

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 22, 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. RESOLUTIONS THANKING OUTGOING MEMBERS BERNICE LU AND RANDY PILTZ
- 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. Matter was again taken up at the Planning Commission's March 8, 2005 meeting and 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. PUBLIC HEARINGS (Action to be taken after each public hearing item)

1. MR. JAMES WHALEY, Manager. Real Estate Operations Hawaii of VERIZON HAWAII requesting a County Special Use Permit in order to construct a 1,230 square foot building, remove and replace existing air conditioning system in the R-2 Residential District at 210 Halona Street, TMK: 3-9-017: 043, Kihei, Island of Maui. (CUP 2004/0006) (P. Fasi)
 - a. Public Hearing
 - b. Action

2. THOMAS and JANICE FAIRBANKS requesting a Conditional Permit time extension and amendment to increase the number of bedrooms allowed for short-term rental use over the six allowed by the Type 3 Bed and Breakfast Permit from one additional bedroom to four additional bedrooms for a total of 10 bedrooms for bed and breakfast purposes for the Old Wailuku Inn at Ulupono 304 South High Street, TMK: 3-4-005: 015, Wailuku, Island of Maui. (CP 98/0006) (S. Bosco)
 - a. Public Hearing
 - b. Action

3. AINA DEVELOPMENT, LLC requesting a Special Management Area Use Permit for the proposed office and warehouse building and related improvements at 95 Lipoa Street, TMK: 3-9-002: portion of 26, Kihei, Island of Maui. (SM1 2004/0036) (P. Fasi)
 - a. Public Hearing
 - b. Action

4. MR. EDUARDO BELLO of LIPOA LAND LLC requesting a Special Management Area Permit for the Lipoa Street Commercial Center project, a new commercial center to include three (3) new buildings and ancillary improvements at 95 Lipoa Street, TMK: 3-9-002: 026 (por.) , Kihei, Island of Maui. (SM1 2004/0029) (T. Abbott)
 - a. Public Hearing
 - b. Action

5. MR. DALE B. BASSFORD, General Manager of MAUI COUNTRY CLUB requesting a Special Management Area Use Permit for the clubhouse improvements, pro shop/cart storage improvements, construction of a fitness room, pool and parking pavilion improvements, tennis court repair, and parking and entry improvements for the Maui Country Club at TMK: 3-8-001:

071 and 072, Spreckelsville, Island of Maui. (SM1 2004/0032) (S. Solamillo)

- a. Public Hearing
- b. Action

E. COMMUNICATIONS

1. MICHAEL T. MUNEKIYO of MUNEKIYO & HIRAGA, INC. on behalf of POPKIN WEINSTEIN I, LLC requesting a Step 3 Planned Development Approval for Papali (formerly known as the MF-4 Wailea Villas Project), A Condominium Project Consisting of 25 Single Family Residences, Including a Manager;s Unit, Recreation Center, Pool Spa, Landscaping, and Related Improvements at TMK: 2-1-008: 084, Wailea, Island of Maui. (PD3 2005/0001) (A. Cua)

F. MINUTES OF THE JANUARY 11, 2005 and FEBRUARY 8, 2005 MEETINGS

G. DIRECTOR'S REPORT

1. Notification of Transfers of SMA Permits:
 - a. Transfer of Special Management Area Use Permit, Step 1 Planned Development Approval and Step 2 Planned Development Approval for the Kai Makani Multi-Family Residential Project from Cathy Associates LLC and Mary Associates LLC, Colorado limited liability companies to WS Kai Makani, Inc. on property situated on South Kihei Road at TMK: 3-9-041:002, 003, 026, & 038, Kihei, Island of Maui. (SM1 2002/0021) (PD1 2003/0001) (PD2 2004/0003)(D. Dias)
 - b. Transfer of the Special Management Area Permit for the proposed Hobron Center from Honolulu Limited, a Maryland Corporation to Jones Reed Maui Property Holdings, LLC, a Hawaii Limited Liability Company on property on approximately 3.24 acres of land at TMK: 3-7-011: 003, Kahului, Island of Maui. (SM1 950019) (D. Dias)
2. EA/EIS Status Report
3. SMA Minor Permit Report
- 4.. SMA Exemptions Report

H. NEXT REGULAR MEETING DATE: April 12, 2005

I. ADJOURNMENT

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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\carolyn\032205.age)