the water, then we get one...you cruise down Kaanapali all this hotels using all their water, sprinklers going off crazy, golf course going off crazy. So, this hotel going impact our environment by going ahead and water like the braddah said the lush, you know da kine environment going waste water on top of that, going waste the water on the 200 rooms that could use fo like I said, local peoples houses. K, what else. Planny traffic. Like Kai was saying all this dis hotels so I going be here for every single one of um. Yeah, we just gotta watch brah, try make um so you know like they said they going give jobs for people pretty soon not going get people for give jobs to cause we gotta move out cause no mo, no mo no place for live over hea cause we no moa the homes for live ova hea. We going have to move out so not going have nobody fo take care da place. So, I deal, I deal with the general managers out Kaanapali. Get planny opening over there, choke so the job part throw um out the window. It ain't helping us. The environmental thing um again like I said they going use moa water then moa water like she said they when fix da, da dodo water thing and only going get some moa dodo water. The same thing as the problem we get in Lahaina guys. We no like the bugga

1 happen inside Kaanapali...Kahului. Had one braddah ova here he was one commissioner
2 before he was saying Kahului all you know...not the...Kihei is da the place for the hotels,
3 Kaanapali for the hotels, Kahului, Wailuku is all fo the locals, so you know what try listen to that
4 commissioner I don't know who his name is, he's the Filipino guy, but yeah so try think of us first
5 so we can take care the people that we already gotta take care, already for that visiting our aina,
6 so we show um the real aloha cause we still get choke but we losing um. But still get choke
7 aloha. Environmental impact that's why we stay here fo the EIS kine crap. Yeah, the water tell
8 you is a big issue. The water and again, the dodo water, so that's why I say against the project,
9 heck no we no need any moa hotels, especially 200 moa rooms.

10
11 Mr. Carnicelli: Thank you. Any questions for the testifier? Thank you, Junior. Dick Mayer.

12
13 Mr. Dick Mayer: Thank you, Commissioners.

14
15 Mr. Carnicelli: Hang on a second Dick, it's...wait till we get your handout. I know you always
16 come prepared.

17
18 Mr. Mayer: Try to be, as I know you all are.

19
20 Mr. Carnicelli: We only have 1,500 pages to read.

21
22 Mr. Mayer: So, did I.

23
24 Mr. Carnicelli: Please state your name for the record.

25
26 Mr. Mayer: My name is Dick Mayer.

27
28 Mr. Carnicelli: Do you promise to be truthful Dick?

29
30 Mr. Mayer: I do.

31
32 Mr. Carnicelli: You have up to three minutes.

33
34 Mr. Mayer: Thank you. The chart in front of you is a...look at the number of visitors that we
35 have Maui compared to the number of residents we have on Maui. You asked the question of
36 Stan Franco where did that number one and three come from, this chart will help explain that.
37 You'll see this...this goes back to 2000...I anticipated your question, back in 2008, 2009 if you
38 look down on that chart, Row 7, you'll see the ratio of visitors to residents. At that time, the first
39 three numbers there you'll see, 30.7, 29.0, 31.8 that was the ratio at that time. That was the
40 basis upon which we said we already are saturated we do not need to have more tourists than
41 that so let's just raise it up a little bit to 33 percent and that's what we did. But if you could look
42 to the end of that ...row and you'll see it's now 41.3 percent.

43
44 What you'll see in the Draft EIS on Page 154, that's PDF Page 161 there's a indication of where
45 they try to fudge the numbers and I think intentionally lied although I can't confirm that they tried
46 to lie. They said it's only 32 percent because they used the wrong numbers. They used the
47 County of Maui, this is the Maui Island Plan we're referring to and they should have used Maui

1 island's population. They also then misconstrued the total of number of...of number of tourists
2 on the island and they grossly underestimated that by over 10,000. So, if we use the correct
3 numbers issued by the Hawaii Tourism Authority, we'll find that we now have 41.3 percent not
4 33 percent which is what the Maui Island Plan called for. So please ask them to use the correct
5 numbers, but I will even go further and say that this hotel would from its face would violate the
6 Maui Island Community Plan.

7
8 If you look at Page 2, you'll see there at the bottom several of you mentioned other hotels, these
9 are...down at the bottom of that chart you will see some of the hotels which are now being
10 planned or actually being built in the case of the Maui Lu property. It's a massive project going
11 up with hundreds and hundreds of additional rooms. This project even though it says it's 200
12 bed is actually 200 rooms is actually 400 plus beds that's how many people will actually be
13 there.

14
15 Now some problems that are in the EIS that I would wish you would cite to them in your
16 comments to them. Number one, they say that they'll only have one parking place for every two
17 hotel rooms. That seems illogical on most of that rooms. Secondly, this project, this is area,
18 this Maui Business Park was supposed to be at least 50 percent light industrial that's what the
19 ordinance says for this kind of a project and they show in the document that it is only
20 19 percent. In other words, 81 percent of the facilities in that land is now non-industrial. That's
21 a violation of the land of your Zoning Code.

22
23 With regard to employment, one of the reasons why people want a project like this is to provide
24 jobs for people who are unemployed. Maui right now has no unemployment and every addition
25 to all these hotel rooms would mean that we will bring people into work here coupled with the
26 fact that Mahi Pono now is going to be needing 700 additional workers for their project. This will
27 be an enormous strain on affordable housing our biggest problem on Maui today and I would
28 urge you to write to them and say on the face of it this project is not needed at this time.

29
30 Mr. Carnicelli: Thank you Dick. Appreciate it. So just clarify what was the 81 percent or
31 something like that?

32
33 Mr. Mayer: They indicated several places in the 1,500 pages that the land in the Maui Business
34 Park which was designated for Light Industrial--

35
36 Mr. Carnicelli: Okay.

37
38 Mr. Mayer: --was 81 percent non-industrial whereas the County Ordinance requires most of
39 Light Industrial zoned land should be light industrial. They can have commercial and other
40 things, even a hotel but they are so far out of whack right now on that project that it would be a
41 violation of the Land Use Commission.

42
43 Mr. Carnicelli: And do you have the documentation of that? I'm just, I'm just trying to—

44
45 Mr. Mayer: I don't have page, I don't have the page number but it's in...I could get it for you
46 easily, yes.

47

1 Mr. Carnicelli: Okay, thank you. Any other questions for the testifier? Thank you, Dick.

2

3 Mr. Mayer: I would...let me just...there's one other—

4

5 Mr. Carnicelli: Now, Dick, Dick everybody gets three minutes.

6

7 Mr. Mayer: No, this is not about the project. This is about your agenda itself. There's a
8 violation in here that should be...I just want to bring it to your attention.

9

10 Mr. Carnicelli: Okay.

11

12 Mr. Mayer: You say that public hearing, if you want to be a intervenor, you have to give ten
13 days' notice. The problem is your agendas do not come out ten days in advance. So, I would
14 urge the staff to correct...either put a list out of things coming out, this is on Page 3 near the
15 bottom where your date to intervene is after...excuse me, comes out before the agenda is even
16 issued. So, nobody could intervene on any of your matters.

17

18 Mr. Carnicelli: Thank you Dick.

19

20 Mr. Mayer: Thank you.

21

22 Mr. Carnicelli: Mr. Hopper.

23

24 Mr. Hopper: You can finish testimony.

25

26 Mr. Carnicelli: Okay, thank you Mr. Mayer. Nobody else is signed up but I know, I know the tall
27 guy from the back is gonna come forward. Please state your name for the record.

28

29 Mr. Albert Perez: Aloha Commissioners. Nice to see you again. Albert Perez, Executive
30 Director of Maui Tomorrow and I will tell the truth once again.

31

32 Mr. Carnicelli: Thank you.

33

34 Mr. Perez: We just got done reviewing a 2,700-page EIS for the East Maui water case so to
35 jump from that to this almost 1,500 page one, I apologize but I haven't reviewed the whole thing.
36 However, I have some general comments and I did review, I gave it a cursory review and it
37 appears to be another EIS that's minimizing the adverse impacts and I think it's important for us
38 to remember that the purpose of today's agenda item is to provide comments on the EIS. I am
39 not going to provide you comments on why we don't think this is a good idea, but I'm going to
40 focus on the EIS.

41

42 Mr. Carnicelli: Thank you.

43

44 Mr. Perez: That's, that's what we're asked to do today. So, this EIS as with any EIS is
45 supposed to disclose the impacts of the proposed development. And in this case it needs to
46 serve the needs of the State Land Use Commission for the amendment to its decision and
47 order, needs to serve the County Council for the community plan amendment and the zoning

1 change, and it also needs to serve you with regard to the SMA, and you can correct me if I'm
2 wrong like you did last time.

3

4 Mr. Carnicelli: I didn't mean to correct you being wrong, it's, it's just clarification.

5

6 Mr. Perez: That's okay. Anyway, so it's a multi-purpose EIS so we need this document to
7 provide a true disclosure of the impacts of the proposed action otherwise it won't meet the
8 requirements of the law, Chapter 343. So as with many EISs it only discusses the parts of the
9 various plans and proposals that it actually complies with and it doesn't mention other things
10 that it doesn't comply with. So, this is a common problem and it's because our EISs are
11 prepared by advocates for the project. So, the idea is supposed to kind of a kum ba yah feeling
12 where the whole community gets together and we figure out what the real impacts of the project
13 are and then you as the decision makers can make a decision armed with all of the facts. I
14 don't think that this meets that standard. So...and then I'll just talk about, you know A&B got
15 approval to create a light industrial park here and now this applicant wants to take that away for
16 another hotel that Maui doesn't need. The Draft EIS emphasizes that there's a demand for
17 more hotel development but it needs to also discuss how commercial developments such as
18 hotels outcompete industrial uses and our industrial people needs some place to locate, that's
19 good planning. What's happening right now is that we are driving people out of the urban core,
20 they're looking for cheaper places to locate, they keep getting driven out of our industrial areas
21 and this is contributing to urban sprawl. So, I will leave it that. We are going to provide
22 comments on the EIS and so we'll see you next time. Thank you.

