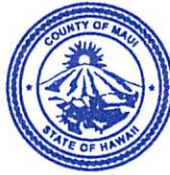


MICHAEL P. VICTORINO
Mayor

MICHAEL P. VICTORINO, AICP
Acting Director



RECEIVED

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2019 FEB -6 AM 10:25

OFFICE OF THE
COUNTY CLERK

COUNTY OF MAUI
DEPARTMENT OF PLANNING

OFFICE OF THE MAYOR

February 5, 2019

Honorable Michael Victorino
Mayor, County of Maui
200 South High Street
Wailuku, Maui, Hawaii 96793

APPROVED FOR TRANSMITTAL

For Transmittal to:

[Signature] 2/5/19
Acting Mayor Date

Honorable Kelly King, Chair
and Members of the Maui County Council
200 South High Street
Wailuku, Maui, Hawaii 96793

Dear Chair King and Members:

SUBJECT: APPLICATION FOR A CONDITIONAL PERMIT FOR THE NEIGHBORHOOD STORE AND LUNCH COUNTER SITUATED AT 8615 KAMEHAMEHA V HIGHWAY, PUKOO, ISLAND OF MOLOKAI, HAWAII; TMK: (2) 5-7-005:004 (CP 2017/0005)

The Department of Planning (Department) is transmitting for your review and action the Conditional Permit application filed by Christine Ward (Applicant). A summary of the application(s) is as follows:

SUMMARY OF APPLICATION	
Application	CP 2017/0005
Applicant	Christine Ward
Owner	Moncado Mission Ltd.
Tax Map Key	(2) 5-7-005:004
Address	8615 Kamehameha V Highway, Pukoo, Island of Molokai
Area	20,045 square feet; portion of 70.944 acre parcel
Land Use Designations	State Agricultural District Agriculture Community Plan Title 19, Zoning - Agriculture District Other: located within the Special Management Area
Brief Description	Applicant is requesting a Conditional Permit to continue the operation of the store and lunch counter

COUNTY COMMUNICATION NO. 19-93

Honorable Michael Victorino, Mayor
 For Transmittal to:
 Honorable Kelly King, Chair
 February 5, 2019
 Page 2

SUMMARY OF APPLICATION	
Public Hearing	Held by Molokai Planning Commission (Commission) on May 9, 2018
Testimony	Support
Recommendation	Recommended approval subject to conditions listed below

The Commission recommended approval to the Maui County Council (Council) subject to the following conditions:

1. That the Conditional Permit shall be valid for ten (10) years from the effective date of the ordinance; provided that an extension of this permit beyond this period may be granted pursuant to Section 19.40.090, Maui County Code (MCC).
2. That the conditional permit shall be nontransferable unless approved by the Council.
3. That the Applicant, its successors, and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject Conditional Permit and shall procure at its own cost and expense, and shall maintain during the entire period of this Conditional Permit, a policy or policies of comprehensive liability insurance in the minimum amount of ONE MILLION AND NO/100 DOLLARS (1,000,000.00) naming the County of Maui as an additional named insured, insuring and defending the Applicant and County of Maui against any and all claims or demands for property damage, personal injury and/or death arising out of this conditional permit, including but not limited to: (1) claims from any accident in connection with the permitted use, or occasioned by any act or nuisance made or suffered in connection with the permitted use in the exercise by the Applicant of said rights; and (2) all actions, suits, damages and claims by whomsoever brought or made by reason of the non-observance or non-performance of any of the terms and conditions of this conditional permit. A copy of the certificate of insurance naming County of Maui as an additional named insured shall be submitted to the Department of Planning within ninety (90) calendar days from the effective date of approval of this conditional permit. The proof of insurance and all subsequent certifications of insurance coverage shall be submitted directly by the insurance carrier to the Department and shall include the applicable TMK and permit numbers.

Honorable Michael Victorino, Mayor
For Transmittal to:
Honorable Kelly King, Chair
February 5, 2019
Page 3

4. That the Applicant shall develop and use the property in substantial compliance with the representations made to the Council in obtaining the conditional permit. Failure to do develop the property may result in the revocation of the conditional permit pursuant to Section 19.40.080, MCC.
5. That full compliance with all applicable governmental requirements shall be rendered in a timely manner.
6. That the market shall open no earlier than 6:00 am and close by 9:00 p.m.
7. That all Department of Health applicable requirements shall be met, including Hawaii Administrative Rules, Chapter 11-62, "Wastewater Systems and with Hawaii Administrative Rules, Chapter 11-50, "Food Safety Code."
8. That all parking shall be on-site; no street parking allowed.
9. That a parking plan shall be submitted to the Zoning, Administration and Enforcement Division (ZAED) for its approval.
10. That the Applicant, Christine Ward, shall submit compliance reports to the Department of Planning with any request for renewal of the Conditional Permit.
11. That the compliance reports shall address compliance with the conditions established with the subject State Land Use Commission Special Permit. The report shall be in a format where the condition is listed followed by a response by Christine Ward. A copy of the original approval shall also be submitted with this report.

Inasmuch as Council approval is required for the Conditional Permit, the Department respectfully transmits the subject application(s) to the Council for consideration. Accordingly, attached for your review are the following documents:

1. Application Forms;
2. Department's Report and Agency Comments;
3. Department's Recommendation Report;
4. Original Draft Ordinance(s);
5. Approved Molokai Planning Commission Minutes of May 9, 2019.

Honorable Michael Victorino, Mayor
For Transmittal to:
Honorable Kelly King, Chair
February 5, 2019
Page 4

Thank you for your attention to this matter. Should you have any questions, please feel free to transmit them to the Department of Planning via transmittal through the Office of the Mayor.

Sincerely,



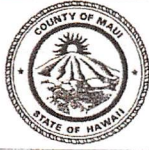
MICHELE MCLEAN, AICP
Acting Planning Director

Attachments

xc: Clayton I. Yoshida, AICP, Planning Program Administrator (PDF)
Sybil K Lopez, Staff Planner (PDF)
Mimi Desjardins, Corporation Counsel (PDF)
Molokai Planning Commission Members
Christine Ward, Applicant
Luigi Manera, Consultant

MCM:CIY:SKL:lk

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COUNTY OF MAUI
 DEPARTMENT OF PLANNING
 2200 MAIN STREET, SUITE 619
 WAILUKU, MAUI, HAWAII 96793
 TELEPHONE: (808) 270-8205 FAX:(808) 270-7634

APPLICATION TYPE: CONDITIONAL PERMIT

DATE: 11/01/2017

PROJECT NAME: Neighborhood Store VALUATION: \$

PROPOSED DEVELOPMENT: Neighborhood Store and Lunch Counter

TAX MAP KEY NO.: (2) 5-7-005:004 CPR/HPR NO.: LOT SIZE: 70.944 Acres

PROPERTY ADDRESS: 8615 Kamehameha V Highway, Pukoo, Kaunakakai, Molokai, Hawaii 96748

OWNER: MONCADO & HIS MISSION LTD PHONE:(B) (H)

ADDRESS: PO BOX 496

CITY: KAUNAKAKAI STATE: HI ZIP CODE: 96748

OWNER SIGNATURE: *Christine Ward*

APPLICANT: Christine Ward

ADDRESS: P.O. Box 1799

CITY: KAUNAKAKAI STATE: HI ZIP CODE: 96748

PHONE (B): (H): FAX:

APPLICANT SIGNATURE: *Luigi Manera*

AGENT NAME: LUIGI MANERA

ADDRESS: P.O. BOX 1718

CITY: KAUNAKAKAI STATE: HI ZIP CODE: 96748

PHONE (B): (808) 553-9045 (H): FAX: (808) 553-3952

EXISTING USE OF PROPERTY: Neighborhood Store and Lunch Counter

CURRENT STATE LAND USE DISTRICT BOUNDARY DESIGNATION: AG

COMMUNITY PLAN DESIGNATION: AG ZONING DESIGNATION: AG

OTHER SPECIAL DESIGNATIONS: SMA

MICHAEL P. VICTORINO
Mayor

MICHELE CHOUTEAU MCLEAN, AICP
Acting Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

January 18, 2019

Ms. Christine Ward
P.O. Box 1799
Kaunakakai, Hawaii 96748

Dear Ms. Ward:

SUBJECT: AMENDED APPROVAL OF A STATE LAND USE COMMISSION SPECIAL PERMIT (SUP2) AND RECOMMENDATION TO APPROVE WITH CONDITIONS OF A CONDITIONAL PERMIT (CP) TO MAUI COUNTY COUNCIL

Project: NEIGHBORHOOD STORE AND LUNCH COUNTER
Address: 8615 Kamehameha V Highway, Pukoo, Molokai, Hawaii
Description: To operate a store and lunch counter on 20,045 square feet (sq.ft.) portion of 70.944 acre parcel of land
TMK: (2) 5-7-005:004 (POR.)
Permit Nos.: SUP2 2017/0024 and CP 2017/0005

At its regular meeting on May 9, 2018, the Molokai Planning Commission (Commission) reviewed your SUP2 application (SUP2 2017/0002) and your CP application (CP 2017/0005).

STATE LAND USE COMMISSION SPECIAL USE PERMIT

After due deliberation and receipt of exhibits, the Commission ordered approval of the SUP2 subject to the following conditions:

1. That the SUP2 shall be valid until **May 31, 2028** or for the duration of the CP whichever is later, subject to extension by the Commission upon a timely request for extension filed at least one-hundred twenty (120) days prior to its expiration.
2. That the subject SUP2 shall not be transferred without the prior written approval of the Commission. However, in the event that a contested case hearing preceded issuance of said SUP2, a public hearing shall be held by the appropriate Planning Commission upon due published notice, including actual written notice to the last known addresses of parties to said contested case and their counsel.

