

PURSUANT TO CHAPTER 92, HAWAII REVISED STATUTES AS AMENDED, NOTICE IS HEREBY GIVEN OF A REGULAR MEETING OF THE MAUI PLANNING COMMISSION

## AGENDA

DATE: MARCH 8, 2005 (Tuesday)  
TIME: 9:00 A.M.  
PLACE: Planning Department Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui, Hawaii 96793

Members: Randy Piltz (Chair), Susan Moikeha (Vice-Chair), Bernice Lu, Suzanne Freitas, Patricia Eason, Johanna Amorin, Diane Shepherd, Nick Casumpang Jr., William Iaconetti

Public testimony will be taken on any agenda item except for the Lambert and Sweeney Appeals in order to accommodate those individuals who cannot be present at the meeting when the agenda item(s) is(are) considered by the Maui Planning Commission. Public testimony will also be taken when the agenda item is taken up by the Maui Planning Commission. Maximum time limits on individual testimony may be established by the Planning Commission. A person testifying at the beginning of the meeting will not be allowed to testify again when the agenda item comes up before the Commission, unless new or additional information will be offered.

**Public testimony will not be taken on the Lambert and Sweeney appeals as the Maui Planning Commission will be exercising its adjudicatory function pursuant to the provisions of Section 92-6(a)(2) of the Hawaii Revised Statutes as amended.**

A. CALL TO ORDER

B. PUBLIC HEARING

1. MS. CHRIS BORGES requesting a Conditional Permit in order to continue to operate the Maui Grown Market in the County Agricultural District at the intersection of Ulumalu Road and Hana Highway, TMK: 2-8-002: 016, Ulumalu, Haiku, Island of Maui.(CP 20040004)(R. Loudermilk)

At the request of the applicant, this matter will be renoticed and rescheduled for a public hearing to be held at a future date. Therefore, the public hearing scheduled for the March 8, 2005 meeting is canceled.

C. UNFINISHED BUSINESS

Decision making on the contested case hearing conducted by Hearings Officer E. John McConnell, Retired Judge on the following consolidated Special Management Area appeals:

Kenneth R. Kupchak, Gregory W. Kugle, and Sat Khalsa Freedman of Damon Key Leong Kupchak Hastert, attorneys for KUOHA LLC and Paul and Sherry Lambert appealing the Planning Director's Decision to Rescind the Special Management Area Assessment Determination for the Lambert Residence at TMK: 2-1-011: 014, Makena, Island of Maui. (SMX 2002/0655) (SM5 2002/0485) (APP 2003/0001) (C. Suyama) (Oral argument presented at the February 8, 2005 meeting and matter was deferred because the Planning Commission could not obtain five (5) affirmative votes on a decisionmaking motion.)

B. Martin Luna, Gary G. Grimmer, and Karl K. Kobayashi of Carlsmith Ball LLP, attorneys for Charles Sweeney and Nell Sweeney appealing the revocation of their Special Management Area exemption by the Planning Director for the Sweeney Residence at TMK: 2-1-011: 013, Makena, Island of Maui. (SMX 2001/0018) (SM5 2002/0483) (APP 2003/0002) (C. Suyama)

(Commissioners: Please bring the items listed on the January 11, 2005-memorandum from Deputy Planning Director Wayne A. Boteilho to Maui Planning Commission with you to the meeting. The items were circulated to you at the January 11, 2005 meeting.)

**PURSUANT TO SECTION 92-6(a)(2), HAWAII REVISED STATUTES AS AMENDED, PUBLIC TESTIMONY WILL NOT BE RECEIVED ON THESE ITEMS AS THE MAUI PLANNING COMMISSION WILL BE EXERCISING ITS ADJUDICATORY FUNCTION.**

- 1) Hearing Officer E. John McConnell (Retired Judge)'s Report and Recommended Findings of Fact, Conclusions of Law and Decision and Order.
- 2) Appellants Lamberts' and Sweeneys' Joint Exceptions to Report of Hearing Officer and to Hearing Officer's Findings of Fact, Conclusions of Law dated November 22, 2004.
- 3) Appellee Michael W. Foley, Director, Department of Planning, County of Maui's Exceptions to Hearings Officer's Findings of Fact, Conclusions of Law and Recommended Order dated November 19, 2004.
- 4) Appellants Lamberts' and Sweeneys' Joint Memorandum in Support of Hearing Officer's Report, Findings of Fact, Conclusions of Law and Recommendations and Objections to Appellee Michael Foley's Exceptions filed on December 8, 2004.

#### D. NEW BUSINESS

1. PACIFIC RIM LAND, INC. requesting review and comments on the Draft Environmental Assessment prepared in support of the Special Management Area Use Permit application for the Ukumehame Subdivision - Phase I and II on 439 acres of vacant land at TMK: 4-8-002: 009,048, 052-056, 060, 061, 065, 066, 068, and 070, Ukumehame, Lahaina, Island of Maui. (EA2004/0016) (SM1 2004/0033) (K. Caigoy) (T. Abbott) (The Draft EA was circulated to the Maui Planning Commission at its February 22, 2005 meeting.)

The EA trigger is the use of state or county lands or funds.

The applicant has also filed a Special Management Area Use Permit application. The public hearing on the SMA application will be scheduled for a future date after the EA process has been completed.

2. MR. MICHAEL W. FOLEY, Planning Director requesting comments on the Draft Environmental Assessment prepared in support of the community plan amendment request contained in Council Resolution No. 04-151 to amend the Paia-Haiku Community Plan and Land Use Map from Park to Single Family Residential for the for the Makawao Hongwanji property at TMK; 2-7-004: 021, Haiku, Island of Maui. (EA 2004/0017) (CPA 2004/0010) (CIZ 2004/0018) (K. Caigoy)  
(The Draft EA was circulated to the Maui Planning Commission at its February 22, 2005 meeting.)