23

24 Mr. Carnicelli: Thank you Albert. I look forward to your comments. So, I have one quick just
25 follow up, clarification. So, you have an issue just with the EIS process.

26

27 Mr. Perez: From what I've seen, my brief review of these 1,477 pages—

28

29 Mr. Carnicelli: Right.

30

31 Mr. Perez: They are not addressing all the impacts, they're not discussing all the parts of the
32 plans that they don't comply with and that's what we typically see in EISs.

33

34 Mr. Carnicelli: Okay, so this one's different than...I was thinking that you said like all EISs
35 should not be kum ba yah but this one particularly kum ba yah is what you're saying.

36

37 Mr. Perez: They should be kum ba yah in terms of a process where, we, the public, and the
38 applicant, and the decision makers all work to create a document that truly discloses the
39 impacts that's what should happen.

40

41 Mr. Carnicelli: Got it. Okay.

42

43 Mr. Perez: It's not happening with this one as is typical with many EISs.

44

45 Mr. Carnicelli: Gotcha. Thank you. Any other questions for the testifier? Thank you, Albert.
46 Anybody else wish to come forward? Then without objection we'll go ahead and close public

1 testimony at this time. Commissioners, do you have questions for the applicant at this time? I
2 see a lot tabs over there on your binder. We're gonna go ahead and start with you, P. Denise.

3
4 Ms. La Costa: Have lunch first or...

5
6 Mr. Carnicelli: It's not here yet.

7
8 Ms. La Costa: Okay.

9
10 Mr. Carnicelli: There's another malasada sitting over there if you need a sugar rush.

11
12 Ms. La Costa: I gotta pass on that.

13
14 Mr. Carnicelli: Okay.

15
16 Ms. La Costa: Okay, thank you Chair. First of all, could I please have Brett? Thank you, Brett.
17 As you can see, I have read every page of this and have made a lot of comments because an
18 EIS as Mr. Perez said has to show everything not just what is convenient. I was looking at the
19 letters of opposition. I was...I was...what's the word I want, not pleased with your template
20 answers when people wrote in and said we have questions one to seven. All you did is you
21 answered one of whichever seven you wanted to and then have the rest of it in template form
22 that to me is not being a responsible developer. There are people who have a lot of issues and
23 Hart and Partners just totally spaced on them, didn't even respond to them. They were
24 important issues and you just glossed over them so I was incredibly disappointed with that
25 representation because you do represent the developer so that did not make me a happy girl.
26 Who will be managing the property if this project goes through?

27
28 Mr. Davis: Brett Davis, Chris Hart and Partners. The operator's unknown as this time and still
29 in negotiation.

30
31 Ms. La Costa: Okay. So I don't know if you have been to other Planning Commissions where
32 we have had developments brought to us, but I'm the solar girl I notice that there were
33 12 references for energy efficiency including solar yet there are several contradictions in this
34 report and one of them says, Condition 18, Page 97, that there will be no rooftop solar. This
35 state is supposed to be energy efficient by 2045. By you not incorporating solar whether it's
36 rooftop or in array somewhere then you're not being in line with being pono for Maui. So, I have
37 an issue with that. What are the developers gonna do about that?

38
39 Mr. Davis: Brett Davis, Chris Hart and Partners. We got some comments from the Department
40 of Transportation, Airports Division, from the FAA related to glint and glare within close proximity
41 to airports and it's my understanding that they're...it's their desire that we not have photovoltaics
42 on top of the roof because of its close proximity to the airport.

43
44 Ms. La Costa: I'd like to see something in writing stating that please because there are many,
45 many, many kinds of solar arrays that you can have that do not have glint and glare. They have
46 so much new technology that that really needs to be looked into.

47

1 Mr. Carnicelli: Hang on a second, P. Denise is I would like Mr. Hopper to just, just kind of bring
2 us together as to, I always like the, why are we here question, right, like what are we doing here,
3 why are here, what is it that we're trying to accomplish today so Mr. Hopper.

4
5 Mr. Hopper: Just a suggestion because it's a...today on your agenda you're asked to determine
6 you're the approving the agency and also to provide your comments on the Draft EIS. To
7 provide the comments I think it may be most useful and this may already be happening but as
8 the members discuss that the planner or the Director take note of the comments so that at the
9 end you can either through...if there's no objections those comments will be forwarded as the
10 Commission's comments to be put in a letter or you could take a vote on each comment to
11 determine if you want those to be provided, so those are the two items and just maybe it's
12 easier rather than trying to get to the end and remember what all the comments were that as
13 time goes on, if the members are making comments that they're going to want to include in the
14 Commission's letter that that be noted by Staff. The other thing is also if members made
15 comments today, you shouldn't assume that they'll be...those will be provided directly to the
16 applicant as actual formal EIS comments, so they should look at the information on the EIS and
17 provide those comments directly to the, to the developer so that they will get a response under
18 the EIS Law. So those are just a couple of things. But rather than getting to the end and
19 thinking oh what were all of our comments it may be useful to note that as we go.

20
21 Mr. Carnicelli: Thank you, Michael.

22
23 Mr. Hopper: And then just as a note, we're not deciding whether or not to approve the EIS
24 today. It's to provide comments on the EIS and determine that the Maui Planning Commission
25 would be the approving agency when the EIS is final.

26
27 Mr. Carnicelli: Thank you. Back to you, Ms. La Costa.

28
29 Ms. La Costa: So, does that mean that each time I have a question or something that I need
30 clarification for in the DEIS that it needs to go as a suggestion or is Ms. McLean writing that
31 down. I'm confused as far as what you meant by each and everything that we talk about and
32 will it be included.

33
34 Mr. Hopper: If you want to have that...what's going to happen after this is that a letter is going
35 to be prepared on behalf of the Commission transmitting those as your comments on the EIS. If
36 you want those included then you would specify that. So, if you want all of these comments to
37 be included in that comment letter as comments of the commission then yes, those should be
38 noted now. You can take a look at the minutes but I don't know what the timing deadlines going
39 to be if the comment deadline coming up soon, I don't know if the minutes will be ready by then.
40 So just to note, that if you want these to be included that staff should be noting them as you go.

41
42 Ms. La Costa: Thank you. Yes, I do want my questions and comments to be included, please.

43
44 Ms. McLean: Chair, I am making notes of the main comments. I mean if you ask a question
45 what is the building setback, I won't put that as a note but your main comments I'm noting down
46 and then after all Commissioners comment then we can read through them and the Commission
47 can decide which ones to forward.

1
2 Mr. Carnicelli: And I think it's also important for the public to know that their comments here to
3 us are not our comments, they have to make their comments directly to the applicant.

4
5 Ms. La Costa: Thank you.

6
7 Mr. Carnicelli: Please continue.

8
9 Ms. La Costa: Okay, I also would like to address the affordable housing moniker that you have
10 in here, 26 times affordable housing is brought up. There are comments that we have to
11 confirming that you are meeting the requirements of 2.96. Page after page, yes, we have to
12 conform with 2.96, 2.96, then all of a sudden it comes down to workforce housing fund versus
13 workforce house building. We don't need any more money in the fund, we need actual building
14 to be done for workforce housing. So, so your...you have the choice to either build or to fund
15 because these do contradict what is your decision on that?

16
17 Mr. Davis: Brett Davis, Chris Hart and Partners. That's something that we're still, we're still
18 working on and we haven't made a commitment yet.

19
20 Ms. La Costa: Okay, so you're going to or want to build 200 homes or 200 apartments, condos,
21 sorry, hotel rooms because some of them you want to use long term for like a Courtyard Inn
22 where they're extended stays. The people who are going to be working there where do you
23 expect them to live if you're adding all of this extra employment opportunity?

24
25 Mr. Davis: Brett Davis, Chris Hart and Partners. I would expect them to live in Central Maui.

26
27 Ms. La Costa: Okay, and being that there's a shortage in housing then where do you stand on
28 that thought?

29
30 Mr. Davis: I'm here to get comments on the Draft EIS and I'm happy to address that comment if
31 it comes from the Commission and we can use it in preparation of the Final EIS.

32
33 Ms. La Costa: I am one of the Commissioners, it is coming from the Commission I want to know
34 about what your aspects of affordable housing is in connection with this project.

35
36 Mr. Davis: Brett Davis, Chris Hart and Partners. We will comply with requirements of
37 Chapter 2.96.

38
39 Ms. La Costa: Does that mean you're gonna fund or you're gonna build?

40
41 Mr. Davis: It's our understanding that both options are available.

42
43 Ms. La Costa: That is correct. I'm asking the question. Are you looking at funding or you're
44 looking at building homes for the people who will possibly working at the project?

45
46 Mr. Davis: As the applicant's planning consultant I can't make that decision for him. I can invite
47 him here to the podium if you would like to ask him that question.

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Mr. Carnicelli: Yes.

Ms. La Costa: Thank you, Chair.

Mr. Anthony Wrzosek: Good morning Commissioners. My name is Anthony Wrzosek, Vice-President with R.D. Olsen Development and our understanding is that there...that both options are available within the regulations of affordable housing and the ordinance of the County of Maui so we are very diligently and thoroughly evaluating both those options and at this point in time we do not have a final decision as to which option we may proceed with and that's the best I can do for you at this moment.

Ms. La Costa: Okay, thank you for that.

Mr. Carnicelli: Let's go ahead, we'll go ahead and let the other Commissioners ask a few questions. Is let's let the other Commissioners chime in, you'll get your due.

Ms. La Costa: Okay.

Mr. Carnicelli: Commissioner Castro do you have comments for the EIS.

