

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

## AGENDA

DATE: April 10, 2007 (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: Johanna Amorin, William Iaconetti, Wayne Hedani, Bruce U'u, John Guard IV, Jonathan Starr, Kent Hiranaga, Joan Pawsat

- A. CALL TO ORDER
- B. INTRODUCTION OF NEW MEMBER - JOAN PAWSAT
- C. ELECTION OF CHAIRPERSON AND VICE-CHAIRPERSON FOR 2007-2008 YEAR
- D. ORIENTATION WORKSHOP
  - 1. County Policy Against Sexual Harassment
  - 2. The Sunshine Law
  - 3. Ex parte Communications
  - 4. Discussion of Boards and Commissions Booklet Distributed by the Office of the Corporation Counsel
  - 5. Ethics
  - 6. Powers and Duties
  - 7. Rules of Practice and Procedures
  - 8. Land Use Regulatory Framework in Maui County
  - 9. Zoning
  - 10. Special Management Area Rules
  - 11. Shoreline Area Rules
  - 12. Country Town Business Design Guidelines - Paia-Haiku, Makawao-Pukalani-Kula, and Hana Community
  - 13. Chapter 343, HRS, The EA/EIS Process
  - 14. Work of the Long Range Planning Division - General Plan and Community Plan Updates
  - 15. Flood Hazard District Ordinance
  - 16. Recent U.S. Supreme Court decisions on takings issues.
  - 17. Public Access Shoreline Hawaii (PASH) v. Hawaii County Planning Commission
  - 18. Hawaii Supreme Court Decision regarding the Topliss case (SMA)

19. Meeting Schedule
20. Presentation by Sea Grant Agent Zoe Norcross-Nuu on Sea Level Rise

Public testimony will be taken at 1:00 p.m. on any remaining 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 this time will not be allowed to testify again when the agenda item comes up before the Commission, unless new or additional information will be offered.

E. PUBLIC HEARING (Action to be taken after each public hearing.) (To begin no earlier than 1:00 p.m.)

1. MR. CLYDE MURASHIGE of WAILEA MF-7, LLC requesting a Special Management Area Use Permit for the proposed Kai Malu at Wailea MF-7 Multi-Family Residential Project consisting of 75 multi-family units configured in 15 buildings, a common recreational building and swimming pool, grading, landscaping, and related infrastructure improvements at TMK: 2-1-008: 116, Kai Malu Drive, Wailea, Island of Maui. (SM1 2006/0038) (P. Fasi)
  - a. Public Hearing
  - b. Action

F. COMMUNICATIONS

1. MR. CLYDE MURASHIGE of WAILEA MF-7, LLC requesting a Step 1 Planned Development Approval and a Step 2 Planned Development Approval for the proposed Kai Malu at Wailea MF-7 Multi-Family Residential Project consisting of 75 multi-family units configured in 15 buildings, a common recreational building and swimming pool, grading, landscaping, and related infrastructure improvements at TMK: 2-1-008: 116, Kai Malu Drive, Wailea, Island of Maui. (PD1 2006/0001) (PD2 2006/0001) (P. Fasi)

The Maui Planning Commission may take action on these requests.

2. MR. E. THOMAS LEWICKE requesting an amendment to a Special Management Area Use Permit to delete Condition No. 6 regarding naming the County of Maui as additional insured for the construction of a second main dwelling on approximately 0.94 acres of land within the R-3 Residential District at 917 S. Kihei Road, TMK: 3-9-034: 027, Kihei, Island of Maui. (SM1 2006/0009) (L. Callentine)

The Maui Planning Commission may take action on this request.

G. LITIGATION (To be reviewed at approximately 2:00 p.m.)

1. Complaint, Summons on Civil No. 07-1-0110(1) filed in the Second Circuit Court on March 22, 2007 in the case of WEST MAUI PRESERVATION ASSOCIATION, a domestic non-profit corporation, and JAMES FOSTER vs. MAUI PLANNING COMMISSION, MAUI BEACH RESORT, LP, a foreign limited partnership, and COUNTY OF MAUI on the March 13, 2007 action by the Maui Planning Commission to grant Step 3 Planned Development Approval for the Honua Kai project on Lot 4, Kaanapali North Beach Subdivision, TMK: 4-4-014:006 and 008 and 4-4-001:010, Kaanapali, Island of Maui. (C. Suyama) (To be taken up at the approximately 2:00 pm.)

The Plaintiffs are seeking the voiding of actions taken at the March 13, 2007 meeting inconsistent with Hawaii Revised Statutes 92-7 and an award of reasonable attorney's fees and costs from the courts.