3. That the Applicant, its successors and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject SUP2 and shall procure at its own cost and expense, and shall maintain during the entire period of this SUP2, a policy or policies of comprehensive liability insurance in the minimum amount of ONE MILLION AND NO/100 DOLLARS (1,000,000.00) naming the County of Maui as an additional insured, insuring and defending the applicant and the County of Maui against any and all claims or demands for property damage, personal injury and/or death arising out of this permit, including but not limited to: (1) claims from any accident in connection with the permitted use, or occasioned by any act or nuisance made or suffered in connection with the permitted use in the exercise by the applicant of said rights; and (2) all actions, suits, damages and claims by whomsoever brought or made by reason of the non-observance or non-performance of any of the terms and conditions of this permit. Proof of a policy naming the County of Maui as an additional insured shall be submitted to the Department within ninety (90) calendar days from the date of transmittal of the decision and order. The proof of insurance and all subsequent certifications of insurance coverage shall be submitted directly by the insurance carrier and shall include the applicable TMK and permit numbers
4. That full compliance with all applicable governmental requirements shall be rendered.
5. That the Applicant shall submit to the Department a detailed report addressing its compliance with these conditions. Two (2) hard copies and one digital copy by a compact disk or similar means shall be submitted. The Compliance Report shall be submitted to the Department with the request for time extension.
6. That the Applicant shall develop the property in substantial compliance with the representations made to the Commission in obtaining the SUP2. Failure to so develop the property may result in the revocation of the permit.
7. That all structures on the property shall be permitted or have permits applied for within six (6) months.

Further, the Commission adopted the Report and Recommendation prepared by the Department for the May 9, 2018, meeting as the Findings of Fact, Conclusion of Law, and Decision and Order. Parties to proceedings before the Commission may obtain Judicial Review of Decision and Orders issued by the Commission in the matter set forth in Chapter 91-14, Hawaii Revised Statutes (HRS).

Be advised that compliance with Codes, Covenants, and Restrictions (CC&Rs) of any applicable Homeowner's or Apartment Owner's Association is the sole responsibility of the Applicant.

CONDITIONAL PERMIT (CP)

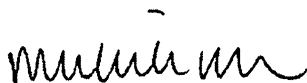
At its regular meeting on May 9, 2018, the Commission reviewed, and, after due deliberation and receipt of exhibits, recommended to the Maui County Council approval of the CP subject to the following conditions:

1. That the conditional permit shall be valid until ten (10) years from the effective date of the ordinance, provided that an extension of this permit beyond this period may be granted pursuant to Section 19.40.090, Maui County Code (MCC).
2. That the conditional permit shall be nontransferable unless approved by the Maui County Council.
3. That the Applicant, its successors, and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject Conditional Permit and shall procure at its own cost and expense, and shall maintain during the entire period of this Conditional Permit, a policy or policies of comprehensive liability insurance in the minimum amount of ONE MILLION AND NO/100 DOLLARS (1,000,000.00) naming the County of Maui as an additional named insured, insuring and defending the Applicant and County of Maui against any and all claims or demands for property damage, personal injury and/or death arising out of this conditional permit, including but not limited to: (1) claims from any accident in connection with the permitted use, or occasioned by any act or nuisance made or suffered in connection with the permitted use in the exercise by the Applicant of said rights; and (2) all actions, suits, damages and claims by whomsoever brought or made by reason of the non-observance or non-performance of any of the terms and conditions of this conditional permit. A copy of the certificate of insurance naming the County of Maui as an additional named insured shall be submitted to the Department within ninety (90) calendar days from the date of approval of this conditional permit. The proof of insurance and all subsequent certifications of insurance coverage shall be submitted directly by the insurance carrier to the Department and shall include the applicable Tax Map Key (TMK) and permit numbers.
4. That the Applicant shall develop and use the property in substantial compliance with the representations made to the Maui County Council in obtaining the CP. Failure to so develop the property may result in the revocation of the conditional permit pursuant to Section 19.40.080, MCC.
5. That full compliance with all applicable governmental requirements shall be rendered in a timely manner.

6. That the market shall open no earlier than 6:00 am and close by 9:00 p.m.
7. That all Department of Health applicable requirements shall be met, including Hawaii Administrative Rules, Chapter 11-62, "Wastewater Systems and with Hawaii Administrative Rules, Chapter 11-50, "Food Safety Code."
8. That all parking shall be on-site; no street parking allowed.
9. That a parking plan shall be submitted for approval by the Zoning Administration and Enforcement Division (ZAED) prior to opening the market. Evidence of ZAED approval shall be submitted within the compliance report.
10. That the Applicant shall submit to the Department compliance reports on the following basis with a request for renewal of the CP.
11. The compliance reports shall address compliance with the conditions established with the subject SUP. The report shall be in the format where the condition is listed followed by a response from the applicant. A copy of the original approval shall also be submitted with this report.

Thank you for your cooperation. If additional clarification is required, you may contact Staff Planner Sybil Lopez by email at sybil.lopez@mauicounty.gov or by phone at (808) 270-5529.

Sincerely,



MICHELE MCLEAN, AICP
Acting Planning Director

xc: Clayton I. Yoshida, AICP, Planning Program Administrator (PDF)
John S. Rapacz, Planning Program Administrator (PDF)
Jeffrey P. Dack, Current Planning Supervisor (PDF)
Sybil K. Lopez, Staff Planner (PDF)
Luigi Manera, Consultant (PDF)
Department of Finance, Real Property Assessment Division
Department of Fire and Public Safety, Fire Prevention Bureau
Maui Police Department
Development Services Administration
State Office of Planning
Land Use Commission
Project File

MCM:SKL:lak

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BEFORE THE MOLOKAI PLANNING COMMISSION

COUNTY OF MAUI

STATE OF HAWAII

In The Matter of The Applications of

MRS. CHRISTINE WARD FOR
NEIGHBORHOOD STORE "N" COUNTER

requesting a Conditional Permit and State Land Use Commission Special Permit in order to operate a store and lunch counter in the State Agricultural District on an approximately 20,045 sq.ft. portion of 70.944 acres of land at 8615 Kamehameha V Highway, TMK: 5-7-005:004, Pukoo, Island of Molokai.

DOCKET NO. SUP2 2017/0024
CP 2017/0005

Mrs. Christine Ward
Neighborhood Store "N" Counter
(SLopez)

MAUI COUNTY PLANNING DEPARTMENT'S REPORT
TO THE MOLOKAI PLANNING COMMISSION
MAY 9, 2018 MEETING

DEPARTMENT OF PLANNING
COUNTY OF MAUI
2200 MAIN STREET, SUITE 315
WAILUKU, MAUI, HI 96793

Conditional Permit

Land Use Commission Special Permit

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BEFORE THE MOLOKAI PLANNING COMMISSION

COUNTY OF MAUI

STATE OF HAWAII

In The Matter of The Applications of

MRS. CHRISTINE WARD FOR
NEIGHBORHOOD STORE "N" COUNTER

requesting a Conditional Permit and State Land Use Commission Special Permit in order to operate a store and lunch counter in the State Agricultural District on an approximately 20,045 sq.ft. portion of 70.944 acres of land at 8615 Kamehameha V Highway, TMK: 5-7-005:004, Pukoo, Island of Molokai.

DOCKET NO. SUP2 2017/0024
CP 2017/0005

Mrs. Christine Ward
Neighborhood Store "N" Counter
(SLopez)

DESCRIPTION OF THE PROJECT

This matter arises from applications for a Conditional Permit (CP) and a State Land Use Commission Special Permit (SUP2) filed on November 29, 2017 by Luigi Manera ("Consultant") on behalf of Mrs. Christine Ward ("Applicant"), who holds a lease agreement with the property owner, Moncado and His Mission, LTD. The Applicant is requesting a CP and a SUP2 to allow the operation of a store and lunch counter. **Exhibit 1.**

The property owner has authorized the Applicant to apply for the subject land use permits. The subject property consists of 70.944 acres and is identified by TMK: (2) 5-7-005:004. The portion of the property for which this application is being submitted contains 20,045 square feet of land area, more or less, together with all the improvements thereon. For the purpose of this report and accompanying application. "Property" will be used to describe the area subject to this application. The remainder of the property not subject to the lease is used for agricultural purposes and contains two farm dwellings and accessory structures. There are no agricultural activities associated with the Neighborhood Store "N" Lunch Counter.

The Applicant wants to continue the operation of a store and lunch counter, which were previously permitted. The warehouse is used to store inventory for the store and ingredients for the lunch counter on an as needed basis.

The hours of operation are as follows:

LUNCH COUNTER

Sunday 7:30 a.m. – 4:30 p.m.
Monday 6:30 a.m. – 4:00 p.m.
Tuesday 6:30 a.m. – 4:00 p.m.
Wednesday Closed

Thursday 6:30 a.m. – 4:00 p.m.
 Friday 6:30 a.m. – 4:00 p.m.
 Saturday 7:30 a.m. – 4:30 p.m.

NEIGHBORHOOD STORE

Sunday 7:30 a.m. – 4:30 p.m.
 Monday 6:30 a.m. – 5:30 p.m.
 Tuesday 6:30 a.m. – 5:30 p.m.
 Wednesday 6:30 a.m. – 5:30 p.m.
 Thursday 6:30 a.m. – 5:30 p.m.
 Friday 6:30 a.m. – 5:30 p.m.
 Saturday 7:30 a.m. – 4:30 p.m.

DESCRIPTION OF THE PROPERTY

1. The Property is approximately 20,045 square feet, an unsubdivided portion of a parcel with a total area of 70.944 acres, and is located mauka of Kamehameha V Highway and across from the Puko`o Fishpond at Maui Tax Map Key 5-7-005:004 (por.) Puko`o, on the island of Molokai, Hawaii **Exhibit 2**.

2. Land Use Designations:

State Land Use District --	Agriculture, Conservation
Molokai Community Plan --	Agriculture
County Zoning --	Agriculture
Other --	“Special Management Area”
Flood Zone	AE (8’) and X

3. Surrounding Uses:

East --	Residential lots
South --	Kamehameha V Highway
West --	Undeveloped land
North --	Conservation, Agriculture lands

4. The Flood Hazard Zones are AE-8’ and X. The proposed area is located in Flood Hazard Zone X, areas determined to be outside of the 0.2% annual chance floodplain, and the Zoning and Flood Confirmation form states that a flood development permit is recommended.