Mr. Castro: Well, I think P. Denise kinda asked what I was gonna ask about the housing, you know, so, my understanding is they're still looking into it, so...

Mr. Carnicelli: Got ya. So, if...I'm sure Director that you have that noted or Tara I don't know if you're taking notes as well that—

Ms. Furukawa: Yes, I am.

Mr. Carnicelli: --there seems to be a preference to...we all understand that Chapter 2.96 can be satisfied in several different ways, you buy credits, you can pay into the fund or you can actually build with the testimony that was here earlier I think that the Commission would lean towards building rather than buying our way out so anyways that's just...if that...if I'm summarizing kinda what you're saying.

Mr. Castro: Yes.

Mr. Carnicelli: Okay, thank you. Commissioner Tackett do you have any comments for the EIS at this point? We'll have another round or two.

Mr. Tackett: The EIS how does, how does your, your Kahului plan coming up that you guys are gonna be, that you guys are gonna be revamping how would that effect this Environmental Impact Statement, you know the upcoming—

Ms. McLean: You're asking about the update to the Kahului-Wailuku Community Plan?

Mr. Tackett: Would there be updates in that that could theoretically impact this?

1
2 Ms. McLean: Not during the time frame that this application is going through 'cause that's still a
3 couple of years away, so this application would probably make its way through the entitlement
4 process before that community plan is updated. So, if this application goes through and let's
5 say it's approved then the community plan map would show hotel for this property. If the
6 application isn't approved or it stalls then the community plan map would continue to show the
7 property as light industrial and then when the community plan gets updated that may change or
8 it may change the same.

9
10 Mr. Tackett: That was my question.

11
12 Mr. Carnicelli: Commissioner Pali.

13
14 Ms. Pali: I'll make mine brief. I did a list of further questions that I feel and I'm not gonna lie I
15 did not get through 1,457 pages. I went to the sections that I'm passionate about, that I have a
16 little bit of knowledge, a lot of the other technical things right over my head so we're gonna
17 depend on the professionals for that.

18
19 One of the things I pulled out I believe was on Page 43 or 46, potential impacts and mitigation
20 measures, the comment was no signs of effects to cultural resources. I would like further
21 expansion on that. I think that there was not enough, it was sort of a very generic general
22 answer and if I can get just more information on how you concluded to that and incorporate all
23 the various cultural resources that would help me. I know there were other sections about the
24 land and the ponds and the water, but when I think of cultural resources, I'm not always thinking
25 of physical cultural resources, I'm also thinking of our culture as a people and so if I can get a
26 little bit more information on that.

27
28 And then going back to the...not be beat the dead horse but maybe it will come alive, 2.96
29 affordable housing that was another big one I'm concerned about. I think it would suit the
30 developer well especially the testimony throughout the day and I feel like it's been our, a lot of
31 our testimonies for the last couple decades is we're having a problem with all the developers
32 past, putting into this fund and buying credits that keeps putting money back into the developers
33 pockets and not resulting in physical buildings where residents get to then live. And so, we
34 would like to try to attempt to change the culture. Hopefully we can work administratively on
35 that which is not done here to change it in our laws, but until then it would be nice that a
36 developer take the role and say, hey I want to make a difference, I want to put the flag in the
37 ground and say I want to do Maui better than maybe other developers and if it is in your
38 affordability or you can weave it in, we would love to see commitments on erecting affordable
39 housing more than feeding a fund that is not going back then to the residents, and so those are
40 my two main comments.

41
42 Mr. Carnicelli: Thank you. Commissioner Thompson.

43
44 Mr. Thompson: Yeah, I concur. Yeah, it's a big hot button, 2.96. So, if you can procure some
45 property and start some affordable housing, you'll be a step ahead.

46
47 Mr. Carnicelli: Thank you. Commissioner Freitas.

1
2 Mr. Freitas: Thank you. I have a question. One of the pages says that you did some research
3 and found out that the Marriot Courtyard had a 90 percent occupancy in the last I believe
4 92 percent in the last 21 months. Why wasn't there a occupancy rate for Maui Beach and the
5 Seaside to see if there really is that need.

6
7 Mr. Davis: Brett Davis, Chris Hart and Partners.

8
9 Mr. Carnicelli: You don't have to say that every time Brett. We know who you're the guy at the
10 podium, you don't have to say that every time, that's okay. I appreciate the clarity but you don't
11 have to do it every time.

12
13 Mr. Davis: Understood. That...so we got a comment from the Planning Commission last time
14 we were here was discuss hotel demand and the outcome of other hotels owned. The applicant
15 owns more than one hotel on Maui and so he was able to get that 92 percent number for the
16 Marriott because he's part of the ownership or used to be and so it was not part of the research
17 to go and find the occupancy of the other hotels, but that's a reasonable comment.

18
19 Mr. Carnicelli: Yeah, I think we should add that then you know moving forward is I don't know
20 mean to steal your thunder here but is you know when we're looking at...(inaudible)...where we
21 want hotels, right? It's like oh we want them at Kaanapali, we want them in Wailea, we want
22 them at Kapalua, we don't want them anywhere else. There is something that makes sense to
23 say you want hotels near the airport. I've stays in more than one hotel airport or you know,
24 airport hotel. But as Commissioner Freitas just said, you know the Seaside and the Maui Beach
25 that kind of is also part of serving that, so if you can somehow garner those numbers as well
26 and say like, okay rather than just the Marriott which is an obvious comparable but I think that
27 those other ones are also comparable because right now people that need a "hotel", an airport
28 hotel would default to some of those other ones as well, so if you could also include that. I'm
29 sorry to interrupt you there, Commissioner Freitas.

30
31 Mr. Freitas: Okay, and one more question. Water, I think is a real big issue and it apparently
32 there's a well, two wells that were dug or you have access to provide for this and then in the
33 report that you turned in that there was a request to increase from the lao aquifer from
34 1.7 million gallons a day to 3.2 and then it said, based on the results of the Na Wai Eha case I
35 would really like to think that Na Wai Eha, the waters going to the farmers and more to the
36 people come before this hotel.

37
38 Mr. Davis: Excuse me, I wanted to invite my...our consultant up to talk about water.

39
40 Mr. Carnicelli: Is it Tom?

41
42 Mr. Tom Nance: Hi, I'm Tom Nance, consultant to R.D. Olsen. Is that your question? The
43 application for a use permit is actually one by the Maui Department of Water Supply for its lao
44 treatment plant. The plant's been expanded to have a greater capacity but they don't yet have a
45 permit to withdraw more from lao Stream. That's the application that's being referred to. That
46 answer your question okay?

47

1 Mr. Carnicelli: Thank you, Tom. Okay, sure, yeah, hang on a second Tom, Commissioner Pali
2 has a question for you.

3
4 Ms. Pali: So, to just reclarify for my...by the way first day, Commissioner.

5
6 Mr. Carnicelli: No, his second.

7
8 Ms. Pali: Second day. So, what you're saying is when you get the permit to draw more are you
9 stating that your additional withdrawal from that to service this hotel would still leave enough
10 then for the farmers to have their adequate supply is there enough for both I think is what...

11
12 Mr. Nance: That actually the Na Wai Eha case is going to be opened by the commission to
13 render a judgement on just that issue. This project, the permit is to take the withdrawal from 1.5
14 up to 3.2 if that were successful this project would use about 30,000 gallons of that.
15 Maui Department of Water Supply would deliver to the project about 30,000 gallons.

16
17 Ms. Pali: And based off of your professionalism you believe that it is sufficient to do both?

18
19 Mr. Nance: I can't render that judgement to be honest it's...but it will go through a process with
20 the State Water Commission.

21
22 Mr. Carnicelli: Thank you. So, I have a couple of questions. One is in the unresolved issue
23 there's a Decision and Order from the Land Use Commission I think still open or there's
24 something is...I couldn't quite understand it to be honest with you guys, it's something about the
25 Ag to Rural and there's the LUC, D & O that's still unresolved. You're nodding so you know
26 what I'm talking about, yes?

27
28 Mr. Davis: Yeah, it's correct. As part of the process if we get through the Environmental Impact
29 Statement and the Final EIS we would go to the State Land Use Commission for a Motion to
30 Amend the Decision and Order that the landowner was granted previously.

31
32 Mr. Carnicelli: Got it, got it. So then also you know as part of this process you're gonna get a
33 DBA, you're gonna get a CIZ, you're gonna get a CPA, what are some of the conditions that we
34 can expect or that you're expecting through that process? Because and then you're also come
35 here and get an SMA as well so it's like we got alphabet soup right now. What are some of the
36 conditions that you're expecting coming through that process? It's a loaded question.

37
38 Mr. Davis: Well, you know, as far as expecting conditions, I think the conditions that are
39 standard always apply to the SMA permits and then I don't know what the State Land Use
40 Commission or the Maui Planning Commission in the future is gonna, is gonna hold project to.

41
42 Mr. Carnicelli: Got it. Maybe I should phrase it more of, kinda like you know you guys have
43 been here all day and we're going through, you know, a B&B and an STRH and there's people
44 that are willing to say, like okay, I'm willing to rent to one person, I'm willing to only have one car
45 or whatever, you know so what is that you guys are prepared and I'm not saying you have to
46 give away the farm right now, but what is it that you're prepared to do you know we're hearing
47 concerns from the community and we all know they're gonna come from housing, they're gonna

1 come from jobs, they're gonna come from traffic, you know we can start to point to them, right,
2 we know, we know it's coming. You're not gonna get blindsided by anything I don't believe so
3 what is it that you guys are willing to say, okay we're coming forward here to the community.
4 Yeah, maybe this is better for the owner rather than Brett. You take these arrows instead of
5 him.

6
7 Mr. Wrzosek: Thank you.

8
9 Mr. Carnicelli: Please identify yourself 'cause we got a new guy.