The EA trigger is the community plan amendment.

The Council Resolution also contains the following zoning change request for the subject property:

A Bill for an Ordinance to Change Zoning from Urban Reserve District to P-1 Public/Quasi-Public District for property situated at Haiku, Maui, Hawaii. (CIZ 20040018)

The public hearing on the community plan amendment and change in zoning requests will be scheduled for a future date after the EA process has been completed.

#### E. COMMUNICATIONS

1. MS. GWEN OHASHI HIRAGA of MUNEKIYO & HIRAGA, Project Planner on behalf of WAILEA TOWN CENTER INVESTORS, LLC requesting a Step 3 Planned Development Approval for Phase 2 of the Wailea Town Center (formerly known as the Wailea Business Center) at TMK: 2-1-008: 103, Wailea, Kihei, Island of Maui. (PD3 2004/0004) (C. Suyama)
  2. MR. MILTON ARAKAWA, Director, DEPARTMENT OF PUBLIC WORKS AND ENVIRONMENTAL MANAGEMENT requesting an amendment to Condition No. 1 of the Special Management Area Use Permit and Shoreline Setback Variance to allow for a one-year on the period to initiate construction of the proposed Lower Honoapiilani Road Improvements between Hoohui Road and Napilihau Street at TMK: 4-3-003, 4-3-005, 4-3-010, 4-3-015, and 4-3-019, and including 4-3-005: 027 and 4-3-010: por. of 009, Lahaina, Island of Maui. (SM1 2000/0008) (SSV 2000/0001) (D. Shupack)
- F. WORKSHOP ON INTERVENTION IN MAUI PLANNING COMMISSION PROCEEDINGS (Workshop requested by the Maui Planning Commission)
- G. DIRECTOR'S REPORT
1. Notification of Transfer of SMA Permit:  
  
Transfer of Special Management Area Use Permit for the proposed Pedersen Residence from Mr. Daniel L. Pedersen & Mrs. Judy A. Pedersen to Mr. Christopher L. Clark for property situated at 1240 Uluniu Road (Limited Common Element "B"), TMK: 3-9-008: 008, Kihei, Island of Maui. (SM1 2004/0012) (D. Shupack)
  2. EA/EIS Status Report distributed for the February 8, 2005 meeting
  3. EA/ EIS Status Report distributed for the February 22, 2005 meeting
  4. EA/EIS Status Report
  5. SMA Minor Permit Report distributed for the February 8, 2005 meeting
  6. SMA Minor Permit Report distributed for the February 22, 2005 meeting
  7. SMA Minor Permit Report
  8. SMA Exemptions Report distributed for the February 8, 2005 meeting
  9. SMA Exemptions Report distributed for the February 22, 2005 meeting
  10. SMA Exemptions Report
- H. NEXT REGULAR MEETING DATE: March 22, 2005
- I. ADJOURNMENT

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ANY PETITION TO INTERVENE AS A FORMAL PARTY IN THE PROCEEDINGS BEFORE THE MAUI PLANNING COMMISSION MUST BE FILED WITH THE COMMISSION AND SERVED UPON THE APPLICANT NO LESS THAN TEN (10) DAYS BEFORE THE FIRST PUBLIC HEARING DATE. (Note: The calculation of time for deadlines ten days or less excludes weekends and State recognized holidays.) THE ADDRESS OF THE COMMISSION IS C/O THE MAUI PLANNING DEPARTMENT, 250 S. HIGH STREET, WAILUKU, MAUI, HAWAII 96793.

ORAL OR WRITTEN TESTIMONY WILL BE RECEIVED ON EACH ANY AGENDA ITEM SUBJECT TO THE PROVISIONS OF CHAPTER 92, HAWAII REVISED STATUTES AND THE MAUI PLANNING COMMISSION RULES OF PRACTICE AND PROCEDURE. WRITTEN TESTIMONY SHOULD BE RECEIVED AT LEAST TWO BUSINESS DAYS BEFORE THE MEETING TO INSURE DISTRIBUTION TO THE BOARD. FIFTEEN (15) COPIES OF WRITTEN TESTIMONY ARE NEEDED IF TESTIMONY IS PRESENTED IMMEDIATELY PRIOR TO OR AT THE MEETING.

DOCUMENTS ARE ON FILE WITH THE PLANNING DEPARTMENT.

THE ADDRESS OF THE COMMISSION IS C/O THE MAUI PLANNING DEPARTMENT, 250 S. HIGH STREET, WAILUKU, MAUI, HAWAII 96793.

THOSE PERSONS REQUESTING SPECIAL ACCOMMODATIONS DUE TO DISABILITIES, PLEASE CALL THE MAUI PLANNING DEPARTMENT AT 270-7735 (Maui) OR 1-800-272-0117 (Molokai) OR 1-800-272-0125 (Lanai) OR NOTIFY THE MAUI PLANNING DEPARTMENT IN WRITING AT 250 S HIGH STREET, WAILUKU, MAUI, HAWAII 96793 OR FAX NUMBER 270-7634; AT LEAST TWO (2) BUSINESS DAYS BEFORE THE SCHEDULED MEETING.

ANY FAXES SHOULD BE RECEIVED BY THE DEPARTMENT OF PLANNING BY 5:00 P.M. ON THE SECOND WORKING DAY BEFORE THE MEETING TO INSURE THAT IT IS CIRCULATED TO THE BOARD.

\*An Executive Session may be called in order for the Commission to consult with their attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities and liabilities.

**PLEASE NOTE:**       **If any member of the Commission is unable to attend the scheduled meeting, please contact the Planning Department at least one day prior to the meeting date. Thank you for your cooperation.** (S:\all\cardyn\030805.age)