5. The Property is developed with a one-story wood frame structure housing The Neighborhood Store “N” Counter with a gross floor area of approximately 1,200 square feet, and a storage building comprised of approximately 250 square feet. The structure contains the retail grocery store, the snack bar facility, private office area, storage space, and kitchen. Access to the Property is from Kamehameha V Highway with two, one-way driveways. Eighteen parking stalls and one loading zone are also located on the project site.

HISTORY OF THE PROJECT

The Neighborhood Store began operating in 1969 with a wooden roadside store building and an unpaved parking area accommodating approximately three to four vehicles.

1. On October 18, 1979, the Maui Planning Commission granted a Land Use Commission Special Use Permit to operate the Neighborhood Store to Mrs. Theodora Quinones, Lessee of the Property.
2. On October 28, 1980, the Maui Planning Commission granted a Special Management Area Use Permit to allow for the construction of a new, one-story, wooden structure with a gross floor area of 1,200 square feet. This structure replaced the existing structure which had become dilapidated.
3. On December 18, 1981, the Maui Planning Commission granted a 12-month time extension on the Land Use Commission Special Use Permit and the Special Management Area Use Permit.
4. On June 26, 1984, the Maui County Planning Commission voted to approve a three year time extension on the Land Use Commission Special Use Permit and Special Management Area Use Permit.
5. On January 9, 1991, the Molokai Planning Commission voted to approve a new Land Use Commission Special Use Permit, for a period of five years, as the previous permit expired on June 26, 1987.
6. On August 11, 1994, the Molokai Planning Commission voted to approve an amendment to Condition No. 6 of the Land Use Commission Special Use Permit and related SMA minor permit, deleting the requirement to install the septic tank system subject to several conditions.
7. On June 28, 1995, the Molokai Planning Commission voted to approved the transfer in permit holder from Ka`apahu Farms, Inc. to Castanera, Inc. and to approve a five year time extension for the Land Use Commission Special Use Permit.
8. On April 11, 2001, the Molokai Planning Commission voted to approve a ten year time extension for the Land Use Commission Special Use Permit.
9. On November 5, 2001, Ordinance No. 3000 granting a Conditional Permit for the continued operation of a retail grocery and snack shop became effective.
10. On January 28, 2004, the Molokai Planning Commission voted to approve a transfer in permit holder from Castanera, Inc. To MIA, Inc. for the Land Use Commission Special Use Permit.
11. On September 3, 2004, Ordinance No. 3206, amending Ordinance No. 3000 transferred the Conditional Permit from Castanera, Inc. to MIA, Inc.
12. On August 22, 2006, the Maui County Council amended Ordinance No. 3206 to Ordinance

No. 3398 transferred from MIA to The Takata Corporation Inc. dba Mana'e Goods and Grindz without adjusting the expiration date.

13. According to the records, the CP and SUP2 simultaneously expired on September 3, 2014.
14. On April 5, 2018, the Planning Department filed a Request for Service (RFS 18-000496) in reference to operating without a permit.

APPLICABLE REGULATIONS

LAND USE COMMISSION SPECIAL PERMIT

Pursuant to Section 205-6 Special permit, Hawaii Revised Statutes, the county planning commission may permit certain unusual and reasonable uses within agricultural and rural districts other than those for which the district is classified. Special permits for land the area of which is greater than fifteen acres shall be subject to approval by the land use commission.

Standards for reviewing a Land Use Commission Special Permit are found under Title 15 Department of Business, Economic Development, and Tourism; Subtitle 3 State Land Use Commission, Chapter 15 Land Use Commission Rules, Subchapter 12 Special Permits, § 15-15-95 of the Hawaii Administrative Rules.

Certain "unusual and reasonable" uses within agricultural and rural districts other than those for which the district is classified may be permitted. The following guidelines are established in determining an "unusual and reasonable use":

- (1) The use shall not be contrary to the objectives sought to be accomplished by chapters 205 and 205A, HRS, and the rules of the Land Use Commission.
- (2) The desired use would not adversely affect surrounding property;
- (3) The use would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage and school improvements, and police and fire protection;
- (4) Unusual conditions, trends and needs have arisen since the district boundaries and rules were established;
- (5) The land upon which the proposed use is sought is unsuited for the uses permitted within the district.

The county planning commission may impose such protective conditions as it deems necessary in the issuance of a special use permit. The county planning commission shall establish, among other conditions, a reasonable time limit suited to establishing the particular use, and if appropriate, a time limit for the duration of the particular use, which shall be a condition of the special permit. If the permitted use is not substantially established to the satisfaction of the county planning commission within the specified time, it may revoke the permit. The county planning commission, with the concurrence of the commission, may extend the time limit if it deems that circumstances warrant the granting of the extension.

Pursuant to HRS Section 205-6 (C), the Commission must also find that the use would promote the objectives and effectiveness of Chapter 205 HRS.

CONDITIONAL PERMITS

A conditional permit is reviewed pursuant to Title 19, Zoning, Chapter 19.40 Conditional Permits; Maui County Code, 1980, as amended and as follows:

Chapter - 19.40.010 Intent:

The intent of the conditional permit is to provide the opportunity to consider establishing uses not specifically permitted within a given use zone where the proposed use is similar, related or compatible to those permitted uses and which has some special impact or uniqueness such that its effect on the surrounding environment cannot be determined in advance of the use being proposed for a particular location.

Chapter - 19.40.070 Establishment.

- A. Upon finding by the appropriate planning commission that reasons justifying granting of a conditional permit exist, and that the proposed use would not be significantly detrimental to the public interest, convenience and welfare, and will be in harmony with the area in which it is to be located; issuance of a conditional permit may be recommended, subject to such terms and conditions and for such period of time as the facts may warrant.
- B. Should the commission determine that the permit requested is for a use which is substantially different from those uses permitted in the use zone, the commission shall recommend denial of the request and may instruct the applicant to seek a change in zoning should the facts warrant such an application.
- C. Every conditional permit shall be conditioned upon the proposed development fully complying with all requirements of this title and other applicable governmental requirements.

Chapter - 19.40.080 Conditions, amendments, modifications.

- A. Conditional permits may be issued subject to such terms and conditions deemed reasonable and necessary to fulfill the intent and purposes of this title. All changes in the use or appearance of land or buildings allowed by the permit shall be in accordance with the specified conditions and the proposal as approved. Such permit shall be issued subject to compliance with and/or fulfillment of such terms and conditions and shall so state.
- B. Any person who has been issued a conditional permit may request the commission to review a request to amend or delete any terms and conditions imposed upon such permit.
- C. The commission on request or on its own initiative may recommend action to revoke any conditional permit or amend or delete any terms, conditions, and time stipulations of such conditional permit if such action is deemed necessary to effectuate the purpose and intent of this chapter. The commission shall provide due notice in writing to the

applicant/permittee and an opportunity for a hearing.

- D. The planning director may approve amendments to the conditional permit if the amendments are not substantive and do not result in significant impacts above what would result from the approved conditional permit. Before approving any such amendments, the planning director shall notify the respective planning commission of the proposed non-substantive amendments. The commission may review the proposed non-substantive amendments and take action or waive review.

Pursuant to Chapter 19.40.090 Extensions.

- A. Conditional permits shall not be extended unless the terms of the initial issuance explicitly provide for same. In any case, extensions must be applied for no later than ninety days prior to expiration; however, the director may waive this requirement if the director finds that unusual circumstances prevented an applicant from filing a timely extension request.”
- B. An applicant for a time extension shall provide by certified mail a notice of application for time extension to the owners and lessees of record located within five-hundred feet of the parcel on which the conditional permit use is located. The notice of application for time extension shall:
 - 1. Describe the uses permitted by the conditional permit and include a map showing the subject parcel and all other lots within a five-hundred foot distance; and
 - 2. State that owners and lessees of record may file a written protest against the proposed extension with the planning director within forty-five days of the mailing of the notice of application for time extension.”
- C. The planning director may approve the application for time extension provided the following criteria are met:
 - 1. The permit holder is in compliance with the conditions of approval;
 - 2. The permitted use has not been substantially changed and new uses have not been added that may result in significant impacts above what would result from the approved conditional permit;
 - 3. Agencies have not identified new matters of concern that require mitigation; and
 - 4. No protests have been received from the owners and lessees of record located within five hundred feet of the parcel on which the conditional permit use is located after the notice requirements of subsection B have been met.”
- D. “If the application for time extension does not qualify for review and approval by the planning director, the application for time extension shall be processed in the same manner as the original application.”

It is also noted that the conditional permit is subject to the proposed development fully complying with all requirements of title 19 and other applicable governmental requirements.

Parking Requirements

Section 19.36A.010, Maui County Code, provides the number of off-street parking spaces required for any use. The store and warehouse are subject to a requirement of one parking space for every 500 square feet of area with a minimum of three; the snack bar and outside seating are subject to a requirement of one parking space for every 100 square feet of serving and dining area with a minimum of six. Therefore, the total required parking is expected to be nine spaces. This requirement is satisfied by the total of 18 parking spaces located on-site.

PROCEDURAL MATTERS

1. On March 23, 2018, the Maui County Planning Department notified the applicant and appropriate state and county agencies of the scheduled public hearing.
2. On March 31 2018, the applicant mailed a letter of notification and location map to all owners and recorded lessees adjacent to the subject property describing the application(s) and notifying them of the scheduled hearing date, time and place by either certified or registered mail receipt. Copies of the letter, location map, list of owners and recorded lessees, certified and registered mail receipts are on file in the Planning Department.
3. On April 9, 2018, a notice of hearing on the application was published in the Maui News by the Maui County Planning Department.
4. On April 11, 2018 a notice of hearing on the application was published in the Molokai Dispatch by the Maui County Planning Department.
5. The subject application does not involve an action that triggers compliance to Chapter 343, Hawaii Revised Statutes, relating to Environmental Impact Statements.

