

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

AGENDA

DATE: January 10, 2006  
TIME: 9:00 A.M.  
PLACE: Planning Department Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui, Hawaii 96793

Members: Susan Moikeha (Chair), Suzanne Freitas (Vice-Chair), Patricia Eason, Johanna Amorin, Diane Shepherd, Nick Casumpang Jr., William Iaconetti, Wayne Hedani, Bruce U'u

Public testimony will be taken on any agenda item 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.

A. CALL TO ORDER

B. PUBLIC HEARING (Action to be taken after each public hearing item.)

1. MR. GLENN CORREA, Director, DEPARTMENT OF PARKS AND RECREATION requesting a Special Management Area Use Permit for the replacement of the existing golf course maintenance facilities with an approximately 8,000 square foot maintenance building and ancillary facilities adjoining the second tee of the Waiehu Golf Course on approximately two (2) acres of the 91.3 acre portion of the golf course site at TMK: 3-2-013: 006, Waiehu, Island of Maui. (SM1 2005/0005) (J. Dack)
  - a. Public Hearing
  - b. Action
  
2. CHRIS HART & PARTNERS on behalf of DECOITE TRUCKING requesting a time extension on the State Land Use Commission Special Use Permit in order to continue to operate the Construction & Demolition Waste Landfill on approximately 14.8 acres of land in the Agricultural District at TMK: 3-8-005: portion of 002, Puuhele, Maalaea, Island of Maui. (SUP2 980005) (K. Caigoy)
  - a. Public Hearing
  - b. Action

C. COMMUNICATIONS

1. MS. KAUI KANAKAOLE, Chairperson of the HANA ADVISORY COMMITTEE TO THE MAUI PLANNING COMMISSION transmitting the Committee's recommendation on the following application:

MR. HARRY T. HASEGAWA requesting a Special Management Area Use Permit for the new Hasegawa General Store, consisting of a commercial building with about 10, 560 square feet of space and related improvements at TMK: 1-4-003: 031, Hana, Island of Maui. (SM1 2005/0013) (P. Fasi)

D. UNFINISHED BUSINESS

1. MR. AUSTIN SWARTZ,, Building Committee Chair of the KIHEI SEVENTH DAY ADVENTIST CHURCH & PRESCHOOL requesting the following land use changes to construct a small church and preschool, administrative office, associated parking, and landscaping on the 5.77 acre site located on Liloa Drive at TMK: 3-9-001: 149, Kihei, Island of Maui. (C. Suyama) (Public hearing conducted on June 28, 2005. Matters deferred until the Council acted on the district boundary reclassification and zoning change)
  - a. County Special Use Permit to operate a church and preschool in the A-1 Apartment District (CUP 2004/0001); and
  - b. Special Management Area Use Permit in order to construct a church and a preschool (SM1 2004/0003)
2. Remand by the Second Circuit Court for Decision making on the contested case hearing conducted by Hearings Officer E. John McConnell, Retired Judge on the following Special Management Area appeal and subsequently reopened at the July 27, 2004 meeting (J. Alueta)

Appeal by Mr. James Geiger of Mancini, Welch & Geiger on behalf of Douglas Richard White from the determination of the Director, Department of Planning by letter dated January 24, 2003 to rescind the Special Management Area (SMA) Exemption determination by letter dated August 8, 2002 regarding the construction of a single family dwelling at 1377 Front Street, TMK: 4-5-012: 018, Lahaina, Island of Maui. (SM5 2002/0289) (APPL 2003/0004)

Previous action taken at the Commission's January 25, 2005 meeting. Matter was remanded back to the Commission on appeal by the Second Circuit Court. The Commission could take action at this meeting on the Doug White appeal.

James Richard McCarty, attorney for Momi Keahi, Kai Keahi, and Kalani Kapu intervening on the abovementioned appeal.

**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.**

Memoranda Filed in the Reopened Contested Case Hearing:

- 1) James W. Geiger of Mancini, Welch & Geiger submitting Appellant Douglas Richard White's Supplemental Proposed Findings of Fact dated December 23, 2004
- 2) Brian T. Moto and Madelyn S. D'Enbeau of the Department of the Corporation Counsel submitting Appellee Michael W. Foley, Director, Department of Planning, County of Maui's Proposed Findings of Fact and Conclusions of Law Re; Additional Evidence dated December 22, 2004
- 3) James Richard McCarty, attorney for Intervenors Momi Keahi, Kai Keahi, and Kalani Kapu submitting Intervenors' Supplemental Proposed Findings of Facts, Conclusions of Law, and Decision and Order dated December 22, 2004
- 4) James W. Geiger of Mancini, Welch, & Geiger, attorney for Appellant Douglas Richard White submitting Appellant Douglas Richard White's Objections to the Appellee Michael W. Foley, Planning, County of Maui's Proposed Findings of Fact and Conclusions of Law Regarding Additional Evidence dated January 7, 2005.
- 5) James W. Geiger of Mancini, Welch & Geiger, attorney for Appellant Douglas Richard White's Objections to Intervenor's Supplemental Proposed Findings of Fact, Conclusions of Law, Decision and Order dated January 7, 2005.
- 6) Brian T. Moto and Madelyn S. D'Enbeau, attorneys for Appellee Michael W. Foley, Director, Department of Planning submitting Appellee's Exceptions to Appellant Douglas Richard White's Supplemental Proposed Finding of Fact dated January 7, 2005.
- 7) James W. Geiger of Mancini, Welch & Geiger, attorney for Appellant

Douglas Richard White submitting Appellant Douglas Richard White's Post-Hearing Memorandum Regarding Authority of Maui Planning Commission to Rescind or Revoke Former Planning Director John E. Min's 8/8/02 SMA Exemption Determination dated January 7, 2005.

