

**MAUI PLANNING COMMISSION
SUMMARY MINUTES
MARCH 22, 2022**

[\(HYPERLINK TO CHAPTER 1 AUDIO RECORDING OF THE MEETING\)](#)

[\(HYPERLINK TO CHAPTER 2 AUDIO RECORDING OF THE MEETING\)](#)

[\(HYPERLINK TO CHAPTER 3 AUDIO RECORDING OF THE MEETING\)](#)

[\(HYPERLINK TO CHAPTER 4 AUDIO RECORDING OF THE MEETING\)](#)

[\(HYPERLINK TO CHAPTER 5 AUDIO RECORDING OF THE MEETING\)](#)

[\(HYPERLINK TO CHAPTER 6 AUDIO RECORDING OF THE MEETING\)](#)

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Chairperson Christian Tackett at approximately 9:00 a.m., Tuesday, March 22, 2022, online via BlueJeans; **Meeting ID: 766 926 828**

B. RESOLUTIONS THANKING OUTGOING COMMISSIONERS CHRISTIAN TACKETT AND JERRY EDLAO

Item B begins at approximately 00:02:56 of Chapter 1 of the audio recording.)

(Motion was made at approximately 00:26:2 of Chapter 1 of the audio recording.)

It was moved by Ms. La Costa, seconded by Ms. Pali, then

(Vote was taken at approximately 00:27:10 of Chapter 1 of the audio recording.)

**VOTED: To Transmit the Resolutions to the Mayor and Council Chair
(Assenting – P. D. La Costa, K. Pali, J. Edlao, K. Freitas, M. Hipolito
D. Thompson, C. Tackett)
(Excused – A. Lindsey, K. Thayer)**

C. PUBLIC HEARING

1. Michele Chouteau McLean, AICP, Planning Director, transmitting Resolution No. 21-171 referring to the Maui Planning Commission a proposed bill to amend Maui County Code Titles 2, 18, 19 and 20 relating to wetlands restoration and protection. The purpose of the proposed bill is to conserve and protect sensitive

ecosystems and ecosystem functions and values by establishing requirements to map and protect wetlands. (E. Derrington)

The entire text of the proposed bill for ordinance is available at the Planning Department Proposed Legislation webpage: <https://www.mauicounty.gov/1127/Legislation---Proposed>

(Item C.1 begins at approximately 00:27:55 of Chapter 1 of the audio recording.)

(Motion was made at approximately 00:06:13 of Chapter 3 of the audio recording.)

It was moved by Ms. Pali, seconded by Ms. La Costa, then

(Vote was taken at approximately 00:7:30 of Chapter 3 of the audio recording.)

VOTED: To Approve the Ordinance with the Redline Recommendations of the Department with Additional Revisions as Discussed by the Commission.
**(Assenting – K. Pali, P D. La Costa, J. Edlao, K. Freitas, M. Hipolito
D. Thompson, C. Tackett)**
(Excused – A. Lindsey, K. Thayer)

D. REVIEW OF PROPOSED RESOLUTION AGREEMENT

Proposed Resolution Agreement between the COUNTY OF MAUI and KUAU COVE PROPERTIES, LLC for violations for the placement of sand within the shoreline area and Special Management Area (SMA) without Shoreline and SMA permits on Property located at 799 Poho Place, Paia, Island of Maui. NOV 2019/0079 and NOV 2019/0080

AN EXECUTIVE SESSION MAY BE CALLED IN ORDER FOR THE COMMISSION TO CONSULT WITH ITS ATTORNEY ON QUESTIONS AND ISSUES PERTAINING TO THE COMMISSION'S POWERS, DUTIES, PRIVILEGES, IMMUNITIES, AND LIABILITIES PURSUANT TO SEC. 92-5(a)(4), HRS.

The Commission may take final action on the proposed Settlement Agreement pursuant to the provisions of Section 12-202-23(d)(3) of the Maui Planning Commission's Special Management Area Rules and Section 12-203-17 of the Shoreline Rules for the Maui Planning Commission.

(Item D begins at approximately 00:09:26 of Chapter 3 of the audio recording.)

(Motion was made at approximately 00:35:49 of Chapter 4 of the audio recording.)