**\*An Executive Session may be called by the Commission pursuant to the provisions of Chapter 92, Hawaii Revised Statutes in order to discuss with the Commission's attorney their duties, powers, and liabilities as it relates to the subject litigation.**

H. OBJECTIONS

1. a. LANCE D. COLLINS, attorney for the WEST MAUI PRESERVATION ASSOCIATION, INC. filing Notice of Objections Upon the Application for Amendment dated December 6, 2006 regarding the proposed shared fire lane request and the deletion of the additional fire lane between North Park and the northernmost wing of the Honua Kai project pertaining to the Special Management Area Use Permit and Step 2 Planned Development Approval for the Honua Kai project and related improvements at TMK: 4-4-014:006 and 008 and 4-4-001:010, Kaanapali, North Beach, Lahaina, Island of Maui. (SM1 2004/0017) (PD2 2004/0005) (C. Suyama)
- b. B. MARTIN LUNA of CARLSMITH BALL, LLP , attorney for INTRAWEST filing a Motion dated December 13, 2006 Opposing Notice of Objections upon the Application for Amendment by the WEST MAUI PRESERVATION ASSOCIATION, INC. dated December 6, 2006

- c. Letter of Withdrawal of the SMA amendment request by Intrawest.

The Commission may act to dispose of these objections.

- 2. LANCE D. COLLINS, attorney for the WEST MAUI PRESERVATION ASSOCIATION, INC. filing Notice of Objections upon the Application for Amendment dated March 15, 2007 to the Step 3 Planned Development Approval to INTRAWEST regarding the Honua Kai Project on Lot 4 at TMK: 4-4-014: 006 and 008 and 4-4-001: 010, Kaanapali, North Beach, Lahaina, Island of Maui. (PD3 2006/0003) (C. Suyama)

The Commission may act to dispose of these objections.

- 3. LANCE D. COLLINS, attorney for the WEST MAUI PRESERVATION ASSOCIATION, INC. filing Notice of Objections upon the Application for Approval dated March 15, 2007 on the Intrawest Step 3 Approval for the Honua Kai Project on Lot 4, Kaanapali North Beach Subdivision at TMK: 4-4-014:006 and 008 and 4-4-001:010, Kaanapali, North Beach, Lahaina, Island of Maui. (PD3 2006/0003) (C. Suyama)

The Commission may act to dispose of these objections.

- 4. a. LANCE D. COLLINS, attorney for the WEST MAUI PRESERVATION ASSOCIATION, INC. filing Notice of Objections dated March 15, 2007 upon the Application for SMA Assessment by STARWOOD for the construction of a temporary stockpile site at TMK: 4-4-014: 005, Kaanapali North Beach, Lahaina, Island of Maui. (D. Shupack)
- b. JOHN RAPACZ, attorney for STARWOOD filing a Memo in Opposition dated March 29, 2007 to the West Maui Preservation Association's Notice of Objections to the SMA Assessment submitted by STARWOOD for the construction of a temporary stockpile site at TMK: 4-4-04:005, Kaanapali, Island of Maui.

The Commission may act to dispose of these objections.

I. MINUTES OF THE MARCH 13, 2007 MEETING

J. DIRECTOR'S REPORT

- 1. Planning Commission Projects/Issues
- 2. Pursuant to the provisions of Section 12-202-16 of the Maui Planning

Commission's Rules, notification for the Planning Commission's Review of the issuance of a Special Management Area Emergency Permit by letter dated March 19, 2007 for the following:

MR. BRAD MICKELSON, General Manager- AOA of THE WHALER ON KAA NAPALI BEACH for the emergency parking garage repairs and reallocation of existing tennis courts to accommodate temporary parking at The Whaler, 2481 Kaanapali Parkway, TMK: 4-4-008: 002, Kaanapali, Island of Maui. (SM3 2006/0003) ( T. Abbott)

The Maui Planning Commission may review this matter.

3. Scheduling of the Site Inspection on the Schloemer Residence EA, SM1 and SSV in Makena, Island of Maui. The Commission reviewed the Draft EA at its March 13, 2007 meeting. The Commission may select a date and time for the site inspection.
4. Planning Department's Follow-Up Report on Matters raised by the Maui Planning Commission on the March 27, 2007 meeting.
5. EA/EIS Report
6. SMA Minor Permit Report
7. SMA Exemptions Report
8. April 16, 2007 Kapalua Site Inspections meeting at 1 p.m. at the Village Clubhouse on Office for the following pending applications:
  - a. Kapalua Coastal Trail SM1 (T. Abbott)
  - b. Kapalua Ritz Carlton Renovations SM1 and PD2 (A. Cua)
  - c. Kapalua Central Resort SM1 and PD2 (A. Cua)
9. April 16, 2007 Maui Planning Commission Special Meeting at the Lahaina Civic Center beginning at 6 p.m. or soon thereafter on the following applications:
  - a. Kapalua Ritz Carlton Renovations SM1 and PD2 (A. Cua)
  - b. Kapalua Central Resort SM1 and PD2 (A. Cua)

K. NEXT REGULAR MEETING DATE: APRIL 24, 2007

L. 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,

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WAILUKU, MAUI, HAWAII 96793. The deadline for filing a timely Petition to Intervene was on March 23, 2007.

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\carolyn\041007.age)**