- 8) Brian T. Moto and Madelyn S. D'Enbeau, attorney for Appellee Michael W. Foley, Director, Department of Planning submitting Appellee's Memorandum regarding Jurisdiction of the Maui Planning Commission to Rescind a Director's SMA Exemption Determination dated January 7, 2005

Memoranda previously circulated for the Maui Planning Commission's July 27, 2004 meeting **(Commissioners: Please bring these documents with you.)**

- 1) Hearing Officer E. John McConnell (Ret.)'s Report dated May 21, 2004.
- 2) Hearing Officer E. John McConnell (Ret.)'s Proposed Findings of Fact and Proposed Conclusions of Law dated May 21, 2004.
- 3) James W. Geiger of Mancini, Welch, and Geiger submitting Appellant Douglas Richard White's Exceptions to the Hearing Officer's Report and Proposed Findings of Fact and Conclusions of Law dated June 4, 2004.
- 4) Brian T. Moto and Madelyn S. D'Enbeau of the Department of the Corporation Counsel submitting Appellee Michael W. Foley, Director, Department of Planning, County of Maui's June 4, 2004 Exceptions to the Hearing Officer's Report
- 5) Brian T. Moto and Madelyn S. D'Enbeau of the Department of the Corporation Counsel submitting Appellee Michael W. Foley, Director, Department of Planning, County of Maui's June 4, 2004 Exceptions to Hearing Officer's Findings of Fact and Proposed Conclusions of Law.
- 6) James Richard McCarty submitting Intervenors Momi Keahi, Kai Keahi, and Kalani Kapu's June 8, 2004 Joinder in Appellee Michael W. Foley, Director, County of Maui's Exceptions to the Hearing Officer's Report; Joinder in Appellee Michael W. Foley, Director, County of Maui's Exceptions to the Hearing Officer's Findings of Fact and Proposed Conclusions of Law.
- 7) James W. Geiger of Mancini, Welch, and Geiger submitting Appellant Douglas Richard White's June 18, 2004 Memorandum in Support of Hearing's Officer's Report.

- 8) James W. Geiger of Mancini, Welch , and Geiger submitting Appellant Douglas Richard White's June 18, 2004 Memorandum in Support of Hearing Officer's Proposed Findings of Fact and Conclusions of Law.

**\*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.**

3. MR. ISAAC HALL, attorney for Intervenor KIHEI KAUIHALE COMMUNITY ASSOCIATION and MR. GREGORY KAUIWE, Authorized Representative of the KIHEI KAUIHALE NANI COMMUNITY ASSOCIATION submitting a November 4, 2005 Petition to Intervene on the application by FPA KIHEI GROUP, LLC for a Special Management Area Use Permit for the Kai Ani Village Multi-Family Residential project, a 79 multi-family residential and 20 live/work units at South Kihei Road, near its intersection with Lipoa Street, TMK: 3-9-002: 091 and 134, Kihei, Island of Maui. (SM1 2005/0019) (P. Fasi) (deferred from the November 22, 2005 and December 13, 2005 meetings)
    - a. MR. B. MARTIN LUNA and MR. BLAINE J. KOBAYASHI of CARLSMITH BALL LLP on behalf of FPA KIHEI GROUP, LLC submitting a November 9, 2005 Motion in Opposition to Petition to Intervene filed on November 4, 2005 by ISAAC HALL and GREGORY KAUIWE on the Kai Ani Village SMA application. (SM1 2005/0019)
    - b. MR. ISAAC HALL, attorney for Intervenor KIHEI KAUIHALE NANI COMMUNITY ASSOCIATION and MR. GREGORY KAUIWE, authorized representative of the KIHEI KAUIHALE NANI COMMUNITY ASSOCIATION submitting November 15, 2005 Intervenor's Reply Memorandum in Further Support of Petition to Intervene on the Kai Ani Village SMA application. (SM1 2005/0019)
  4. Action on the application by FPA KIHEI GROUP, LLC requesting a Special Management Area Use Permit for the Kai Ani Village Multi-family Residential project consisting of the construction of 79 multi-family residential and 20 live/ work units, and related improvements at South Kihei Road near its intersection with Lipoa Street at TMK: 3-9-002: 091 and 134, Kihei, Island of Maui. (SM1 2005/0019) (P. Fasi) (Public hearing conducted on November 22, 2005)
- E. Follow-up Workshop to the March 2005 Workshop on Intervention
  - F. APPROVAL OF MINUTES OF THE OCTOBER 11, 2005, OCTOBER 24, 2005,

NOVEMBER 8, 2005 and NOVEMBER 22, 2005 MEETINGS.

G. DIRECTOR'S REPORT

1. Date of the Joint Workshop with the Board of Water Supply
2. EA/EIS Report
3. SMA Minor Permit Report
4. SMA Exemptions Report

H. NEXT REGULAR MEETING DATE: January 24, 2006

I. ADJOURNMENT

AGENDA ITEMS ARE SUBJECT TO CANCELLATION.

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.

**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\011006.age)