It was moved by Mr. Thompson, seconded by Mr. Hipolito, and

(Vote was taken at approximately 00:46:40 of Chapter 4 of the audio recording.)

The Motion to Accept the Proposed Resolution Agreement as Written, FAILED.

**(Assenting – D. Thompson, M. Hipolito, J. Edlao, C. Tackett)
(Dissenting - K. Freitas, K. Pali, P D. La Costa)
(Excused – A. Lindsey, K. Thayer)**

(Motion was made at approximately 00:47:34 of Chapter 4 of the audio recording.)

It was moved by Mr. Freitas, seconded by Ms. Pali, and

(Vote was taken at approximately 01:12:50 of Chapter 4 of the audio recording.)

The Motion to Deny the Proposed Resolution Agreement, FAILED.

**(Assenting – K. Freitas)
(Dissenting – J. Edlao, M. Hipolito, K. Pali, D. Thompson,
P D. La Costa, C. Tackett)
(Excused – A. Lindsey, K. Thayer)**

(Motion was made at approximately 01:13:43 of Chapter 4 of the audio recording.)

A motion was made by Ms. Pali, seconded by Ms. La Costa, to revise the Proposed Resolution Agreement to increase the fine from \$25,000 to \$60,000 and all other terms remain as is. After further discussion, the motion and second was withdrawn.

(Motion was made at approximately 01:20:20 of Chapter 4 of the audio recording.)

Mr. Thompson then made a motion to Approve the Proposed Resolution as written.

(Motion was made at approximately 01:23:23 of Chapter 4 of the audio recording.)

After further discussion, a motion was made by Ms. Pali, seconded by Mr. Thompson, to Approve the Proposed Resolution Agreement as Written. After discussion, the motion and second was withdrawn. A recess was then called.

(Motion was made at approximately 00:02:52 of Chapter 5 of the audio recording.)

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

(Vote was taken at approximately 00:05:12 of Chapter 5 of the audio recording.)

**VOTED: To Approve the Proposed Resolution Agreement with the
Amendment of the Fine to \$60,000.
(Assenting – P D. La Costa, D. Thompson, J. Edlao, K. Freitas,
M. Hipolito, K. Pali, C. Tackett)
(Excused – A. Lindsey, K. Thayer)**

The Commission then took up Item F, Director's Report before taking up Item E.

F. DIRECTOR'S REPORT

(Item F begins at approximately 00:08:19 of Chapter 5 of the audio recording.)

1. MICHELE CHOUTEAU MCLEAN, AICP Planning Director, transmitting the following application to the Maui Planning Commission pursuant to the provisions of the Maui Planning Commission's Special Management Area Rules that the following permit transfer has occurred by approval letter dated March 3, 2022.

MAUI WAIOHULI PARTNERS requesting a transfer of Special Management Area Use Permit from Maui Waiohuli Partners to Savio Kihei Wailani Village LLC for the Hoonani Subdivision, a 27-lot residential subdivision and related improvements on 12.88 acres located at Hoonani Street, Kihei, Island of Maui, TMK: (2) 3-9-001: 007 (SM1 2008/0024) (P. Fasi)

This is for notification purposes.

No questions or comments from the Commission.

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.

Ms. La Costa asked what Happiness House STRH Exemption was for. Ms McLean noted it was for removal of plywood covering over a parking space located in the south side setback.

4. Discussion of Future Maui Planning Commission Agendas

- a. April 12, 2022 agenda items

Ms. McLean went over the items scheduled on the April 12, 2022 agenda.

Chair Tackett was excused for the remainder of the meeting.

E. CONTESTED CASE HEARING

1. HONUA'ULA PARTNERS, LLC, requesting Project District Phase II Development approval for Honua'ula, a master planned community comprised of single family and multi-family homes, village mixed-uses, preservation and conservation areas, and recreational/open space areas and related infrastructure improvements on approximately 670 acres in Kihei-Makena Project District 9, located in Wailea, Kihei-Makena, Maui, Hawaii, TMK (2) 2-1-008:056 and 071. (PH2 2018/0002) (A. Cua)

No public testimony will be taken on this matter.

