

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

AGENDA

DATE: OCTOBER 26, 2004 (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 at the start of the meeting 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 HEARINGS (Action to be taken after each public hearing item.)

1. DAN and JUDY PEDERSEN requesting a Special Management Area Use Permit for the construction of a second main single family dwelling on the parcel in the A-1 Apartment District at 1240 Uluniu Road, TMK: 3-9-008:008 CPR 001, Kihei, Island of Maui. (SM1 2004/0012) (P. Fasi)

- a. Public Hearing
- b. Action

2. MR. ANDRES D. MALINNAG of the CENTRAL MAUI CHURCH OF CHRIST requesting a County Special Use Permit in order to convert an Existing House to a Chapel for church worship and to construct an annex building for church use in the R-3 Residential District at 159 South Lehua Street, TMK: 3-8-024:049, Kahului, Island of Maui. (CUP 2003/0004) (S. Bosco)

- a. Public Hearing
- b. Action

3. MR. GREG EVERETT of VISIONARY RELATED ENTERTAINMENT and ULUPALAKUA RANCH, INC. requesting reinstatement of the State Land Use Commission Special Use Permit for KNUQ Broadcast Tower, the existing 100-foot, non-lighted, self-supported tower on approximately 1,000 square feet of a portion on Ulupalakua Ranch Lands at TMK: 2-1-009: portion of 001, Ulupalakua, Island of Maui. (SUP2 2003/0004) (P. Fasi)
 - a. Public Hearing
 - b. Action

C. COMMUNICATIONS

1. POPKIN WEINSTEIN I LLC requesting a Step I Planned Development Approval for the proposed Wailea Villas 25-unit single family development and related improvements west of Wailea Alanui Drive at its intersection with Kilohana Drive in Wailea Resort at TMK: 2-1-008: 084, Wailea, Kihei, Island of Maui. (PD1 2004/0006) (A. Cua)
2. MR. CHRIS HART of CHRIS HART AND PARTNERS on behalf of MARRIOTT VACATION CLUB INTERNATIONAL requesting a determination from the Maui Planning Commission by letter dated September 7, 2004 that Option 6 is not a "substantial change" from Option 5 and that a Supplemental Environmental Impact Statement (EIS) will not be required before proceeding with the Special Management Area (SMA) Permit contested case hearing for the Maui Ocean Club Sequel project at TMK: 4-4-013: 001, Kaanapali, Island of Maui. (EIS 2002/0004) (SM1 2002/0026) (A. Cua for J. Alueta)

The Maui Planning Commission will render a decision only on the above-mentioned determination request.

The Final EIS was accepted by the Maui Planning Commission at its August 28, 2003 meeting. The public hearing on the Special Management Area Use Permit request was conducted on February 24, 2004.

At its August 24, 2004 meeting, Glenn Kosaka, Esq. was selected as the Hearings Officer on the contested case hearing involving the following parties:

- a. MR. STEVE BUSCH, Regional Vice-President in charge of Construction & Development of MARRIOTT VACATION CLUB INTERNATIONAL requesting a Special Management Area Use Permit

for the Maui Vacation Club Sequel Project in order to construct two guestroom buildings (146 units with 292 keys), parking facilities, and pool amenities at Maui Marriott Vacation Club, TMK: 4-4-013: 001, Kaanapali, Island of Maui. (SM1 2002/0026)

- b. DONNA Y.L. LEONG of CADES SCHUTTE, attorney for the ASSOCIATION OF APARTMENT OWNERS OF KAA NAPALI ALII CONDOMINIUM and KAA NAPALI ALII RENTAL OWNERS CORPORATION submitting a Petition to Intervene on the Special Management Area Use Permit request for the Maui Ocean Club Sequel project at TMK: 4-4-013: 001, Kaanapali, Island of Maui. (SM1 2002/0026)
- c. ISAAC HALL, attorney for GERALD and BARBARA ROMAIN, THOMAS and ELLEN DUNNION, JOE and BARBARA BONN, BRAD and TERRI FRISSELLE, WAYNE DYER, MARSHA LUCAS, DAVE MELLO, RICHARD RALPH, JESSE D. YOHANAN, JOEL GARBARINO, NATHAN COPELAN. EUGENE and JENNIFER ELLING, DELBERT SMART and JERRY and CONSTANCE KILARE, individually and as some of the members of the KAA NAPALI ALII FRIENDS OF THE ENVIRONMENT submitting a Petition to Intervene on the Special Management Area Use Permit request for the Maui Ocean Club Sequel project at TMK: 4-4-013: 001, Kaanapali, Island of Maui. (SM1 2002/0026)

D. UNFINISHED BUSINESS

- 1. Reopening of the contested case hearing on the following Special Management Area appeal: (To take place at 1 pm or as soon thereafter) (R. Loudermilk for 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)

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

At its July 27, 2004 meeting, the Maui Planning Commission received oral argument

from the parties on the appeal. After due deliberation, the Maui Planning Commission voted to reopen the contested case hearing in order to receive additional testimony and evidence as specified at that meeting and to conduct a site inspection. A site inspection was conducted on October 5, 2004.

The Maui Planning Commission may render a decision on the appeal at this 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 (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.**

ALL OF THESE DOCUMENTS WERE PREVIOUSLY CIRCULATED TO THE PLANNING COMMISSION. COMMISSIONERS, PLEASE BRING YOUR DOCUMENTS WITH YOU.

E. DIRECTOR'S REPORT

1. Rescheduling of the decision making meeting on the reopened Hale O Kaula Church contested case hearing previously scheduled for the November 9, 2004 meeting.

The contested case hearing previously involved the following parties:

- a. MR. ROBERT POULSON of HALE O KAULA requesting a State Land Use Commission Special Use Permit in order to use an existing structure and construct a second floor to hold church services within the State and County Agricultural Districts at Anuheia Place, TMK: 2-3-008: 032, Pukalani, Island of Maui. (SUP2 990016)
 - b. JON DAVERN THURO and CHERYL ANN THURO, FRANK CARAVALHO and MARY CARAVAHLO and their attorney-in fact FRANK CARAVAHLO, JR. and BARBARA LUKE intervening on the abovementioned State Land Use Commission Special Use Permit request.
2. EA/ EIS Status Report
 3. SMA Minor Permit Report
 4. SMA Exemptions Report
 5. 2005 Meeting Schedule

F. NEXT REGULAR MEETING DATE: November 9, 2004

G. 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

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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\carolyn\102604.age)