

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

AGENDA

DATE: NOVEMBER 23, 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, except for the Doug White and Lambert/ 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 Doug White and Lambert/Sweeney Appeals because the Maui Planning Commission will be exercising its adjudicatory function pursuant to Section 92-6(a) (2) of the Hawaii Revised Statutes on these contested case matters..

A. CALL TO ORDER

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

1. MR. MICHAEL W. FOLEY, Planning Director, transmitting Council Resolution No. 04-33 containing the following land use amendment bills for the Fukiyo Ueoka property at 281 Hana Highway, TMK: 2-6-008: 019, Paia, Island of Maui: (R. Loudermilk for J. Alueta)
  - a) A Bill for an Ordinance to Amend the Paia-Haiku Community Plan from Public/Quasi-Public to Single Family Residential (CPA 2004/0002)
  - b) A Bill for an Ordinance to Change Zoning from Interim District to R-1 Residential District. (CIZ 2004/0008)
    - a. Public Hearing
    - b. Action

2. MR. EDWIN FUJINAKA, President of NAPA UNITED AUTO PARTS, INC. requesting a Special Management Area Use Permit in order to construct a new one-story, 5,900 square foot commercial building for NAPA Auto Parts at the corner of Liloa Drive and Halekuai Street in the Kihei Business Park at TMK: 3-9-051: 038, Kihei, Island of Maui. (SM1 2003/0017) (K. Caigoy)
  - a. Public Hearing
  - b. Action
3. PATRICK and KANDI O'BRIEN requesting a Special Management Area Use Permit for the proposed office and shop facility for Pat's Quality Roofing, Inc., and Discover Maui Property, Inc., and related improvements at 2680 Waiwai Place, Kihei Business Park, TMK: 3-9-051: 042, Kihei, Island of Maui. (SM1 2004/0014) (P. Fasi)
  - a. Public Hearing
  - b. Action
4. MR. MICHAEL W. FOLEY, Planning Director transmitting the following amendment to Section 12-201-84: Rules of Practice and Procedure for the Maui Planning Commission regarding Reconsideration to eliminate "or to prevent manifest injustice" from Section 12-201-84(b)(3). (C. Yoshida)
  - a. Public Hearing
  - b. Action
5. MR. MICHAEL W. FOLEY, Planning Director transmitting an amendment to Section 12-202-12(c) of the Special Management Area Rules for the Maui Planning Commission regarding Special Management Area Assessments to add a provision to that the application provide any written information on any oral or written comments received by the applicant from governmental or non-governmental agencies, community organizations, or individuals with regard to the proposed action and a summary of the dates and attendance of public meetings held on the proposed action. (C. Yoshida)
  - a. Public Hearing
  - b. Action
6. MR. MICHAEL W. FOLEY, Planning Director, transmitting amendments to Section 12-202-32 of the Special Management Area Rules for the Maui Planning Commission regarding the Disposition of the appeal. (C. Yoshida)

- a. Public Hearing
- b. Action

C. APPROVAL OF MINUTES OF THE SEPTEMBER 14, 2004, SEPTEMBER 28, 2004, OCTOBER 8, 2004 and OCTOBER 26, 2004 MEETINGS

D. UNFINISHED BUSINESS

- 1. Reopened contested case hearing on the following Special Management Area appeal: (To take place at 1:00 p.m. 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. At its October 26, 2004 meeting, the Maui Planning Commission and the parties asked questions of three witnesses. The Maui Commission voted to continue the reopened contested case hearing in order to ask questions of a representative(s) from the Department of Public Works and Environmental Management.

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. NEW BUSINESS**

1. Environmental Assessment Determination on the Final Environmental Assessment prepared in support of the Community Plan Amendment from Agricultural to Public/ Quasi Public for the Maui Preparatory Academy at TMK: 4-3-001: 001 (portion), Napili, Island of Maui. (EA 20040005) (CPA 20040005) (K. Caigoy) (C. Suyama) ( Draft EA reviewed at the October 12,

2004 meeting. The final EA document was distributed to the Maui Planning Commission at its October 26, 2004 meeting. Commissioners: Please the document with you.)

The EA trigger is the community plan amendment.

The proposed bill for a community plan amendment is part of Council Resolution No. 04-62 containing the following (C. Suyama):

- 1) A draft bill entitled: "A Bill for an Ordinance to Amend the West Maui Community Plan from Agricultural to Public/Quasi-Public for the proposed Maui Preparatory Academy for property situated at TMK: 4-3-001: 001(portion), Napili, Island of Maui. (CPA 20040005)
- 2) A draft bill entitled: "A Bill for an Ordinance to Amend the State Land Use District Classification from Agricultural to Urban for the proposed Maui Preparatory Academy for property situated at TMK: 4-3-001: portion of 001, Napili, Island of Maui. (DBA 20040007)
- 3) A draft bill entitled: "A Bill for an Ordinance to Change the Zoning from Agricultural District to P-1 Public Quasi-Public District for the proposed Maui Preparatory Academy for property situated at TMK: 4-3-001: portion of 001, Napili, Island of Maui. (CIZ 20040012)

The EA trigger is the Community Plan Amendment.

The public hearing on the Community Plan Amendment, District Boundary Amendment, and Change in Zoning requests will be at a later date after the Environmental Assessment process has been completed.

2. OLD STABLE LLC requesting an Environmental Assessment (EA) Determination on the Final Environmental Assessment prepared in support of the Community Plan Amendment from Open Space to Rural (14.86 acres at TMK: 3-8-001: por. of 003), Single Family to Open Space (3 acres at TMK: 3-8-002: 009 and 010), and Open Space to Public/Quasi-Public (1.16 acres at TMK 3-8-001: por. of 003) for the E Paepae Ka Pukoa project, a 16-lot rural subdivision, open space conservation easement, and County/ State donation project on Old Stable Road, Spreckelsville, Island of Maui. (EA 2004/0006) (CPA 2004/0007) (CIZ 2004/0015) (SM1 2004/0021) (K. Caigoy) (C. Suyama) (The draft EA was reviewed at the Maui Planning Commission's September 28, 2004 meeting. The final EA document was distributed to the Maui Planning Commission at its November 9, 2004 meeting. Commissioners: Please the document with you.)

The EA trigger is the Community Plan Amendment.

The applicant also submitted applications for a change in zoning and a Special Management Area Use Permit.

The public hearing on the Community Plan Amendment, Change in Zoning, and the Special Management Area Use Permit requests will be at a later date after the Environmental Assessment process has been completed.

F. COMMUNICATIONS

1. MR. WILLIAM F. CROCKETT of CROCKETT & NAKAMURA, attorney for MAUI VACATION CLUB INTERNATIONAL submitting Applicant Motion for Determination that the Kaanapali Alii Friends of the Environment is not an Intervenor in the contested case hearing on the following application: (A. Cua for J. Alueta)

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)

G. DIRECTOR'S REPORT

1. Scheduling of the decision making meeting on the following consolidated Special Management Area (SMA) appeals: (To take place at 1:00 p.m. or shortly thereafter)
  - a. 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. 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)

2. EA/ EIS Status Report
3. SMA Minor Permit Report
4. SMA Exemptions Report

H. NEXT REGULAR MEETING DATE: December 14, 2004

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.

\*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\112304.age)