10
11 Mr. Wrzosek: Anthony Wrzosek, Vice-President with R.D. Olsen Development, the applicant.
12 So, we anticipate that, that there will be conditions on impact issues. We don't believe that are
13 any significant impacts to our proposed project, however there may be conditions to improve
14 some perceived impacts that we'd abide by and we believe that this will be open for discussion
15 during the foreseeable future and during the discretionary approval hearings.

16
17 As far as addressing some of the topics that have been discussed today and the topics that
18 have been submitted to us in the forms of letters of concern this is the intent of the Draft EIS
19 and transitioning into the Final EIS process, so the next step will be to take all comments that
20 we hear during this public review session and period and evaluate those concerns and offer our
21 response and offer potential conditions to satisfy those concerns.

22
23 Mr. Carnicelli: Great, thank you. Whether it's you or Brett, the one thing I didn't see in the EIS
24 is anything that has to do with the sea level rise, I realize this isn't in the SMA, it's not...or it is in
25 the SMA, sorry, but it's not shoreline and its proximity to Kanaha Pond which 'cause you know
26 we got our presentation from Chip Fletcher and how you know the ground water also seeps up
27 and things like that and I just didn't see anything in here...I mean, even if you guys aren't even
28 close to it at least address it so we can say...I mean maybe it was in here and just missed it, but
29 I just say is moving forward that's something that I think needs to be a part of this is just to say
30 like okay, yes this is coming but no, we're not near it or whatever it might be.

31
32 Mr. Wrzosek: It will be addressed and...

33
34 Mr. Davis: Brett Davis, Chris Hart and Partners, the sea level rise issue is addressed on
35 Page 24 and 25 of the Draft EIS, and I'll just read, the findings of the Hawaii Sea Level Rise
36 Vulnerability and Adaptation Report dated 2017 identified expected 3.2 feet rise in sea level
37 across the main Hawaiian Islands, then it goes...we also include the sea level rise exposure
38 area map, it's Figure Number 18, and that will show you the project's site...

39
40 Ms. La Costa: I don't have it. Do you have it in your...because mine stops at Figure 17.

41
42 Mr. Carnicelli: So anyways then we'll include that in our, our comments is that we would like
43 some more pretty pictures to be able to...the verbal...I mean the written stuff is hard to follow
44 exactly when it comes to stuff like this so if it could be some more clarification on that would be
45 needed. Also, oh earlier when I talked about the impacts of hotels nearby I believe the Maui
46 Palms is a new one that's being proposed, at least I saw on your EIS so if you could include the

1 numbers to include I believe it was the Maui Palms is what it was called and I don't know where
2 it's at along the...Oh, oh, I just noticed it in the, in the thing here, so...

3
4 Ms. McLean: They do have...yeah, they do have a pending or an issued SMA Permit I believe
5 they will be requesting a time extension, there's a new owner, Peter Savio to redevelop it as the
6 Pagoda. So that is still in the works and I believe we will be bringing that to you for review for
7 the time extension rather than a waive review.

8
9 Mr. Carnicelli: Gotcha, thank you, Director. Are you guys gonna be using R1 water on the
10 landscaping, I mean the treatment plant's right there, right and we got a whole injection well
11 thing going on, all like that, are we gonna be using some R1 water?

12
13 Mr. Wrzosek: The irrigation supply will be provided by the private water system that's available
14 on site and that comes from two existing wells they're within a mile of the property.

15
16 Mr. Carnicelli: Okay. I guess just my comment would be is to maybe look at or study the
17 feasibility of using treated water in your landscaping.

18
19 Mr. Wrzosek: We will.

20
21 Mr. Carnicelli: Okay. I'll go ahead and defer to Commissioner La Costa.

22
23 Ms. La Costa: Thank you, Chair. So, I just had a couple more questions because some of
24 them were answered previously. I think Brett you probably could answer these. So, you
25 mentioned that the developer has also is a party to other hotels here whether they're partners or
26 whether they're the actual operators or whatever, how many affordable homes have been built
27 with their other projects?

28
29 Mr. Wrzosek: The previous projects complied with the credit option of the affordable housing
30 chapter.

31
32 Ms. La Costa: Okay, I also have a question about traffic whomever you want to answer the
33 question. Was your traffic study done based on the number of cars that you showed, has a
34 181 cars per day that were anticipated in your traffic study so that's in addition to what people
35 already go to the airport, people go to Costco, et cetera, et cetera. So, it shows 363 people on
36 average are staying at the hotel per day which means if the number previously was correct that
37 be about 181 cars a day. When I look...I'm not an engineer, so when I looked at the traffic
38 study, I didn't come up with anything that made sense for that number of cars, so if I could have
39 your traffic consultant please?

40
41 Mr. Davis: Yes, our traffic consultant is available, yes thank you.

42
43 Mr. Matt Nakamoto: Hi, good afternoon, Matt Nakamoto from Austin, Tsutsumi & Associates.
44 Actually, what I have handy is the hourly volumes that we projected which is like the primary,
45 you know, metric...we analyze traffic based off of. And I have, sorry I'm looking it up right now,
46 if I could...give me a second, I'll look up the 24-hour too.

47

1 Ms. La Costa: Thank you.

2

3 Mr. Nakamoto: But I think it was a 140 vehicles per hour during the peak hour, yeah okay, so
4 did you refer to the number 310, sorry.

5

6 Ms. La Costa: No, I didn't. In the report it showed that the traffic study shows that there are 181
7 cars per day that will be at the hotel based on 363 guests that's—

8

9 Mr. Nakamoto: Okay, yeah, I don't know that's not in our traffic study. Our traffic study right
10 now for the AM peak hour of traffic has a 106 vehicles per hour, that's entering plus existing,
11 during the PM peak hour is a 120, and during the Saturdays it's a 143. I don't have it handy
12 offhand the 24-hour volume, but offhand normally the 24-hour volume is ten times what any
13 peak hour is generating.

14

15 Ms. La Costa: So, does your study take into consideration or does it not the number of added
16 cars in that area?

17

18 Mr. Nakamoto: It does.

19

20 Ms. La Costa: Okay, so the numbers in here are based upon the project or they are upon
21 actual?

22

23 Mr. Nakamoto: They are based upon the projection so we have an analysis of the existing
24 condition and then analysis and then analysis of the base year which is like the baseline growth
25 which takes into account the development of like the...(inaudible)...project area for the Maui
26 Business Park and other surrounding buildings that are anticipated to be complete by the
27 year 2023, and then to that we add on our project generated traffic which is based on the
28 numbers I just provided previously.

29

30 Ms. La Costa: Okay, well it doesn't come up to the number according to what the occupancy is
31 proposed at the hotel so that's why I had the question. Thank you.

32

33 Mr. Nakamoto: Okay, can I clarify also though, I mean, the traffic generation is not a one to one
34 per person occupancy basis. It's actually just a number of cars that would be entering or exiting
35 during the peak hour of traffic so you know it's a lot of times one room doesn't exactly equal one
36 car, it's just the likelihood that they would actually be entering or exiting during that time period.

37

38 Ms. La Costa: My question was what you're saying doesn't jive with what's in the report so
39 that's why I asked for clarification so thank you for your numbers, appreciate it.

40

41 Mr. Nakamoto: Okay, thank you.

42

43 Mr. Carnicelli: Matt before you go, one question that I, that I did have is when was your
44 study...'cause I think the TIAR was the biggest piece of this entire thing or at least it felt like it
45 was, when was it done?

46

1 Mr. Nakamoto: The traffic study, the most recent draft was submitted in 2019, I think it was
2 May.

3
4 Mr. Carnicelli: 'Cause I'm just...traffic in that entire area has changed ever since actually as
5 Councilmember Tamara Paltin called it the rental car house was built.

6
7 Mr. Nakamoto: Yes.

8
9 Mr. Carnicelli: Ever since that was built, I mean, traffic's completely different.

10
11 Mr. Nakamoto: I understand.

12
13 Mr. Carnicelli: So how do we account for that since the rental car house was built?

14
15 Mr. Nakamoto: Well, I know that the data was actually collected in 2017 so...and I think the
16 traffic study was initially prepared during a time when it was not...you know, had not come into
17 operation. You know I'm not...I have to apologize, I'm not the one that prepared the report and
18 you know he's actually unavailable right now, but if you give me a second, maybe I can talk to
19 someone else to find out, you know—

20
21 Mr. Carnicelli: No, I think you answered my question, but I think that, I think moving forward
22 we're gonna need, you know, if we're gonna have a voluminous TIAR that is with data pre rental
23 car house, I don't know how accurate it's gonna be we need it...

24
25 Mr. Nakamoto: That's true. I mean, you know a lot of times a traffic study is done and
26 conditions change and the time frame from conception to when we actually get to present, you
27 know, it can drag out and we're not you know always able to account for the exact current
28 conditions.

29
30 Mr. Carnicelli: Sure.

31
32 Mr. Nakamoto: A typical shelf life of a traffic study and traffic counts is you know we're within
33 that range.

34
35 Mr. Carnicelli: Right.

36
37 Mr. Nakamoto: And you know, I know that the Airport Access Road was in operation at the
38 time, you know, I know that you know, I mean ultimately it will affect the way that people route
39 themselves so you know, I...

40
41 Mr. Carnicelli: Okay, I got you.

42
43 Mr. Nakamoto: Okay.

44
45 Mr. Carnicelli: Thank you. Just while we're on that, actually it's probably not you, parking. Oh,
46 then you...(inaudible)...we'll say it's coming from Mr. Mayer actually one parking stall per two

1 rooms is that where we're at with this, I mean, is how are justifying numbers of parking stalls,
2 and I'm assuming we're gonna have to get some sort of you know, a waiver for that.

3
4 Mr. Wrzosek: We're proposing 200 rooms, and we're proposing 227 parking spaces.