AN EXECUTIVE SESSION MAY BE CALLED IN ORDER FOR THE COMMISSION TO CONSULT WITH ITS ATTORNEY ON QUESTIONS AND ISSUES PERTAINING TO THE COMMISSION'S POWERS, DUTIES, PRIVILEGES, IMMUNITIES AND LIABILITIES PURSUANT TO SECTION 92-5(a)(4), HAWAII REVISED STATUTES. (Commissioners a separate meeting invite will be sent to you for the Executive Session)

(Motion to Recuse and Continue)

(Memo in Opposition to Motion for Recusal)

(Petition to Intervene)

(Honuaula Partners Response to Petition to Intervene)

(Petitioner's Response to Applicant's response to Petition to Intervene)

DOCUMENTS FILED BY APPLICANT

Honuaula Partners LLC Exhibit List

Exhibit 11 – Resume of Tyler Fujiwara, P.E.

Exhibit 12 – Resume of Andrea Millan

Exhibit 16 – Resume of Michael F. Dega, Ph.D.

Exhibit 17 – Resume of Jaap Eijzenga, M.S.

Exhibit 20 – Statement of Qualifications for Otomo Engineering, Inc. for Professional Consulting Civil Engineering Services

Exhibit 21 – Resume of William Mitchell

Exhibit 29 – Resume of Thomas Nance

Exhibit 30 – Map of Native Plant and preservation Area/South Preserve Area, Updated Exhibit 1-0 map (submitted to the Commission via email on February 17, 2022)

Exhibit 31 – Drainage Master Plan Depicting Preserved Sites, Features, and Cultural Use Sites North of the NPPA (dated March 14, 2022)

Exhibit 32 – Final Environmental Assessment Piilani Highway Widening Project (Kilohana Drive to Wailea Ike Drive dated May 2012, Volume I of II

Exhibit 33 – Final Environmental Assessment Piilani Highway Widening Project (Kilohana Drive to Wailea Ike Drive dated May 2012, Volume II of II

Received March 17, 2022

Applicant's Rebuttal Witness List

Applicant's Rebuttal Exhibit List

Applicant's Rebuttal Exhibit 34 – Carol Lee Kamekona-SHPD 2022 Permittee List 03

Applicant's Rebuttal Exhibit 35 – Lucienne de Naie_DCCA Business Name Search

Applicant's Rebuttal Exhibit 36 – Robin Knox_QEP Diplomate Roster Board for Global EHS Credentialing

Applicant's Rebuttal Exhibit 37 – Albert Perez_DCCA License Search

Applicant's Rebuttal Exhibit 38 – OECQ Notice

Applicant's Rebuttal Exhibit 39 -Honuaula Animal Management Plan March 22

Received March 18, 2022

Honuaula Partners LLC Response to Intervenors' Motion Reopen Public Testimony

Honuaula Partners LLC Response to Intervenors' Motion to Walk the Land with Commissioners

Honuaula Partners Response to Intervenors' Motion to Allow Discovery and Issuance of Subpoenas

Honuaula Partners Response to Intervenors' Prehearing Brief Relating to Affordable Housing

Received March 21, 2022

Applicant's First Amended Exhibit List

DOCUMENTS FILED BY INTERVENORS

Intervenors' Witness List

Intervenors' Exhibit List

Intervenors' Motion to Walk the Land with Commissioners

Intervenors' Motion to Allow Discovery and the Issuance of Subpoenas

Intervenors' Motion to Reopen Pubic Testimony, or in the Alternative Confirm Pubic Testimony Will Not be Considered in the Present Proceeding

Received March 17, 2022

Intervenors' Rebuttal Witness List

Intervenors' Rebuttal Exhibit List

Intervenors' Pre-Hearing Brief

DOCUMENTS FILED BY PLANNING DEPARTMENT

None received

(Item E begins at approximately 00:23:39 of Chapter 5 of the audio recording.)

Commissioners Hipolito and Thompson confirmed that they have reviewed the record for meetings that they were not present for.

The Motion to Continue the Hearing which was taken up at the February 22, 2022 meeting and unable to take action on due to a three to two vote was then taken up.

(Motion was made at approximately 00:33:08 of Chapter 5 of the audio recording.)

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

(Vote was taken at approximately 00:33:33 of Chapter 5 of the audio recording.)