REVIEWING AGENCIES

County Agencies:	Comment	Exhibit No.
Department of Environmental Management	Yes	3
Applicant's Response	No	
Department of Water Supply	Yes	4
Applicant's Response	No	
Maui Police Department: Molokai Division	Yes	5
Applicant's Response	No	
DPW-DSA	Yes	6
Applicant's Response	Yes	7

State Agencies:	Comment	Exhibit No.
Office of Planning	No	
State Land Use Commission	No	
DLNR-Engineering	Yes	8
Applicant's Response	Yes	9
DLNR-OCCL	Yes	10
Applicant's Response	Yes	11
DLNR-Lands Division	Yes	12
Applicant's Response	Yes	13
DLNR-SHPD	Yes	14
Applicant's Response	No	
DAGS	Yes	15
Applicant's Response	Yes	16
DOH	Yes	17
Applicant's Response	Yes	18

ANALYSIS

LAND USE

1. The proposed project is in conformance with the goals, objectives and policies of the Hawaii State Plan. It will provide additional opportunities for employment and economic growth in the visitor industry.
2. The subject property is in the **State Agricultural District**. The proposed uses are consistent with the Agricultural designation of the property. The use is allowed with the issuance of a State Land Use Commission Special permit. The State Office of Planning had no comments on the application.
3. **Chapter 205, Hawaii Revised Statutes**, states certain "unusual and reasonable" uses within the agricultural district other than those uses for which the district is classified may be permitted. The use of the property for a market is allowed with approval of a State Land Use Commission Special Permit.

The guidelines for issuing this permit are:

- (1) The use shall not be contrary to the objectives sought to be accomplished by chapters 205 and 205A, HRS, and the rules of the Land Use Commission.

Response: The proposed use is in consonance with the objectives of Chapter 205 as it encourages the development of the Portion for the use for which it is best suited in the interest of public health and welfare of the people of the state of Hawaii. The Portion has historically been used as a neighborhood store and lunch counter and is absent any agricultural infrastructure. The proposed use as a neighborhood store and lunch counter

would preserve the existing use of the Portion of land and will protect the public health and welfare of the people of Hawaii.

- (2) The desired use would not adversely affect surrounding property;

Response: The current and historical use of the subject property has been for a neighborhood store and lunch counter. The surrounding areas are used for residential and recreational purposes and the neighborhood store and lunch counter serves their needs, as the next closest store and restaurant is in Kaunakakai Town, nearly 16 miles to the west. Since there are no proposed changes to the existing use it is not anticipated to have an unreasonable adverse effect on the surrounding properties.

There have been no letters of protest received from neighbors as of the date of this report. The former market operated for 38 years in that location in harmony with the surrounding area.

- (3) The use would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage and school improvements, and police and fire protection;

Response: Existing roads and streets are in place. The County of Maui serves the water needs of the property and the property has an existing Individual Wastewater System. There will be no housing associated with the existing/proposed use which would not require school improvements, nor create an increase in children attending public school. There is no apparent need to increase police and fire protection for the existing and proposed continued use because there is no proposed intensification of use. For these reasons, it is not anticipated to unreasonably burden public agencies.

The former operation of the market did not result in any burdens to provide roads and streets, sewers, water, drainage and school improvements, and police and fire protection.

- (4) Unusual conditions, trends and needs have arisen since the district boundaries and rules were established;

Response: Conditions: Since the district boundary rules were established, there developed a need in the east end community to have an alternative to traveling 16 miles to Kaunakakai town to purchase basic groceries, mercantile goods and prepared meals.

Trends: Since the district boundary rules were established the east end of Molokai has seen an increase in residents and tourism visitor accommodations/activities which require an option to purchase basic groceries, mercantile goods and prepared meals.

Needs: The east end community continues to rely on the existing neighborhood store and lunch counter to serve their needs and many who do not have the ability to readily and easily travel 16 miles to Kaunakakai would be adversely affected if the operations were not allowed to continue.

The land-use district boundaries and rules were established in the early 1960s. Smart growth principals provide for small local markets in rural areas serving the immediate community.

There are no business or commercially zoned properties in the proximity of the proposed existing use for the neighborhood store and lunch counter. The nearest properties in the community plan district are sixteen (16) miles to the west in Kaunakakai Town.

- (5) The land upon which the proposed use is sought is unsuited for the uses permitted within the district.

Response: The existing neighborhood store and lunch counter has been in continuous operation since the early 1980's. The market and public demand is demonstrated by this uninterrupted and continuous existing use.

The current and past use for the last 38 years is existing and unchanged. Since the building and supporting infrastructure is existing and there are no proposed changes, the site is suitable for the intended use.

The existing and proposed use for the neighborhood store and lunch counter provides jobs for 10 employees. 5 employees in the store and 5 employees in the lunch counter. The Neighborhood Store and Lunch Counter cuts down on the time and costs associated with traveling 16 miles to Kaunakakai town to purchase similar merchandise, grocery items and ready to eat foods. This time and cost savings would be realized by those who found it a more convenient option than traveling to Kaunakakai town and beyond. The people who would benefit most would be those who live more than 8 miles to the east of Kaunakakai Town making it a shorter trip to the Neighborhood Store and Lunch Counter. The proposed existing use would continue to provide economic and/or social benefits to the community as demonstrated above, among others.

The applicant is financially stable and has a lease agreement in place through October 31, 2025. The past 38 year period of continuous and uninterrupted operations demonstrate the feasibility of the proposed and existing use.

The portion of the land covered by this application is 20,045 square feet which is not large enough to sustain agricultural operations, and the presence of the existing structures and infrastructure make it unsuited for the uses permitted within the district.

4. **Maui County General Plan: The County-wide Policy Plan.** As stated in the Maui County Charter, as amended in 2002:

"The General Plan shall indicate desired population and physical development patterns for each island and region within the county; shall address the unique problems and needs of each island and region; shall explain the opportunities and the social, economic, and environmental consequences related to potential developments; and shall set forth the desired sequence, patterns, and characteristics of future developments. The general plan shall identify objectives to be achieved, and priorities, policies, and implementing actions to be pursued with respect to population density, land use maps, land use regulations, transportation systems, public and community facility locations, water and sewage

systems, visitor destinations, urban design, and other matters related to development.”

The County of Maui 2030 General Plan Countywide Policy Plan, adopted by the Maui County Council on March 19, 2010, is the first component of the decennial General Plan update. The Countywide Policy Plan replaces the General Plan as adopted in 1990 and amended in 2002. The Countywide Policy Plan acts as an over-arching values statement and umbrella policy document for the Maui Island Plan and the nine Community Plans that provides broad goals, objectives, policies, and implementing actions that portray the desired direction of the County's future. The plan includes:

1. A vision statement and core values for the County to the year 2030
2. An explanation of the plan-making process
3. A description and background information regarding Maui County today
4. Identification of guiding principles
5. A list of countywide goals, objectives, policies, and implementing actions related to the following core themes:
 - A. Protect the Natural Environment
 - B. Preserve Local Cultures and Traditions
 - C. Improve Education
 - D. Strengthen Social and Healthcare Services
 - E. Expand Housing Opportunities for Residents
 - F. Strengthen the Local Economy
 - G. Improve Parks and Public Facilities
 - H. Diversify Transportation Options
 - I. Improve Physical Infrastructure
 - J. Promote Sustainable Land Use and Growth Management
 - K. Strive for Good Governance

The proposed project is in keeping with the following Countywide Policy Plan goals, objectives and policies:

Population, Land Use, the Environment and Cultural Resources

Population

Objective

1. To plan the growth of resident and visitor population through a directed and managed growth plan so as to avoid social, economic and environmental disruptions.

Policy

- c. Maintain a balance between resident and visitor population by controlling and regulating growth of visitor facilities.

Land Use

Objective

3. To preserve lands that are well suited for agricultural pursuits.

Policy

- a. Protect prime agricultural lands from competing nonagricultural land uses.
- c. Support the right to farm consistent with the identification of productive agricultural lands.

Economic Activity

General

Objective

1. To provide an economic climate which will encourage controlled expansion and diversification of the County's economic base.

Policy

- a. Maintain a diversified economic environment compatible with acceptable and consistent employment.
- d. Support and promote locally produced products and locally owned operations and businesses that benefit local communities and meet local demand.
- h. Encourage businesses that promote the health and well-being of the residents, produce value-added products, and support community values.

Objective

2. Diversify and expand sustainable forms of agriculture and aquaculture.

Policy

- d. Assist farmers to help make Maui County more self-sufficient in food production.

Objective

6. To ensure that visitor industry facilities shall not disrupt agricultural and social pursuits and will not be allowed to negatively impact the County's natural and cultural pursuits.

Agriculture

Objective

- F. To foster growth and diversification of agricultural and aquaculture throughout Maui County.

Policy

- b. Support and promote programs to maintain the viability of diversified agricultural, specialty crops, forestry and aquaculture.

5. According to the **Molokai Community Plan**, the property is identified as Agriculture and is consistent with the land use map of the Community Plan. The proposed action is in keeping with the following Community Plan recommendations:

Land Use

Goal: Enhance the unique qualities of the island of Molokai to provide future generations the opportunity to experience rural and traditional lifestyles.

Economic Activity

Goal: A balanced local economy which provides preferred employment levels, long-term viability and sustainability while meeting residents' needs, respecting cultural and natural resources, and is in harmony with Molokai's rural quasi-subsistence lifestyle.

Planning Standards

Land Use Standards

All zoning applications and/or proposed land use maps and developments shall be consistent with the Land Use Map and Objectives and Policies of the Molokai Community Plan and zoning designation of the property. This property is zoned Agriculture District.

ZONING AND CONDITIONAL PERMIT

Chapter 19.40, Conditional Permits, of the Maui County Code, provides the opportunity to consider establishing uses not specifically permitted within a given use zone where the proposed use is similar, related, or compatible to those uses. The intent of a conditional permit is to provide the opportunity to consider establishing uses not specifically permitted within a given use zone where the proposed use is similar, related or compatible to those permitted uses and which has some special impact or uniqueness such that its effect on the surrounding environment cannot be determined in advance of the use being proposed for a particular location. The requirements for a conditional permit are as follows: reasons justifying granting of a Conditional Permit must exist; the proposed use cannot be significantly detrimental to the public interest, convenience and welfare; and the proposed use must be in harmony with the area in which it is to be located.