5
6 Mr. Carnicelli: Oh, okay. Okay, 200 to 227, okay, easy enough. Thank you.
7 Commissioner La Costa.

8
9 Ms. La Costa: Thank you, Chair. I was looking at your Exhibit 4 that showed the...the parking,
10 it was very difficult to read these little guys, I didn't see where the handicap or accessible
11 parking spots were on the map you showed up here, it was easier to see, do you have sufficient
12 ones and are they easy to get from 'cause this one shows it's at the back so I just want to make
13 sure that it is accessible for people.

14
15 Mr. Wrzosek: Yes, it's a company policy to do better than just the minimum ADA Federal Law
16 requirement. And our company policy is also to distribute handicap parking near each exterior
17 entry. So, they're not all consolidated at our front door, we do recognize that as a guest dpo
18 check in, they just drive through and park at their convenience so we'd like to have them
19 distributed throughout the site near exterior entrances not just the front, thank you.

20
21 Mr. Carnicelli: Commissioner Freitas.

22
23 Mr. Freitas: I have a question for your sir, 227 parking stalls, 200 rooms, employees will park in
24 the stalls as well or they have a different parking lot?

25
26 Mr. Wrzosek: Correct, and this abides by the newly updated parking ordinance for Maui County
27 which includes...which takes into account employee and occupant parking requirements.

28
29 Mr. Carnicelli: So, one other thing that I wasn't clear on in reading it was the new onramp which
30 we need sooner rather than later, but that's an offsite improvement that I believe is not...like are
31 you guys going to be contributing to that at all. I know you're setting aside the area for it, but as
32 far as the actual funding of it and that are you guys contributing to that in any way?

33
34 Mr. Wrzosek: That is a direct negotiation between the master developer and the Department of
35 Transportation and there's a commitment to make it happen, however the timing from DOT is
36 unknown therefore we've provided both options which in our plan to easily accommodate it if
37 and when it is implemented.

38
39 Mr. Carnicelli: Got it. Thank you. Does anybody else have any other questions or comments at
40 this time?

41
42 Mr. Freitas: Not for him, but I have one.

43
44 Mr. Carnicelli: Yeah, go ahead Commissioner Freitas. You can ask questions for anybody right
45 now if you need.

46
47 Mr. Freitas: The water person I see here again, I have more questions about water.

1
2 Mr. Wrzosek: I'd just add if it wasn't clear regarding water that the lao plant is at 1.5 million
3 gallon per day capacity that would enter into the system, and we just require 30,000 gallons per
4 day.

5
6 Mr. Freitas: Yes, I finally got that from him, thanks. Sir, I have a question for you, the wells that
7 you talk about that A&B is providing for you, where's the source of that? Is that water that
8 dripped through or is that water taken from water that comes from Keanae?

9
10 Mr. Wrzosek: Neither of those things actually. There's three wells, there's a brackish irrigation
11 system that is from an old HC&S pump station that draws from the Kahului aquifer. So, it's the
12 ...(inaudible)...aquifer, that's the sole source with multiple pumps for the irrigation system. The
13 potable system has two wells, also drawing water from the ...(inaudible)...locally relatively
14 shallow, 225-foot-deep well, so both of those systems would be serving the project with those
15 wells.

16
17 Mr. Freitas: Okay, and then also if the Na Wai Eha case, whatever happen that they do not
18 release the water 'cause they keep saying they're gonna release water and it doesn't happen.
19 How does that affect this project?

20
21 Mr. Wrzosek: If it's unable to develop another alternative such as to develop a well elsewhere,
22 dedicate it to DWS, and get water that way. In fact, we had offered A&B to put a third well on
23 their private system that would have supplied all the water the project needs but A&B turned
24 that down, so...

25
26 Mr. Freitas: Would you know that if you got half of the water that...let's say, they say well, we
27 can't give you that much, we'll give you half, where is this project on the pecking line to get that
28 water, are you folks at the top, middle?

29
30 Mr. Wrzosek: I don't believe there is a pecking line, I don't know, but—

31
32 Mr. Freitas: All right, thank you.

33
34 Mr. Carnicelli: Whose straw gets to go in first?

35
36 Mr. Freitas: Thank you.

37
38 Mr. Carnicelli: Any other questions or comments at this...Commissioner Tackett.

39
40 Mr. Tackett: So, I think we went over the parking, and I think we came up with a number like
41 227 parking stalls, I believe we came up with 200 rooms, and then I was wondering out of those
42 227, on a daily basis how much of those 227 are gonna be used by employees?

43
44 Mr. Wrzosek: For all of our select service, business-oriented traveler hotels we are very
45 comfortable with a .8 parking ratio for guests, very comfortable and the remainder would be for
46 employees and we believe we'll have a surplus.

47

1 Mr. Tackett: I would prefer to have a number, a number would be good for me. So how many
2 of those 227 parking space do you believe will be parked in by people working at your hotel on
3 any given day?

4
5 Mr. Wrzosek: Okay, so let's say we're one hundred percent occupied, I would be thrilled with
6 that number that's 200 rooms, 200 cars and 27 would be available for employees. We're a
7 select service hotel, our operation is very lean therefore we can pass the value onto the
8 customer and that's what makes this hotel a bit different than the others that are being proposed
9 in the Island of Maui. That's it.

10
11 Mr. Carnicelli: I'm gonna ask the same question in a different way. If you're at hundred percent
12 occupancy, how many employees do you need onsite?

13
14 Mr. Wrzosek: I'm the just calculating the staffing out at the moment so—

15
16 Mr. Carnicelli: Sure, pool attendants, you know, housekeeping, bartender—

17
18 Mr. Wrzosek: So probably 12 housekeepers, just roughly...two front desk attendants, a general
19 manager, an attendant to our F&B function whether it's breakfast or just the lounge, and a
20 building engineer. So that brings us to—

21
22 Mr. Carnicelli: You're gonna have to do the math for me, I didn't keep up with you.

23
24 Unidentified Speaker: I got 18.

25
26 Mr. Carnicelli: You're saying 18?

27
28 Mr. Wrzosek: Yes.

29
30 Mr. Carnicelli: Okay. Somewhere in there.

31
32 Mr. Wrzosek: Yes.

33
34 Mr. Carnicelli: Okay, any other questions, comments? P. Denise.

35
36 Ms. La Costa: I would like a number of handicap parking places please rather than just we do
37 that.

38
39 Mr. Wrzosek: Sure.

40
41 Ms. La Costa: Thank you.

42
43 Mr. Wrzosek: May I reference the plan?

44
45 Ms. La Costa: Yes, please.

1
2 Mr. Wrzosek: We currently show seven ADA parking spaces that are distributed in two different
3 areas, front and back.

4
5 Ms. La Costa: And that's within keeping of the number of spaces and the ratio for
6 handicapped?

7
8 Mr. Wrzosek: Well, if it isn't it will be.

9
10 Ms. La Costa: Thank you.

11
12 Mr. Wrzosek: Thank you.

13
14 Mr. Carnicelli: Great. Thank you. Mr. Hopper, I believe you have a question at this point or
15 clarification...point of clarification.

16
17 Mr. Hopper: The Director had mentioned this and I do think it's worth asking about does the
18 applicant plan to file a Motion to Amend with the State Land Use Commission on this, on this
19 docket?

20
21 Mr. Davis: Brett Davis from Chris Hart and Partners. Yes, we do plan to file a Motion to
22 Amend.

23
24 Mr. Hopper: And so along with that was there an analysis done to determine if the Land Use
25 Commission should be the accepting authority for the Draft EIS because Item A on the agenda
26 today is to have the Commission decide the approving agency, I don't if that's 'cause of the
27 community plan amendment was the trigger or is sort of the first item of if...your counsel's
28 approaching so maybe he can help, but for clarification if that's going to happen for sure, is
29 there a discussion as to whether or not the Land Use Commission would be the accepting
30 authority rather than the Planning Commission.

31
32 Mr. Curtis Tabata: Good afternoon, Curtis Tabata, attorney for R.D. Olsen. Yes, we had that
33 conversation with the State Land Use Commission Staff. We looked at the two options and our
34 conclusion was that because most of their entitlements are gonna be with the County we felt it
35 best to come forward with the Planning Commission as the accepting authority, but Planning
36 wise I believe the applications are already in for some of the County entitlements based on that
37 really either, either agency could have been the accepting authority.

38
39 Mr. Hopper: Is there any option to have OEQC take a look at that? Won't they give an opinion
40 of as to whether or not, as to which agency is the appropriate one or I don't know if that's an
41 option for the Commission or for the applicant, but...

42
43 Mr. Tabata: That may be an option but when we seen...when we took a look at the process, the
44 State and County process was basically gonna go forward concurrently so we felt that we had
45 that option.