VOTED: To Deny the Motion to Continue the Hearing.
(Assenting – J. Edlao, P. D La Costa, M. Hipolito, K. Pali – Abstained,
D. Thompson)
(Dissenting - K. Freitas)
(Excused – A. Lindsey, K. Thayer, C. Tackett)

The Commission then took up the three motions filed by the Intervenors.

(Motion was made at approximately 01:01:55 of Chapter 5 of the audio recording.)

It was moved by Mr. Thompson, seconded by Mr. Edlao, then

(Vote was taken at approximately 01:05:18 of Chapter 5 of the audio recording.)

VOTED: To Deny the Motion to Walk the Land.
(Assenting – D. Thompson, J. Edlao, P. D La Costa, M. Hipolito,
K. Pali)
(Dissenting - K. Freitas)
(Excused – A. Lindsey, K. Thayer, C. Tackett)

(Motion was made at approximately 01:33:30 of Chapter 5 of the audio recording.)

It was moved by Ms. Pali, seconded by Mr. Edlao, then

(Vote was taken at approximately 01:36:18 of Chapter 5 of the audio recording.)

VOTED: To Deny the Motion to Reopen Public Testimony or in the Alternative
Confirm Testimony will not be considered in the present proceeding.
(Assenting – K. Pali, J. Edlao, P. D La Costa, M. Hipolito,
D. Thompson)
(Dissenting - K. Freitas)
(Excused – A. Lindsey, K. Thayer, C. Tackett)

(Motion was made at approximately 00:31:48 of Chapter 6 of the audio recording.)

It was moved by Mr. Edlao, seconded by Ms. Pali for discussion purposes, and

(Vote was taken at approximately 00:42:50 of Chapter 6 of the audio recording.)

The Motion to Deny the Intervenor's Motion to Allow Discovery and the Issuance of Subpoenas, FAILED.

(Assenting – J. Edlao, P. D La Costa – abstained)

(Dissenting - K. Freitas, M. Hipolito, K. Pali, D. Thompson)

(Excused – A. Lindsey, K. Thayer, C. Tackett)

(Motion was made at approximately 00:43:50 of Chapter 6 of the audio recording.)

It was moved by Ms. Pali, seconded by Mr. Thompson, then

(Vote was taken at approximately 01:07:15 of Chapter 6 of the audio recording.)

VOTED: To Approve the Motion to Allow Discovery and the Issuance of Subpoenas. Discovery pertains to documents, agreements and permits between the project and any state, county and federal agencies. Intervenor has 10 days from today to provide their list of documents for discovery, as well as subpoenas, and the applicant will have 30 days to produce the requested documents from today. The hearing date is May 10, 2022, and the Vice-Chairperson is authorized to make interim rulings on the motion.

**(Assenting – K. Pali, D. Thompson, J. Edlao, K. Freitas,
P. D La Costa, M. Hipolito)**

(Excused – A. Lindsey, K. Thayer, C. Tackett)

(Motion was made at approximately 01:09:05 of Chapter 6 of the audio recording.)

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

(Vote was taken at approximately 01:07:15 of Chapter 6 of the audio recording.)

VOTED: To Recess the Hearing to May 10, 2022.

**(Assenting – P. D La Costa, K. Freitas, K. Pali, D. Thompson,
J. Edlao, M. Hipolito)**

(Excused – A. Lindsey, K. Thayer, C. Tackett)

G. NEXT REGULAR MEETING DATE: APRIL 12, 2022

H. ADJOURNMENT

The meeting was adjourned at approximately 6:35 p.m.

Respectfully Submitted by,

CAROLYN TAKAYAMA-CORDEN
Secretary to Boards and Commissions II

RECORD OF ATTENDANCE

Present

Jerry Edlao
Kawika Freitas
P Denise La Costa, Vice-Chair
Mel Hipolito, Jr.
Kellie Pali
Christian Tackett, Chair (excused at 3:54 p.m.)
Dale Thompson

Excused

Ashley Lindsey
Kim Thayer

Others

Michele Chouteau McLean, Director, Dept. of Planning (11:48 a.m. - 3:54 p.m.)
Jordan Hart, Deputy Director, Dept. of Planning (9:00 a.m.-11:48 a.m.) (3:54 p.m.–6:35 p.m.)
Michael Hopper, Deputy Corporation Counsel, Dept. of the Corporation Counsel
Gary Ambrose, Deputy Director, Dept. of Public Works