The issuance of a Conditional Permit is subject to such terms and conditions and for such period of time as the facts may warrant. The terms and conditions of the permit are designed to mitigate any potential impacts so that the proposed use is in harmony with the local neighborhood and is not detrimental to the public interest, convenience and welfare.

Response: A market serving the local community and tourists, known as the Neighborhood Store Lunch "N" Counter, operated in harmony with the surrounding neighborhood for 38 years from 1979.

STATE LAND USE COMMISSION SPECIAL PERMIT

Chapter 205-6, HRS allows for the establishment of "unusual and reasonable" uses in the State Agricultural District through the approval of a SUP2. The following guidelines are established in determining an "unusual and reasonable use" and the response to these guidelines are indicated as such in subsection 3 of the Land Use section of the analysis above.

INFRASTRUCTURE AND PUBLIC FACILITIES AND SERVICES

1. **Water** -- The subject property is currently serviced by a 12-inch diameter waterline that runs along Kamehameha V Highway. The subject property is currently serviced by the County of Maui Department of Water Supply.
2. **Sewers** -- The dwelling is connected to Department of Health approved wastewater septic systems.
3. **Flood** -- The proposed project is located in Zone X as indicated by the Flood Insurance Rate Map, which defines areas of the 100-year flood with base flood elevations and flood hazard factors.
4. **Roadways, Curbs, Gutters and Sidewalks** -- Access to the project site is from Kamehameha V Highway, a two-lane rural roadway with no curbs or sidewalks.
5. **Electrical and Telephone** -- Electrical and telephone service is provided and available to the site. No impacts are anticipated as a result of this project.
6. **Public Services** -- Fire protection is from the Pukoo Fire Station. Police protection is provided by the Maui Police Department-Molokai. The Molokai General Hospital is located in Kaunakakai town and provides acute, general, and emergency care services.

No adverse impacts on police and fire protection services or medical services are anticipated.

ARCHEOLOGICAL IMPACTS

The proposed project will contribute to the visitor industry and ancillary jobs associated with this industry.

A letter dated February 22, 2018, reporting review of SHPD records indicates Puko'o Heiau or Ka Oua'awa Heiau (Site 50-60-05-00024) is located at the foot of the hill directly behind of the existing neighborhood store and lunch counter. In addition, Puko'o Heiau is a contributing historic property to the South-East Molokai Archaeological District (Site 50-60-05-00322), which includes fishponds, habitations sites and agricultural sites. The USDA identifies the soils as Alaeloa clay (AMe3) (Foote et al. 1982). **Exhibit: 14**

ENVIRONMENTAL IMPACTS

No environmental impacts are anticipated as this application concerns visitor use in existing dwellings.

TESTIMONY

As of April 26, 2018, the Department of Planning has received no letters regarding the subject applications. .

ALTERNATIVES

STATE LAND USE COMMISSION SPECIAL PERMIT

1. Deferral. The Commission may defer action to another meeting date in order to obtain additional information that will assist in their deliberation on the application.
2. Approve the State Land Use Commission Special Permit with conditions as an “unusual and reasonable” use in the State Agricultural District.
3. Deny the State Land Use Commission Special Use Permit as not being an “unusual and reasonable” use in the State Agricultural District.

CONDITIONAL PERMIT

1. Deferral. The Commission may defer action to another meeting date in order to obtain additional information that will assist in their deliberation on the application.
2. Recommend Approval of the Conditional Permit to the County Council. The Commission is not the authority on conditional permits and, therefore, can only make a recommendation to the County Council to approve or deny the conditional permit. The County Council is the authority to act on conditional permits.
3. Recommend Denial of the Conditional Permit. to the County Council. The Commission is not the authority on conditional permits and, therefore, can only make a recommendation to the County Council to approve or deny the conditional permit. The County Council is the authority to act on conditional permits.

APPROVED:



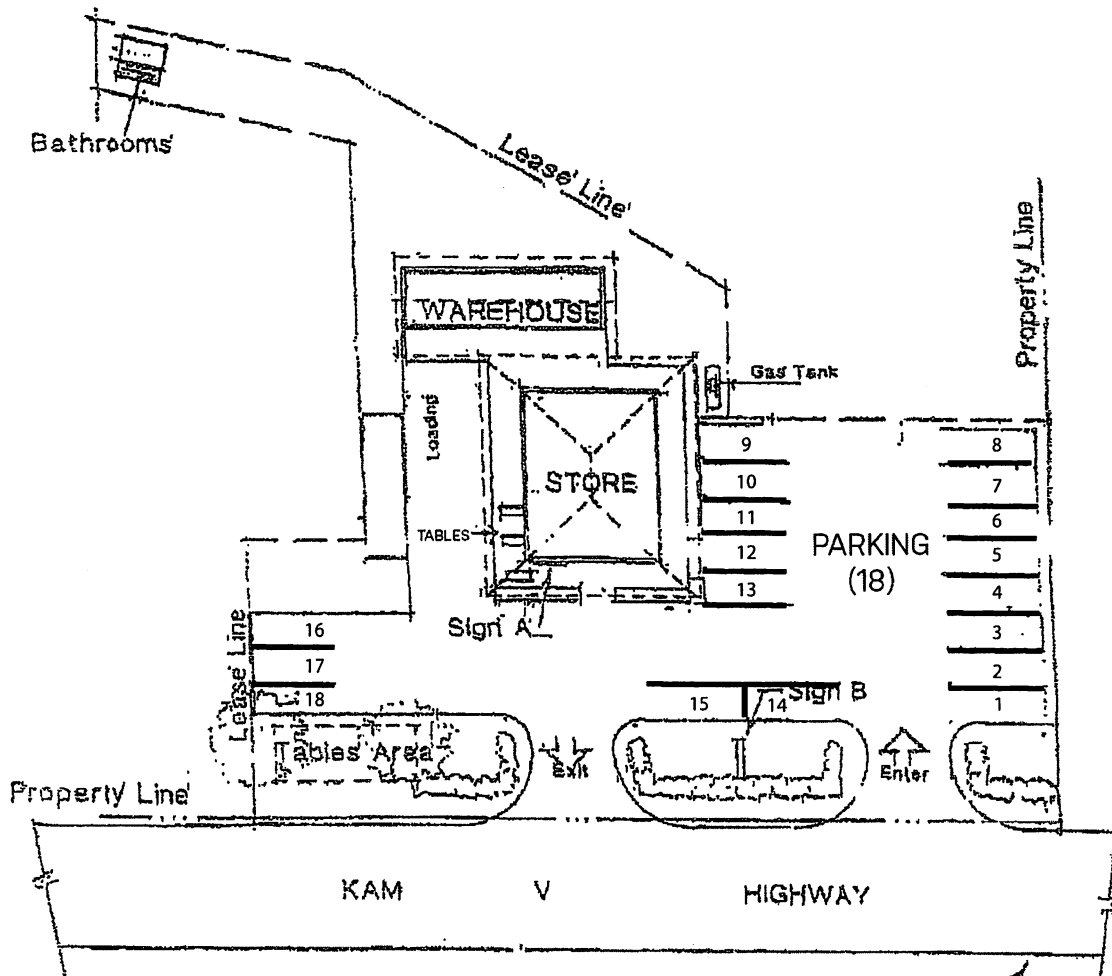
WILLIAM SPENCE
Planning Director



NEIGHBORHOOD STORE AND LUNCH COUNTER
8615 KAMEHAMEHA V HIGHWAY, PUKOO, KAUNAKAKAI HI 96748
TMK: (2) 5-7-005:004

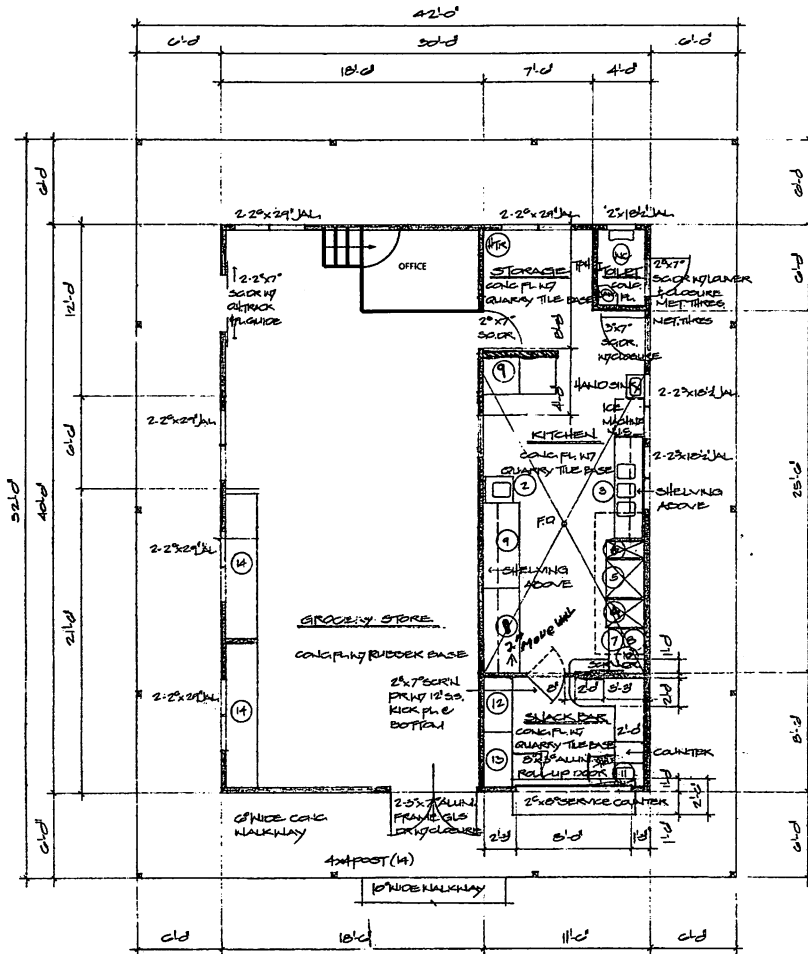


EXHIBIT: \

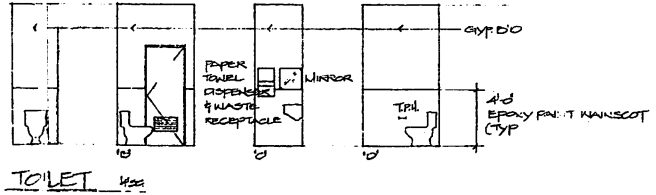
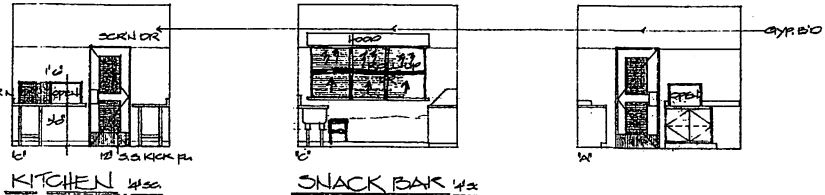
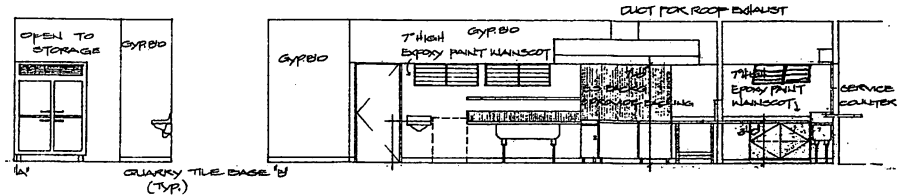


SITE PLAN
 PORTION OF TMK 2-5-7-05:4
 SCALE 1" = 30'

NEIGHBORHOOD STORE
PUKO'O, MOLOKAI



FLOOR PLAN 1/8" = 1'-0"



EQUIPMENT SCHEDULE

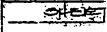
NO	ITEM	MODEL NO
1	TRAYLSEN REFRIG - FREEZER	90T 2-32N UT
2	L.I. 3 TUB W/OUT DRAINBOARD	1 STD 10
3	L.I. 3 TUB W/OUT DRAINBOARD LAR	3 STD 10 - 2010
4	PRYMASTER FRYER (FLOR MODEL)	U-15 SEP
5	KIOLT RANGE CO RANGE	CH 0-29
6	GIRLL	CH 0-10 FT 22
7	LANBERTSON'S ANGLED FRONT HOOD	HNH-MP-42-10-G1
8	PENNY ROOF EXHAUSTERS (UP EXHAUST)	PNK-100
9	L.I. WORKTABLE W/ BACKFLASH	STD 600
10	"	STD 600
11	BANNE AS NO 2	
12	BEVERAGE - AIR DEEP WELL COOLER	DN47
13	KELVINATOR ICE CREAM CABINET	KCC-47 FLOORGRAN
14	UNIVERSAL HOUN FREEZER UNITS	5UH-36

W/ THE FOLLOWING OPTIONS:
 WOODGRANI COUNTERTOP
 ADJUSTABLE INTERIOR SHELF
 SHELVING & CASTERS
 PRODUCT DIVIDER
 DAB RACK W/ LIO LOCK

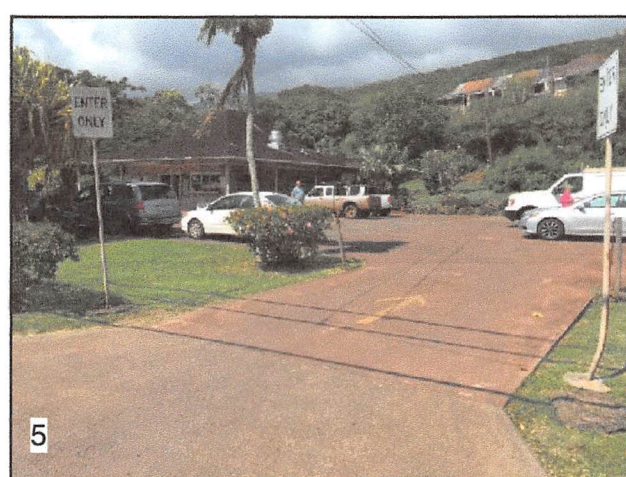
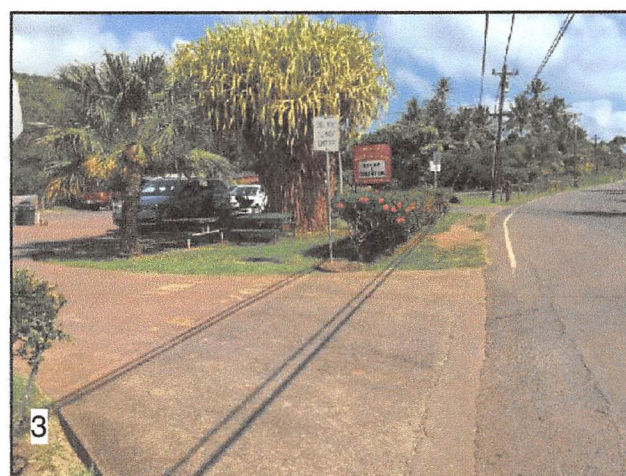
NOTE

PRE-FINISHED CABINETS W/ FOOT MOUNTED COUNTERTOP IN SNACK BAR

STORE FOR
 Christine Ward
 P.O. Box 1799
 Kaunakakai, HI 96748



NEIGHBORHOOD STORE AND LUNCH COUNTER
8615 KAMEHAMEHA V HIGHWAY, PUKOO, KAUNAKAKAI HI 96748
TMK: (2) 5-7-005:004



NEIGHBORHOOD STORE AND LUNCH COUNTER
8615 KAMEHAMEHA V HIGHWAY, PUKOO, KAUNAKAKAI HI 96748
TMK: (2) 5-7-005:004

1. FRONT OF STORE LOOKING
NORTH
2. LOOKING WEST ALONG
KAMEHAMEHA V HWY
3. LOOKING EAST ALONG
KAMEHAMEHA HWY
4. SOUTH WEST CORNER OF STORE
LOOKING NORTH EAST
5. ENTRANCE DRIVEWAY LOOKING
NORTH WEST
6. EAST ELEVATION LOOKING WEST
7. OVERHEAD VIEW OF STORE

AGENCY TRANSMITTAL RESPONSE e-FORM
FOR DEPARTMENT OF PLANNING, COUNTY OF MAUI
2/2/2018


AGENCY NAME	Department of Environmental Mgmt.	PHONE	270-8230
PROJECT:	Neighborhood Store and Lunch Counter		
APPLICANT:	Christine Ward		
STREET ADDRESS:	8615 Kamehameha V Highway, Pukoo, Molokai		
PROJECT DESCRIPTION:	To operate a store and lunch counter on 20,045 sq.ft. portion of 70.944 acre parcel of land		
TMK:	(2) 5-4-005:004 (POR)		
PERMIT NO.:	SUP2 2017/0024 and CP 2017/0005		
<input checked="" type="checkbox"/> COMMENTS/RECOMMENDATIONS <input type="checkbox"/> NO COMMENTS			
WASTEWATER RECLAMATION DIVISION COMMENTS			
<p>a. The project will be subject to WWRD Pretreatment requirements. Submit Appenidx H sizing calculation and a plumbing plan for our review and approval.</p> <p>b. The County does not have a wastewater system in the area of the subject project.</p>			
<input checked="" type="checkbox"/> COMMENTS/RECOMMENDATIONS <input type="checkbox"/> NO COMMENTS			
SOLID WASTE DIVISION COMMENTS			
Developer must apply to the Molokai Landfill to dispose of construction and commercial waste.			
Signed:			
Print Name:	Michael M. Miyamoto, Deputy Director	Date	2/2/2017

EXHIBIT : 3

AGENCY NAME		PHONE	
--------------------	--	--------------	--

Agency Transmittal – NEIGHBORHOOD STORE AND LUNCH COUNTER (SUP2 2017/0024)
 January 11, 2018
 Page 2

xc: Clayton I. Yoshida, AICP, Planning Program Administrator (PDF)
 Sybil K. Lopez, Molokai Planner (PDF)
 Project File

SKL:rma
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NO COMMENT			
	<i>Gladys C. Baisa</i>	Dated:	JAN 22 2018
Print Name:	<i>Gladys C. Baisa</i>	Title:	<i>Deputy Director</i>

RECOMMENDED CONDITIONS BOX			
Signed:		Dated:	
Print Name:		Title:	

GENERAL COMMENTS BOX			
Signed:		Dated:	
Print Name:		Title:	

EXHIBIT : 4

AGENCY NAME	MPO	PHONE	
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Agency Transmittal – NEIGHBORHOOD STORE AND LUNCH COUNTER (SUP2 2017/0024)

January 11, 2018

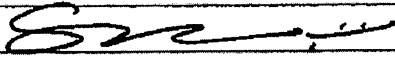
Page 2

xc: Clayton I. Yoshida, AICP, Planning Program Administrator (PDF)
 Sybil K. Lopez, Molokai Planner (PDF)
 Project File

SKL:rma

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NO COMMENT			
		Dated:	01/25/18
Print Name:	SEULONA FALEALI	Title:	1055 HRS.