46

1 Mr. Hopper: Do you have anything in writing from the Land Use Commission on that or they
2 kind of said it would be preferable...not that we prefer one or the other, but what I'm getting at is
3 today there's an item to act as the accepting authority usually I think in most cases the Land
4 Use Commission is the accepting authority for items that have to go multiple agencies but I can
5 understand the argument that it wouldn't be. Is there anything...if the Commission were to defer
6 action on this item for additional clarification, I'm not sure if there's any...are there any statutory
7 or other deadlines that you know of that the Commission would be affecting for your client that
8 would be a problem if they decided to defer to seek for further clarification on that point?
9

10 Mr. Tabata: If the Planning Commission were to defer this?
11

12 Mr. Hopper: Yeah, if they weren't going to adopt...take action on Item A today perhaps to defer
13 to get additional information on who the accepting authority should be because if the
14 Commission determines it then that's it, and I just don't know if there's been...I know you've
15 discussed with the Land Use Commission but I would want the Commission to be clear on this
16 item because I do think it's a bit unusual for the Commission to be accepting authority while
17 there's Land Use Commission approvals as well, but again, not necessarily a rule saying that
18 can't happen, but is there...is there any reason the Commission couldn't defer today on that
19 item, seek additional clarification and then take a vote at a later date to become the accepting
20 authority?
21

22 Mr. Tabata: Well, as far as the earliest practicable time being the determining a standard as to
23 who the approving agency, we have not yet filed a Motion to Amend with the State Land Use
24 Commission. It's not, it's not in, it's not pending so I believe at this point the County would be
25 the earliest practicable decision maker.
26

27 Mr. Hopper: But you have confirmed you will be filing that motion with the Commission, it's not
28 something where you're going to decide the D&O allows this so we don't have to file.
29

30 Mr. Tabata: It will be required, correct.
31

32 Mr. Hopper: Among other issues we would want to look into is if there is a requirement for a
33 Land Use Commission Decision and Order to have that amended can the County continue to
34 process the other entitlements if they're somehow inconsistent with the Decision and Order. If
35 that amendment needs to happen, you know, is it...are those actions consistent with the
36 existing D&O or does that D&O have to be amended first in order for the County to continue to
37 process the other...the other parts of the application that be another question there.
38

39 Mr. Tabata: I mean, you know when you have a concurrent process going on, you're gonna
40 have some risk, and what one could anticipate from the other is always an issue. The Land Use
41 Commission also takes into consideration County entitlements. The County community plans
42 are extremely important to the State Land Use Commission so it's really chicken or the egg,
43 right. Do we do Land Use Commission Motion to Amend first, do we do a community plan
44 amendment first that's the, that's the concern I mean there's no place to start basically, so we
45 believe the project is straightforward. We can proceed concurrently.
46

47 Mr. Hopper: Yeah, but the...so...

1
2 Ms. McLean: If I may, has the applicant submitted their applications for the community plan
3 amendment, change in zoning and SMA even though the DBA has not...but the Motion to
4 Amend with the Land Use Commission has not been filed?

5
6 Mr. Tabata: The applications have been filed, but they're in process. We're not...I don't believe
7 they're at the decision-making phase yet and neither is the Land Use Commission motion.

8
9 Ms. McLean: Okay, so they have been filed with the State and they have been filed with the
10 County, both—

11
12 Mr. Tabata: The County applications have been filed, the State Motion to Amendment has not
13 yet been filed.

14
15 Ms. McLean: Has not been filed, okay.

16
17 Mr. Hopper: But in order to approve those applications the Motion to Amend would have to
18 happen, correct, because the County couldn't zone something or the County couldn't zone
19 something or grant an SMA Permit for something that would be in violation of a Land Use
20 Commission Decision and Order if that amendment hasn't happened, correct?

21
22 Mr. Tabata: I think if that's a concern then the process would proceed concurrently. The
23 County would probably wait for some development on the State Land Use side, but again, your
24 community plans are extremely important at the State Land Use level. I mean, if we're
25 inconsistent and people object to the project based on inconsistency with the community plans,
26 that could definitely be a problem, but who goes first, Land Use Commission on their Motion to
27 Amend or DBA or the County with the community plans, I mean, it's gotta start somewhere.

28
29 Mr. Hopper: So you're suggesting the community plan amendment would be approved first not
30 the change in zoning, the district boundary amendment or the amendment to the D&O would
31 then happen then you would go back to the County Council for another...for a zoning change
32 because the zoning change can't happen without a district boundary amendment without the
33 D&O changing correct.

34
35 Mr. Tabata: Well...

36
37 Mr. Hopper: Regardless of the community plan, if you're assuming you have to go through a
38 ...amendment to the D&O, the County couldn't correct the zoning without that change
39 happening first, right. Otherwise the zoning would be inconsistent with the decision and order.

40
41 Mr. Tabata: I can't speak for what the County will require before it allows the zone change to
42 process, but you know at some point somebody's gonna have to...maybe not have to, but
43 somebody would...if the project goes forward and gets built somebody's gonna have to approve
44 something either the State Land Use DBA or Motion to Amend or County, County entitlements,
45 so...

46

1 Mr. Hopper: Okay, back to today then, is there any reason that you see that the Planning
2 Commission...I know there's a comment deadline for the 22nd, is there any reason why the
3 County could not defer action on this item to seek that clarification as to whether or not the
4 County Planning Commission or the Land Use Commission would be the accepting authority
5 and defer that item today to a future meeting to make that determination after seeking more
6 information from the Land Use Commission and perhaps the Office of Environmental Quality
7 Control.

8
9 Mr. Tabata: It's this Commission, you know, it's our decision. I mean if you want to defer, if you
10 feel that's appropriate, I'm not aware of anything stopping you.

11
12 Mr. Hopper: So, an option, and I think that's all unless there's other questions for counsel. I do
13 think this is an important issue to determine. I think an option for the Commission could be to
14 still provide the comments on the Draft EIS regardless of who the accepting authority is going to
15 end up being and then at a future meeting if it's determined yeah, it does appear appropriate
16 that the Planning Commission would be the accepting authority to take action on that item and if
17 not, then the County's comments...the Commission's comments would still be sent forward to
18 the applicant, so what you could do is defer item on...action on Item A, and on Item B still
19 provide your comments so regardless of which agency is...ends up being the accepting
20 authority those comments are provided.

21
22 Mr. Tabata: Any more questions?

23
24 Mr. Hopper: Not from me, I don't know if the rest of the Commission has any.

25
26 Mr. Carnicelli: I have one other...just layman's terms rather than the two attorneys doing this is,
27 what is it that you need amended in the D&O, what change to the D&O do you need?

28
29 Mr. Tabata: Okay, the LUC D&O is for the Maui Business Park project.

30
31 Mr. Carnicelli: Right.

32
33 Mr. Tabata: Which is Light Industrial. So, what we need is to have a description of the hotel to
34 allow the hotel use. So, within a D&O if we're successful it will describe the hotel project and its
35 impacts and mitigation and it will then become a permitted use at the State Land Use level.

36
37 Mr. Carnicelli: Got it. Thank you.

38
39 Mr. Tabata: Thank you.

40
41 Mr. Carnicelli: Any other?

42
43 Mr. Hopper: Nothing, just it's not necessarily illegal to be the accepting authority, it's just I think
44 we should confer with the Land Use Commission and confirm that. Obviously if this
45 Commission wants to be the accepting authority and that's something that the LUC is all right
46 with I don't think that's a problem, but as far as, as far as that item it is relatively unusual I think
47 for the Planning Commission to be the accepting authority in a case where the Land Use

1 Commission does have an entitlement to be...to grant. Now because the community plan
2 amendment is supposed to be driver of all of that including the district boundary designation
3 then that, there's an argument for that, but I think confirming that may be a good idea at this
4 stage.

5
6 Mr. Carnicelli: Thank you. So, Commissioners if...we don't have any more questions or
7 comments at this time, I think following the advice of counsel if there are not objections why
8 don't we go ahead and defer Item A, is do we have consensus on that? Okay, so we're gonna
9 go ahead and defer acting or approving as the...let's see that the Maui Planning Commission is
10 the approving agency of the Final Environmental Impact Statement, so we'll go ahead and defer
11 that, but also, I guess should we instruct whom for clarification on that?

12
13 Mr. Hopper: Well, I think that the Department could get in touch with the State Land Use
14 Commission Staff.

15
16 Mr. Carnicelli: Or OEQC?

17
18 Mr. Hopper: And OEQC could be contacted as well, I don't know how much time they would
19 take to respond. I thought, I think that's something that if there's a dispute OEQC can given an
20 opinion of that, I do...I believe I recall that from the rules, but at the very least I think conferring
21 with the State Land Use Commission and reviewing the items to confirm that the County would
22 be the accepting authority on that.

23
24 Mr. Carnicelli: Got it. Okay, thank you. However, that being said, November 27th or
25 November 26th...no, the next Planning Commission meeting that agenda's full, can fit it in there
26 or no, no way? So...I mean, we're gonna be here till eight o'clock at night if we add that as well,
27 although I guess if it's just making the decision that we're deciding body if that's all we have to
28 do if we defer to the 26th, is that the only decision we have to make on it, is just thumbs up or
29 thumbs down?

30
31 Mr. Hopper: You would. There would still be public testimony allowed, that would have to be
32 allowed, and you know, you would hear the report on that issue, but because of testimony it
33 could take, it could take a while potentially. Do you guys have...

34
35 Ms. McLean: Commissioners, I'm commenting on the list of public hearing items that we have
36 scheduled for November 26th. I think it is important that this issue be decided and that we do
37 put this on the November 26th meeting, for November 26th there are five public hearing items,
38 the important think is that each of those public hearings get held, but then if we run out of time
39 then decision making on any of those can be deferred but the public hearing will have already
40 been held so that it doesn't need to be renoticed and then those can just be rescheduled, but
41 the item on the agenda for next time would just be whether or not the Commission is the
42 accepting authority for the EIS and then testimony would have to be confined to that decision
43 making not on the project as a whole so it may be a very quick item to add on.

44
45 Mr. Carnicelli: And we should have direction from the LUC by then.

46
47 Ms. McLean: Between Corp. Counsel—

1
2 Mr. Carnicelli: Okay, so that actually...you guys okay with deferring it, we'll move it to
3 November 26th, okay, so let the record show that we have consensus to move that to
4 November 26th then.

5
6 **By consensus of the Commission Item C.1.a was deferred to the November 26, 2019**
7 **agenda.**

8
9 Mr. Carnicelli: So, then Director, Item B.

10
11 Ms. McLean: Tara, do you want me to go through my notes for Commission comments or
12 would you like to go through yours?

13
14 Ms. Furukawa: It doesn't matter.

15
16 Mr. Carnicelli: Is your hand cramped?

17
18 Ms. Furukawa: Why don't you?

