

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

## AGENDA

DATE: FEBRUARY 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), Bemice Lu, Suzanne Freitas, Patricia Eason, Johanna Amarin, Diane Shepherd, Nick Casumpang Jr., William Iaconetti

### A. CALL TO ORDER

### B. UNFINISHED BUSINESS

1. KAI MALU WAILEA, LLC requesting a Planned Development Step 3 Approval in order to develop the Kai Malu at Wailea Residential Project, a 153-unit residential development configured in 76 duplex buildings with a manager's unit, recreation center, and related improvements on 25.16 acres south of Okolani Drive and Kapili Street at TMK: 2-1-008: 116, 117, 134, and 133 (por.), Wailea, Kihei, Island of Maui. (PD3 2004/0003) (A. Cua) (The Step 2 Planned Development and SMA Permit approvals were made at the November 9, 2004 meeting.) (Matter was deferred from the January 11, 2005 meeting.)
  - a. Petition to Intervene filed by Tom C. Leuteneker and Blaine J. Kobayashi of Carlsmith Ball LLP, attorneys on behalf of National Fuel Corporation dated January 6, 2005.
    - 1) Petition to Intervene filed by Tom C. Leuteneker and Blaine J. Kobayashi of Carlsmith Ball LLP, attorneys on behalf of National Fuel Corporation dated January 6, 2005 on the subject Planned Development Step 3 Approval request (previously circulated at the January 11, 2005 meeting).
    - 2) Paul L. Horikawa of Ing, Horikawa & Jorgensen, attorney on behalf of Kai Malu Wailea, LLC submitting Applicant's Motion in Opposition to Petition to Intervene dated January 7, 2005 (previously circulated at the January 11, 2005 meeting).

- 3) Tom C. Leuteneker and Blaine J. Kobayashi of Carlsmith Ball LLP, attorneys for National Fuel Corporation submitting National Fuel Corporation's January 26, 2005 Addendum to Petition to Intervene Filed January 6, 2005 and Memorandum in Response to Department of Planning's Letter dated January 14, 2005.
- 4) Paul L. Horikawa of Ing, Horikawa & Jorgensen, attorney for Applicant Kai Malu Wailea, LLC submitting January 26, 2005 Memorandum regarding Petition to Intervene filed by National Fuel Corporation.

b. Action of Kai Malu Wailea LLC's Planned Development Step 3 Approval Request

C. 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)

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.

Public testimony will be taken at 1:00 p.m. or as soon thereafter on any remaining 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.**

D. PUBLIC HEARINGS (Action to be taken after each public hearing item.)

1. OLD STABLE LLC requesting the following land use changes for the E Paepae Ka Pukoa project, a 16-unit rural subdivision, open space conservation easement, and County/ State donation project on Old Stable Road, Spreckelsville, Island of Maui. (C. Suyama):
  - a. Community Plan Amendment from Single Family to Open Space (3.000 acres at TMK: 3-8-002: 010 and 3-8-002: 009), Open Space to Rural (14.859 acres at TMK: 3-8-001: portion of 003), and Open Space to Public/Quasi-Public (1.163 acres at TMK 3-8-001: por. of 003). (CPA 2004/0007)

- b. A Change in Zoning from R-3 Residential to OS-2 Open Space (17.937 acres at TMK: 3-8-001: por. of 003 ), R-3 Residential to OS-2 Open Space (3.00 acres at TMK: 3-8-002: 010 and 009), R-3 Residential to OS-2 Open Space (3.571 acres at TMK: 3-8-001: por. of 003), R-3 Residential to RU-0.5 Rural (14.859 acres at TMK: 3-8-001: por. of 003), and R-3 Residential District to P-1 Public/ Quasi-Public (1.163 acres at TMK: 3-8-001: por. of 003). (CIZ 2004/0015)
  - c. A Special Management Area Use Permit for the E Paepae Ka Pukoa project, a 16-unit rural subdivision, open space conservation easement, and County/State donation project on Old Stable Road, TMK: 3-8-001: 003 and 3-8-002: 009 and 010, Spreckelsville, Island of Maui. (SM1 2004/0021)
    - a. Public Hearing
    - b. Action
2. MR. RON STURTZ, Managing Member of MEDO, LLC requesting a Special Management Area Use Permit for the Liloa Village project, a subdivision of 65 ready-to-build lots with amenities and related improvements and related improvements on 21.34 acres at 1585 Welakahao Street, TMK: 3-9-002: 116, 150, and 151, Kihei, Island of Maui. (SM1 2004/0010) (S. Bosco)
- a. Public Hearing
  - b. Action

E. COMMUNICATIONS

- 1. ISAAC HALL, attorney for ANNIE and WILLIE NELSON, JOHN and LOUISE SEVERSON, and JENNA DEROSNAY submitting a Petition to Intervene dated January 24, 2005 on the Special Management Area Use Permit request for the E Paepae Ka Pukoa project at Spreckelsville, Island of Maui. (SM1 2004/0021) (EA 2004/0006) (CPA 2004/0007) (CIZ 2004/0015) (C. Suyama)
- 2. MR. RON STURTZ, Managing Member of MEDO, LLC requesting a mixed lot size approval for the Liloa Village project, a subdivision of 65 ready-to-build lots with amenities and related improvements and related improvements on 21.34 acres at 1585 Welakahao Street, TMK: 3-9-002: 116, 150, and 151, Kihei, Island of Maui. (S. Bosco)

F. MINUTES OF THE NOVEMBER 9, 2004 MEETING

G. DIRECTOR'S REPORT

1. Designation of the Hana Advisory Committee to the Maui Planning Commission to conduct the public hearing on the following application:

DEPARTMENT OF PUBLIC WORKS AND ENVIRONMENTAL MANAGEMENT requesting a State Land Use Commission Special Use Permit for the County's Hana Landfill Acquisition at TMK: 1-3-006: portion of 007, Hana, Island of Maui. (SUP2 2004/0004) (K. Caigoy)

2. Scheduling of the workshop on the Focus Maui Nui Survey Results led by the Maui Economic Development Board (MEDB)
3. Conduct of persons testifying before the Maui Planning Commission (requested by Maui Planning Commission)
4. EIS Status Report
5. SMA Minor Permit Report
6. SMA Exemptions Report

H. NEXT REGULAR MEETING DATE: February 22, 2005

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 (Mokai) OR 1- 800-272-

Maui Planning Commission Agenda  
February 8, 2005  
Page 6

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\020805.age)