RECOMMENDED CONDITIONS BOX			
No COMMENT			
Signed:		Dated:	
Print Name:		Title:	

GENERAL COMMENTS BOX			
Signed:		Dated:	
Print Name:		Title:	

EXHIBIT : 5

7649

ALAN M. ARAKAWA
Mayor

DAVID C. GOODE
Director

ROWENA M. DAGDAG-ANDAYA
Deputy Director

Telephone: (808) 270-7845
Fax: (808) 270-7955



GLEN A. UENO, P.E., P.L.S.
Development Services Administration

CARY YAMASHITA, P.E.
Engineering Division

JOHN R. SMITH, P.E.
Highways Division

COUNTY OF MAUI
DEPARTMENT OF PUBLIC WORKS
200 SOUTH HIGH STREET, ROOM NO. 434
WAILUKU, MAUI, HAWAII 96793

February 5, 2018

MEMO TO: WILLIAM R. SPENCE, PLANNING DIRECTOR

FROM: ✓ DAVID C. GOODE, DIRECTOR OF PUBLIC WORKS

SUBJECT: **APPLICATIONS FOR STATE LAND USE COMMISSION SPECIAL USE PERMIT AND CONDITIONAL PERMIT FOR NEIGHBORHOOD STORE AND LUNCH COUNTER – CHRISTINE WARD; TMK: (2) 5-7-005:004 (POR.) SUP2 2017/0024; CP 2017/0005**

We reviewed the subject applications and have the following comment:

Comments from the Development Services Administration (DSA), Plans Review Section:

1. Building Permit No. B1985/0312 was issued on February 27, 1985 for the market. It appears additions were added to the building without a building permit.

If you have any questions regarding this memorandum, please call Rowena M. Dagdag-Andaya at 270-7845.

DCG:RMDA:da

xc: Highways Division
Engineering Division

S:\DSA\Engr\CZM\Draft Comments\57005004_neighborhood_mkt_cp_sup2.rtf

COUNTY OF MAUI
DEPT. OF PLANNING - CURRENT

FEB - 7 2018
RECEIVED

EXHIBIT : 6

18/1510

ALAN M. ARAKAWA
Mayor

DAVID C. GOODE
Director

ROWENA M. DAGDAG-ANDAYA
Deputy Director

Telephone: (808) 270-7845
Fax: (808) 270-7955



GLEN A. UENO, P.E., P.L.S.
Development Services Administration

CARY YAMASHITA, P.E.
Engineering Division

JOHN R. SMITH, P.E.
Highways Division

RECEIVED

COUNTY OF MAUI
DEPARTMENT OF PUBLIC WORKS
200 SOUTH HIGH STREET, ROOM NO. 434
WAILUKU, MAUI, HAWAII 96793
MARCH 23 A 8 20
COUNTY OF MAUI
DEPT. OF PLANNING
ADMINISTRATION

March 20, 2018

MEMO TO: WILLIAM R. SPENCE, PLANNING DIRECTOR

FROM: DAVID C. GOODE, DIRECTOR OF PUBLIC WORKS *DCG*

SUBJECT: **RESPONSE TO COMMENTS: APPLICATIONS FOR STATE LAND USE AND CONDITIONAL PERMIT FOR NEIGHBORHOOD STORE AND LUNCH COUNTER – CHRISTINE WARD**
TMK: (2) 5-7-005:004 (POR.)
SUP2 2017/0024; CP 2017/0005

We reviewed the subject application and have the following comment:

Comment from the Development Services Administration (DSA), Plans Review Section:

1. We have no objection with the CP/SUP moving forward. We will continue to work with the applicant.

If you have any questions regarding this memorandum, please call Rowena M. Dagdag-Andaya at 270-7845.

DCG:RMDA:da

xc: Highways Division
Engineering Division

Sybil Lopez, Molokai Planner – Current Division (Email)

S:\DSA\Engr\CZM\Draft Comments\57005004_neighborhood_mkt_cp_sup2_resp_to_cmt.rtf

ARCHITECTURAL DRAFTING SERVICE

P.O. BOX 1718

KAUNAKAKAI, HI 96748

Phone: (808) 553-9045 - Fax: (808) 553-3952 - Mobile: (808) 870-3499

Email: luigi@luigimanera.com

March 1, 2018

County of Maui
Department of Public Works
David C. Goode, Director
Development Services Administration
200 South High Street, Room 434
Wailuku, Hawaii 96793

Reply to comments for:

Subject: Neighborhood Store and Lunch Counter
Applicant: Christine Ward
Permit No.: SUP2 2017/0024 and CP 2017/0005
TMK: (2) 5-7-005:004 (POR.)
Location: 8615 Kamehameha V Highway, Pukoo, Molokai
Description: To operate a store and lunch counter on a 20,045 sq. ft. portion of a 70.944 acre parcel of land

Dear Mr. Goode,

Thank you for your comments dated February 5, 2018.

Our reply is as follows:

We are not aware of any unpermitted work at the property. Upon the discovery of any unpermitted work we will correct the discrepancy.

There is no change to the existing business operation associated with this permit application.

Mahalo,

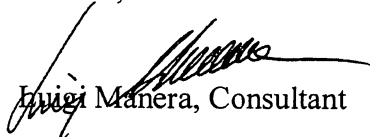

Luigi Manera, Consultant

EXHIBIT 17

DAVID Y. IGE
GOVERNOR OF HAWAII



SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

February 15, 2018

County of Maui
Department of Planning
Attention: Ms. Sybil K. Lopez, Molokai Planner
2200 Main Street, Suite 315
Wailuku, Hawaii 96793

via email: sybil.lopez@mauicounty.gov

Dear Ms. Lopez:

SUBJECT: Special Use Permit (SUP2 2017/0024) and Conditional Permit (CP 2017/0005) for **Neighborhood Store N Counter** located at Pukoo, Kaunakakai, Island of Molokai; TMK: (2) 5-7-005:004

Thank you for the opportunity to review and comment on the subject matter. The Department of Land and Natural Resources' (DLNR) Land Division distributed or made available a copy of your report pertaining to the subject matter to DLNR Divisions for their review and comments.

At this time, enclosed are comments from the (a) Engineering Division, (b) Office of Conservation & Coastal Lands; and (c) Land Division – Maui District on the subject matter. Should you have any questions, please feel free to call Darlene Nakamura at (808) 587-0417. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Russell Y. Tsuji".

Russell Y. Tsuji
Land Administrator

Enclosures
cc: Central Files

EXHIBIT : 8

DAVID Y. IGE
GOVERNOR OF HAWAII



SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

January 25, 2018

MEMORANDUM

TO:

DLNR Agencies:

- Div. of Aquatic Resources
- Div. of Boating & Ocean Recreation
- Engineering Division
- Div. of Forestry & Wildlife
- Div. of State Parks
- Commission on Water Resource Management
- Office of Conservation & Coastal Lands
- Land Division – Maui District
- Historic Preservation

FROM

FROM:

SUBJECT:

Russell Y. Tsuji, Land Administrator
Special Use Permit (SUP2 2017/0024) and Conditional Permit (CP
2017/0005) for **Neighborhood Store N Counter**

LOCATION:

Pukoo, Kaunakakai, Island of Molokai; TMK: (2) 5-7-005:004

APPLICANT:

County of Maui, Department of Planning on behalf of Christine Ward

Transmitted for your review and comment is information on the above-referenced subject matter. An extension was granted; therefore, we would appreciate your comments by **February 13, 2018.**

If no response is received by this date, we will assume your agency has no comments. If you have any questions about this request, please contact Darlene Nakamura at 587-0417. Thank you.

- We have no objections.
- We have no comments.
- Comments are attached.

Signed:

Print Name:

Carty S. Chang, Chief Engineer

Date:

1/31/18

Attachments

cc: Central Files

18 JAN 29 PM 10:45 ENGINEERING
RECEIVED
LAND DIVISION

2018 FEB - 1 10:05 AM

**DEPARTMENT OF LAND AND NATURAL RESOURCES
ENGINEERING DIVISION**

LD/Russell Y. Tsuji

Ref: Special Use Permit (SUP2 2017/0024) and Conditional Permit (CP 2017/0005) for Neighborhood Store N Counter, Pukoo, Kaunakakai, Island of Molokai; TMK: (2) 5-7-005:004

COMMENTS

The rules and regulations of the National Flood Insurance Program (NFIP), Title 44 of the Code of Federal Regulations (44CFR), are in effect when development falls within a Special Flood Hazard Area (high risk areas). Be advised that 44CFR reflects the minimum standards as set forth by the NFIP. Local community flood ordinances may stipulate higher standards that can be more restrictive and would take precedence over the minimum NFIP standards.

The owner of the project property and/or their representative is responsible to research the Flood Hazard Zone designation for the project. Flood Hazard Zones are designated on FEMA's Flood Insurance Rate Maps (FIRM), which can be viewed on our Flood Hazard Assessment Tool (FHAT) (<http://gis.hawaiiinfip.org/FHAT>).

If there are questions regarding the local flood ordinances, please contact the applicable County NFIP coordinating agency below:

- o Oahu: City and County of Honolulu, Department of Planning and Permitting (808) 768-8098.
- o Hawaii Island: County of Hawaii, Department of Public Works (808) 961-8327.
- o Maui/Molokai/Lanai County of Maui, Department of Planning (808) 270-7253.
- o Kauai: County of Kauai, Department of Public Works (808) 241-4846.

Signed: 
CARTY S. CHANG, CHIEF ENGINEER

Date: 7/20/16

ARCHITECTURAL DRAFTING SERVICE

P.O. BOX 1718

KAUNAKAKAI, HI 96748

Phone: (808) 553-9045 - Fax: (808) 553-3952 - Mobile: (808) 870-3499

Email: luigi@luigimanera.com

March 1, 2018

State of Hawaii
Department of Land and Natural Resources
Land Division
Engineering Division
Russell Y. Tsuji, Land Administrator
P.O. Box 621
Honolulu, HI 96809

Reply to comments for:

Subject: Neighborhood Store and Lunch Counter
Applicant: Christine Ward
Permit No.: SUP2 2017/0024 and CP 2017/0005
TMK: (2) 5-7-005:004 (POR.)
Location: 8615 Kamehameha V Highway, Pukoo, Molokai
Description: To operate a store and lunch counter on a 20,045 sq. ft. portion of a 70.944 acre parcel of land

Dear Mr. Tsuji,

Thank you for your comments dated January 25, 2018.

Our reply is as follows:

We have researched the Flood Hazard Zone designation and found it to be both AE BFE 8' and X.