19
20 Ms. McLean: Okay, I guess I'll take a stab at it. First item is for the applicant to respond
21 individually to comment and opposition letters and not use a template. Second is to make a
22 statement or description about who the operator of the hotel will be even if that statement is to
23 say that it's still under negotiation. To have a consistent portrayal of the use of the solar and PV
24 and if rooftop PV cannot be used because of FAA or airport comments to provide
25 documentation showing that. In terms of compliance with Maui County Code, Chapter 2.96 the
26 Commission feels that units need to be built and that other options should not be exercised.
27 More information on cultural resources and potential impacts need to be provided and a better
28 explanation for the conclusions that were reached. Provide occupancy information on other
29 Central Maui hotels such as the Maui Beach, Maui Seaside and the proposed new, the
30 redevelopment of the Maui Palms in assessing other hotels in Central Maui. Clarify water
31 demand relating to the Na Wai Eha case and the water needs of farmers and traditional users.
32 Clarify the...what is needed to amend in the Land Use Commission's decision and order.
33 Provide possible or likely conditions or restrictions that the applicant is agreeable to. Address
34 sea level rise more clearly. Discuss the use of R-1 water for irrigation including the source of
35 the wells and the implications if that water is not released. State how many units the applicant
36 has built to comply with Chapter 2.96 for other projects or the statement that satisfaction has
37 been through the purchase of credits. For traffic projections, provide numbers for a 24-hour
38 cycle and update traffic numbers as needed to account for the consolidated rent-a-car facility.
39 Clarify the number and location of ADA compliant parking spaces and guest and employee
40 parking and how many employees would be needed if the hotel is at 100 percent occupancy.
41 And lastly, discuss if and how the applicant would contribute to the new airport access ramp.

42
43 Mr. Carnicelli: Tara, do you have any other things that you want to add other than that?

44
45 Ms. Furukawa: No, I think that's it. I mean, do you want to throw the last about clarify who's the
46 accepting authority into it or no?

47

1 Mr. Carnicelli: Yeah, I don't think we need that as part of the EIS.

2

3 Ms. Furukawa: No need. Okay.

4

5 Mr. Carnicelli: So, does everybody...Commissioners do you guys feel that that is a fair
6 representation of our comments, an accurate and fair representation of our comments? Okay.
7 So, I guess, why don't we...should we do it by consensus or take a vote?

8

9 Mr. Hopper: You can...you can adopt by a motion or if you could say if there's no objections
10 they'll be forwarded as your comments.

11

12 Mr. Carnicelli: So, any objections to these being forwarded as our comments? Seeing none,
13 we'll go ahead and take that as consensus. So, thank you very much.

14

15 Mr. Hopper: And if the applicant could provide any of that information on the correspondence
16 with the Land Use Commission on the accepting authority issue that may help the County also if
17 that's already occurred. You know, not related to the EIS comments themselves but before the
18 next meeting that may help to clarify things.

19

20 **By consensus of the Commission, to forward the comments as discussed.**

21

22 Mr. Carnicelli: So, Commissioners we've got just a couple more items, want to power through
23 and then we have lunch or do you want to pause and have lunch? I should of brought more
24 snacks. I'll bring more snacks next time. Director.

25

26 Ms. McLean: Thank you, Chair. Next is the Subcommittee's proposed language regarding
27 submittal of written testimony in the notification letter to people within 500 feet of a proposed
28 project.

29

30 **D. Subcommittee's proposed language regarding submittal of written testimony in**
31 **the notification letter to people within 500 feet of a proposed project.**
32 **(Commissioners K. Pali and P. D. La Costa)**

33

34 Ms. McLean: If you want to pass these around—

35

36 Mr. Hopper: Michele, just clarification was done pursuant to the like temporary investigative
37 group process where there was a vote taken to outline who would do, how it will be discussed
38 and what the scope of their...

39

40 Ms. McLean: There was but it ended up being given back to the Department to come up with
41 recommended changes so there really wasn't a meeting of the TIG and a report back from the
42 TIG 'cause these changes are being proposed by the Department.

43

44 Mr. Hopper: But there was a TIG formed?

45

46 Ms. McLean: There was a TIG formed, yes.

47

1 Mr. Hopper: All right, well this is appearing I think as the TIG's response so I'd advise that today
2 you can receive the report and ask questions but you can't deliberate or actually take action on
3 this time today, you would need another meeting for that. So you can ask questions on it but if
4 it's...the way it's agendized it refers to subcommittee, I understand that might not have
5 happened but I think the way that it's agendized, generally if you have a temporary investigative
6 group there's one meeting to form it, one meeting for the group to report back those items to the
7 commission, and then a third meeting to actually deliberate and take on action on anything to
8 make changes. So, in this meeting I think you can receive the information, ask questions on the
9 information but not actually deliberate or take action to adopt the changes.

10
11 Ms. McLean: Okay, Commissioners what was distributed was a three-page document. The first
12 page is a printout of the existing public hearing notice that's included with most of our
13 applications or the applications that require public hearings, then the second sheet are
14 Department comments on how that notice could be improved, it's a little bit more informative as
15 to why the recipient of this is receiving that, the information about the project is moved up to be
16 at the beginning of the notice, there is less technical information, it's a little more layperson
17 language and then in the box relating to public testimony it's spelled out a little bit more clearly
18 and an email address is provided. And then the third page where Commissioner La Costa's
19 additional comments to be edited in that language relating to public testimony to clarify that
20 testimony can be submitted in person or in writing and spelling it out even a little more clearly
21 than the Department's version.

22
23 Mr. Carnicelli: Commissioner Pali.

24
25 Ms. Pali: Does the person getting the notice get this actually whole thing like this?

26
27 Ms. McLean: Yes.

28
29 Ms. Pali: Okay.

30
31 Unidentified Speaker: Not a postcard anymore?

32
33 Ms. McLean: But filled in obviously. It's never been a postcard. It's always a full sheet of paper
34 that's—

35
36 Ms. Pali: And it looks like this where it says to be completed by the Planning Department.

37
38 Ms. McLean: Yes, and that information is filled in.

39
40 Ms. Pali: But I think, I think what I see when I see a box, it's like when you go to the doctor's
41 office and you get a form and you have to fill out the top and you don't touch the bottom
42 because it's for like staff, I think by putting the public testimony in the box that's touched by staff
43 my eyes are not even gonna read the box because I know this box is for the Department, it's not
44 for me, and so I think by putting the public testimony in the box that's supposed to be filled out
45 by the Planning Department makes me not look at it because it's not a box for me. So, I'd
46 almost recommend pulling out the testimony part for me that's not really specific to Department
47 and put it above the box. It's just a recommendation.

1
2 Mr. Carnicelli: What if, what if you just put...you take out, to be completed by the
3 Planning...Department of Planning...if you just take out that line—

4
5 Ms. Pali: It's more of an internal note, yeah.

6
7 Mr. Carnicelli: Right.

8
9 Ms. Pali: Yeah.

10
11 Mr. Carnicelli: Cause then my eye does grab, cause that's the part that I want, right. I want
12 them to see public hearing, I want them to read that so if you take out, to be completed by the
13 Department of Planning, now my eye gravitates to it rather than avoiding it.

14
15 Ms. Pali: Of course, cause now it's like a highlight, yes, that's probably an easier fix, cause
16 that's really an internal note that Planning does that, it's an internal note that you would fill that
17 out, right?

18
19 Ms. McLean: Right. When an applicant gets their application packet, they have a bunch of
20 information to fill out including this, and they fill out the top portion, they don't fill out the box.
21 Once the public hearing is scheduled, we fill out the box, we give it to them and then they send
22 it out so that's...but I understand what you're saying. We can try to figure out how to...

23
24 Ms. Pali: Could we make the box only the part where the Planning Department and then unbox
25 the bottom?

26
27 Mr. Carnicelli: Or vice versa.

28
29 Ms. Pali: Yeah.

30
31 Mr. Carnicelli: Almost like box the part you want them to read.

32
33 Ms. Pali: Right, right. But I think what she's saying is the applicant gets it first though so you
34 don't want them to touch that area.

35
36 Ms. McLean: Right. Okay, so if we incorporate Commissioner La Costa's edits in the back
37 what would you like in the box? Would you like...or you just tell us what you would like to be
38 boxed out. It sounds like you want the testimony description to be boxed.

39
40 Ms. Pali: Or just highlighted I think, but I like the way you made it bigger font and you
41 underlined it, so my eye goes there anyway.

42
43 Mr. Carnicelli: If I could Director too, as well, just additional comments here, the whole part of
44 this I mean the reason they're getting this is because of the public hearing and we got that in the
45 middle of the page. It's like, it should say, Notice of Public Hearing at the top, public hearing
46 date, place, time, right at the top. Like I gotta got through TMKs and land use designations and
47 now I get to go you know where the date is, it's like put that at the top that's the first thing.

1 Right, I mean we live in Twitter world, people aren't gonna read it, they're gonna...this is a lot of
2 words for people...it's more than 240 or 288 characters so make that right at the top, the first
3 thing they see. Public hearing, public place, date, and time.

4
5 Ms. McLean: Okay, we can play around with some more 'cause this is a lot of input and you
6 have all these pages, so we'll incorporate all of that together and present something at a future
7 meeting.

8
9 Mr. Carnicelli: Okay, we're gonna go ahead and open up the floor for public testimony on this
10 particular item. Would anybody like to come forward and speak to this particular item on the
11 agenda?

12
13 Mr. Dick Mayer: Could you add that item that –

14
15 Mr. Carnicelli: Please identify yourself for the record.

16
17 Mr. Mayer: Dick Mayer.

18
19 Mr. Carnicelli: Thank you, Dick.

20
21 Mr. Mayer: I swear to tell the truth.

22
23 Mr. Carnicelli: This one, you don't have to tell the truth.

24
25 Mr. Mayer: I suggested earlier about the hearing notices and the ability to...what was the word I
26 was...to have a hearing.

27
28 Ms. Pali: Intervene.

29
30 Mr. Mayer: Intervene. That should be looked at as well, as well as one of all the other
31 mechanical things you're doing right now, and put that...please get that done. I have one
32 question and that is I gave testimony, you said that the testimony that was given by the public
33 will also be included?

34
35 Mr. Carnicelli: You gotta speak to this item right now, and then if you have a question about that
36 then you can ask Michael afterwards.

37
38 Mr. Mayer: Well, it's part of what you were just talking about.

39
40 Mr. Carnicelli: Okay, go ahead. If it's relevant to this topic then go for it.

41
42 Mr. Mayer: The testimony that was given by the public you said was gonna be sent in, and I'm
43 questioning whether the numbers I gave regarding the one to three will be included in your
44 recommendation to them or are you expecting the public just testifies and then goes home and
45 has to do it all over again in written testimony?

46
47 Mr. Carnicelli: Any other questions for the testifier? Thank you, Dick.

1
2 Mr. Mayer: Love to have an answer to what...

3
4 Mr. Carnicelli: Like I said, Dick is because that's a question about a previous item. Please ask
5 Michael or Michele afterwards, so thank you.

6
7 Mr. Tom Croly: Aloha Chair. Tom Croly. Just on what you're looking at, I don't know what
8 you're looking at, I don't know if it was published in the agenda or anything but I'd be interested
9 to see it, not right now, but that it something that the public will be able to review.

10
11 Mr. Carnicelli: Yeah, when it gets reagendaized we'll definitely have copies for you.

12
13 Mr. Croly: Thank you.

14
15 Mr. Carnicelli: Yeah. Anything else on this particular item? So, seeing none, we'll go ahead
16 and close public testimony. Director's Report. Director.

17
18 Ms. McLean: Thank you, Chair. Next on the agenda is notification to the Commission relating
19 to an SMA extension and this is Chris Hart and Partners on behalf of Wailea MF-15 LLC for a
20 two-year SMA Permit time extension to complete construction to the Wailea MF-15 Multi-Family
21 Residential Project at the corner of Wailea Alanui Drive and Kaukahi Street at
22 TMK: 2-1-008: 120 in Wailea. Tara Furukawa again is the project planner.

23
24 **E. DIRECTOR'S REPORT**

- 25
26 **1. MICHELE MCLEAN, AICP, Planning Director, notifying the Maui Planning**
27 **Commission pursuant to Section 12-202-17(e) of the Maui Planning**
28 **Commission's SMA Rules of her intent to process the following time**
29 **extension request administratively:**

- 30
31 **a. CHRIS HART & PARTNERS, INC. ON BEHALF OF WAILEA MF-15,**
32 **LLC requesting a two-year Special Management Area Use Permit**
33 **time extension to complete construction for the Wailea MF-15 Multi-**
34 **Family Residential Project at the corner of Wailea Alanui Drive and**
35 **Kaukahi Street, TMK: (2) 2-1-008:120, Wailea, Island of Maui**
36 **(SM1 2013/0016)(PD2 2013/0004)(PD3 2018/0002) (T. Furukawa)**

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

41
42 Ms. Tara Furukawa: So, this item is under your review because the applicant is requesting a
43 two-year time extension to the Special Management Area and Planned Development Approvals
44 to complete the proposed Makalii at Wailea project. One of the conditions of approval for the
45 SMA Permit was that construction be completed within five years after the date of initiation. The
46 applicant notified our office that construction was commenced on November 30, 2014 so the
47 completion date would be November 30, 2019. There are issues, the applicant is in need of a

1 time extension because it took a year to obtain building permits and there are also issues with
2 marketing and financing, so construction had to be suspended for them to meet the sales
3 threshold for their loan. So, we should note that site work and site infrastructure has been
4 completed. Raymond Cabebe of Chris Hart and Partners and the applicant from Armstrong
5 Builders is here to respond to any questions that you might have to decide to waive or not waive
6 your review.

7
8 Mr. Carnicelli: I have a question for the applicant.

9
10 Ms. Furukawa: For the applicant.

11
12 Mr. Kevin Keller: I'm Kevin Keller with Armstrong Builders.

13
14 Mr. Carnicelli: Thank you for coming Kevin. What were the unforeseen circumstances in
15 construction?

16
17 Mr. Keller: Construction primarily with the site work we encountered a lot more rock than
18 anticipated. That was the first part as it pertained to the civil portion of it. Vertical, it took well
19 over a year to get our building permit, I think it was about 18 months to get our building permit.

20
21 Mr. Carnicelli: Were you doing the...did you apply for your building permit concurrently with
22 while you were doing the site work?

23
24 Mr. Keller: Yes.

25
26 Mr. Carnicelli: How long did your site work take?

27
28 Mr. Keller: The site work took approximately a year.

29
30 Mr. Carnicelli: Okay. The other thing that in reading the email exchange between you and Tara
31 you basically had said something to the effect or at least I saw somewhere in here that it had to
32 do with market conditions 'cause that's one of those things like I don't know it sorta sticks with
33 me and I think if Keaka was here he would talk about it where you know, that's part of being a
34 developer is marketing, you know, so to say, oh we need a time extension because we're gonna
35 press pause because the market's dipping or it's not quite where we want to be or ironically
36 enough this whole entire time the market's been nothing but up. So, I just have a hard time
37 when somebody says, oh market conditions are the reason why I want an extension, it's –

38
39 Mr. Keller: I can speak to that.

40
41 Mr. Carnicelli: Yes, please.

42
43 Mr. Keller: So, our initial, for whatever it's worth, right, so our initial proposed plan wasn't,
44 wasn't received as well as we originally thought it was so we ended up going back and redoing
45 some of the marketing strategies and ended up getting a new firm and everything, so it's one
46 aspect of it.

47

1 Mr. Carnicelli: Okay, thank you. Any other questions for the applicant?

2
3 Mr. Freitas: I do.

4
5 Mr. Carnicelli: Commissioner Freitas.

6
7 Mr. Freitas: So, your marketing said that you folks changed your marketer as well as your
8 realtor, so how has sales been? Is it sold out?

9
10 Mr. Keller: Yeah, we're sold out. Yeah, sales been really good. We ended up reaching
11 100 percent sales midway through the civil portion of this build.

12
13 Mr. Freitas: Okay, thank you.

14
15 Mr. Carnicelli: Thank you. That's it. Thank you.

16
17 Mr. Keller: Thank you.

18
19 Mr. Carnicelli: So is there a recommendation from staff on this, I can't remember.

20
21 Ms. McLean: The Commission can waive its review and have the Department to issue the time
22 extension administratively or the Commission can ask to review the time extension itself at a
23 future meeting.

24
25 Mr. Carnicelli: At this point in time we'll go ahead and open up the floor for public testimony
26 again. Seeing none, without objection we'll go ahead and close public testimony. And motion
27 from the floor? Would anybody like to waive review?

28
29 Ms. Pali: I will bring a motion to waive the review for the time extension and leave it into the
30 capable hands of the Maui Planning Department to follow all applicable county and federal and
31 state laws and to order whatever is necessary.

32
33 Mr. Carnicelli: Moved by Commissioner Pali, and seconded by Commissioner Tackett.
34 Discussion to the motion? Seeing none, Director.

35
36 Ms. McLean: Thank you, Chair. The motion is to waive review to allow the Department to
37 process the time extension administratively.

38
39 Mr. Carnicelli: All those in favor, please raise your hand. That is six. Motion passes.

40
41 **It was moved by Ms. Pali, seconded by Mr. Tackett, then unanimously**

42
43 **VOTED: To Acknowledge Receipt and Waive Its Review of the Time**
44 **Extension Request.**

45 **(Assenting – K. Pali, C. Tackett, D. Thompson, K. Freitas, S. Castro,**
46 **P. D. La Costa)**

47 **(Excused – K. Robinson, T. Gomes)**

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Mr. Carnicelli: Director.

Ms. McLean: Thank you, Chair. Next is the SMA Minor Report and the SMA Exemption Report for notification purposes. Are there any questions?

2. SMA Minor Permit Report

This is for notification and review purposes. No action is anticipated.

3. SMA Exemptions Report

This is for notification and review purposes. No action is anticipated.

Mr. Carnicelli: Yeah, I still have a question with this, you know, 'cause we talked about minors are cumulative impacts and we're getting this about Halloween, the fireworks in Halloween where it's already done. You know, so I don't know if there's a way to change this to where we can see some things before they're actually pau or not, but I just thought it to be interesting.

Ms. McLean: So, noted. Thank you.

Mr. Carnicelli: Thank you.

4. Discussion of Future Maui Planning Commission Agendas

a. November 26, 2019 agenda items

Ms. McLean: And lastly, for the third time today, back to the memo of the five public hearing items listed for November 26th, we'll also add under Unfinished Business, the decision on whether the Commission wants to be the accepting agency for the hotel EIS. Any questions for the next meeting?

Mr. Carnicelli: Seeing none, okay, I guess at this point in time we will go ahead and adjourn Maui Planning Commission, November 12, 2019.

F. NEXT REGULAR MEETING DATE: November 26, 2019

G. ADJOURNMENT

The meeting was adjourned at 1:05 p.m.

Respectfully Submitted by,

CAROLYN TAKAYAMA-CORDEN
Secretary to Boards and Commissions II

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RECORD OF ATTENDANCE

Present

Lawrence Carnicelli, Chair
Stephen Castro
Kawika Freitas
P Denise La Costa
Kellie Pali
Christian Tackett, Vice Chair
Dale Thompson

Excused

Keaka Robinson
Tina Gomes

Others

Michele McLean, Director, Department of Planning
Michael Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel
Jordan Molina, Deputy Director, Department of Public Works