There is no change to the existing business operation associated with this permit application.

Mahalo,



Luigi Manera, Consultant

EXHIBIT : 9

DAVID Y. IGE
GOVERNOR OF HAWAII



MO-18-149

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

January 25, 2018

MEMORANDUM

FROM:

TO:

DLNR Agencies:

- Div. of Aquatic Resources
- Div. of Boating & Ocean Recreation
- Engineering Division
- Div. of Forestry & Wildlife
- Div. of State Parks
- Commission on Water Resource Management
- Office of Conservation & Coastal Lands
- Land Division – Maui District
- Historic Preservation

TO:

FROM: *R* Russell Y. Tsuji, Land Administrator *Ka*
 SUBJECT: Special Use Permit (SUP2 2017/0024) and Conditional Permit (CP 2017/0005) for **Neighborhood Store N Counter**
 LOCATION: Pukoo, Kaunakakai, Island of Molokai; TMK: (2) 5-7-005:004
 APPLICANT: County of Maui, Department of Planning on behalf of Christine Ward

Transmitted for your review and comment is information on the above-referenced subject matter. An extension was granted; therefore, we would appreciate your comments by **February 13, 2018**.

If no response is received by this date, we will assume your agency has no comments. If you have any questions about this request, please contact Darlene Nakamura at 587-0417. Thank you.

PROPERTY W/IN
SLU AG DISTRICT - No
WORK PROPOSED IN
SLU CON DISTRICT.
NO COMMENTS.

- We have no objections.
- We have no comments.
- Comments are attached.

Signed: *[Signature]*

Print Name: ALEX J. ROY

Date: 2-7-18

Attachments
cc: Central Files

EXHIBIT : 10

RECEIVED
LAND DIVISION
2018 JAN 29 11:03 AM
MAIL ROOM

ARCHITECTURAL DRAFTING SERVICE

P.O. BOX 1718

KAUNAKAKAI, HI 96748

Phone: (808) 553-9045 - Fax: (808) 553-3952 - Mobile: (808) 870-3499

Email: luigi@luigimanera.com

March 1, 2018

State of Hawaii
Department of Land and Natural Resources
Land Division
Office of Conservation and Coastal Lands
Russell Y. Tsuji, Land Administrator
P.O. Box 621
Honolulu, HI 96809

Reply to comments for:

Subject: Neighborhood Store and Lunch Counter
Applicant: Christine Ward
Permit No.: SUP2 2017/0024 and CP 2017/0005
TMK: (2) 5-7-005:004 (POR.)
Location: 8615 Kamehameha V Highway, Pukoo, Molokai
Description: To operate a store and lunch counter on 20,045 sq. ft. portion of a 70.944 acre parcel of land

Dear Mr. Tsuji,

Thank you for your comment of no comments dated January 25, 2018.

There is no change to the existing business operation associated with this permit application.

Mahalo,

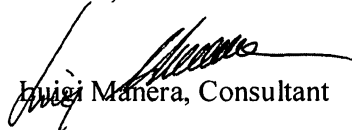

Luigi Manera, Consultant

EXHIBIT: 11

DAVID Y. IGE
GOVERNOR OF HAWAII



SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

January 25, 2018

MEMORANDUM

TO:

DLNR Agencies:

- Div. of Aquatic Resources
- Div. of Boating & Ocean Recreation
- Engineering Division
- Div. of Forestry & Wildlife
- Div. of State Parks
- Commission on Water Resource Management
- Office of Conservation & Coastal Lands
- Land Division – Maui District
- Historic Preservation

FROM:

R Russell Y. Tsuji, Land Administrator *KA*

SUBJECT:

Special Use Permit (SUP2 2017/0024) and Conditional Permit (CP 2017/0005) for **Neighborhood Store N Counter**

LOCATION:

Pukoo, Kaunakakai, Island of Molokai; TMK: (2) 5-7-005:004

APPLICANT:

County of Maui, Department of Planning on behalf of Christine Ward

Transmitted for your review and comment is information on the above-referenced subject matter. An extension was granted; therefore, we would appreciate your comments by **February 13, 2018**.

If no response is received by this date, we will assume your agency has no comments. If you have any questions about this request, please contact Darlene Nakamura at 587-0417. Thank you.

- We have no objections.
- We have no comments.
- Comments are attached.

Signed:

Daniel Ornellos

Print Name:

Daniel Ornellos

Date:

2/5/18

Attachments

cc: Central Files

2018 JAN 31 AM 11:09

RECEIVED
LAND DIVISION

RECEIVED
LAND DIVISION
2018 FEB 12 AM 11:00

*cc: 1/25/18
587-0417*

EXHIBIT : 12

ARCHITECTURAL DRAFTING SERVICE

P.O. BOX 1718

KAUNAKAKAI, HI 96748

Phone: (808) 553-9045 - Fax: (808) 553-3952 - Mobile: (808) 870-3499

Email: luigi@luigimanera.com

March 1, 2018

State of Hawaii
Department of Land and Natural Resources
Land Division-Maui District
Russell Y. Tsuji, Land Administrator
P.O. Box 621
Honolulu, HI 96809

Reply to comments for:

Subject: Neighborhood Store and Lunch Counter
Applicant: Christine Ward
Permit No.: SUP2 2017/0024 and CP 2017/0005
TMK: (2) 5-7-005:004 (POR.)
Location: 8615 Kamehameha V Highway, Pukoo, Molokai
Description: To operate a store and lunch counter onf 20,045 sq. ft. portion of a 70.944 acre parcel of land

Dear Mr. Tsuji,

Thank you for your comment of no comments dated January 25, 2018.

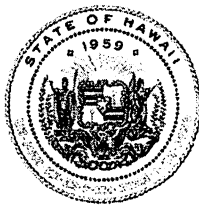
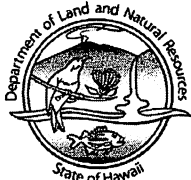
There is no change to the existing business operation associated with this permit application.

Mahalo,


Luigi Manera, Consultant

EXHIBIT : 13

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

STATE HISTORIC PRESERVATION DIVISION
KAKUHIHEWA BUILDING
601 KAMOKILA BLVD, STE 555
KAPOLEI, HAWAII 96707

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

February 22, 2018

Russell Y. Tsuji, Land Administrator
Land Division, Department of Land and Natural Resources
P.O. Box 621
Honolulu, HI 96809

IN REPLY REFER TO:
Log No. 2018.00162
Doc No. 1802GC13
Archaeology

Dear Mr. Tsuji:

SUBJECT: **Chapter 6E-42 Historic Preservation Review –
Special Use Permit (SUP2 2017/0024) and Conditional Permit (CP 2017/005)
Neighborhood Store and Lunch Counter – Christine Ward
Puko'o Ahupua'a, Kona District, Island of Moloka'i
TMK: (2) 5-7-005:004 por.**

This letter provides the State Historic Preservation Division's (SHPD's) review comments regarding the subject permit application. The applicant, Christina Ward, who holds a lease agreement with the property owner, Moncado & His Mission, LTD, proposes to operate a Neighborhood Store and Lunch Counter on a 20,045-sq.-ft. portion of the 70.944-acre parcel, identified as TMK: (2) 5-7-005:004, located at 8615 Kamehameha V Highway. SHPD received this submittal on January 30, 2018.

A review of SHPD records indicates Puko'o Heiau or Ka Oua'awa Heiau (Site 50-60-05-00024) is located at the foot of the hill directly behind of the existing neighborhood store and lunch counter. In addition, Puko'o Heiau is a contributing historic property to the South-East Molokai Archaeological District (Site 50-60-05-00322), which includes fishponds, habitations sites and agricultural sites. The USDA identifies the soils as Alaeloa clay (AME3) (Foote et al. 1982).

Based on the available information, **SHPD has no objections** to the issuance of SUP2 2017/0024 and CP 2017/005 to operate a neighborhood store and lunch counter; a continuation of the existing use of the project area.

SHPD requests the opportunity to review and comment on any future permit applications involving ground disturbing activities. The permit issuance process may continue.

Please contact me at (808) 692-8019 or at Susan.A.Lebo@hawaii.gov if you have any questions regarding this letter.

Aloha,

Handwritten signature of Susan A. Lebo in cursive.

Susan A. Lebo, PhD
Archaeology Branch Chief

cc: Darlene Nakamura, DLNR-Land (Darlene.K.Nakamura@hawaii.gov)
Maui County: sybil.lopez@mauicounty.gov; planning@co.maui.hi.us, Analise.Kehler@co.maui.hi.us

EXHIBIT : 14

18/530-

DEPT. OF PLANNING
COUNTY OF MAUI

JAN 31 2018

RECEIVED



DAVID Y. IGE
GOVERNOR

RODERICK K. BECKER
Comptroller

AUDREY HIDANO
Deputy Comptroller

STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
LAND SURVEY DIVISION
P.O. BOX 119, HONOLULU, HAWAII 96810-0119

Response Refer to:
Mo-020(18)

January 26, 2018

MEMORANDUM

TO: William R. Spence, Director
Department of Planning, County of Maui

ATTN: Sybil K. Lopez, Molokai Planner

FROM: Reid K. Siarot, State Land Surveyor *RS*
DAGS, Survey Division

SUBJECT: Neighborhood Store and Lunch Counter
Applicant: Christine Ward
Permit Nos.: SUP2 2017/0024 and CP 2017/0005
TMK: 5-7-05: Por. 04

This is in regards to your transmittal dated January 11, 2018 and request for comments on the subject project.

Research of our records indicate a government survey control station is located near the boundary of the subject property. The survey control station is Bench Mark 3 (1925). See enclosed U.S. Coast and Geodetic Survey, Tidal Bench Mark sheet.

Please be advised that if any government survey control stations will be disturbed or destroyed, the stations must be referenced and also later replaced by a Licensed Professional Land Surveyor. Copies of the field notes, calculations, and updated description of bench mark (w/location sketch) should be sent to our office for review and filing.

Should you have any questions, please call me at 586-0390.

Enclosure

EXHIBIT : 15

4/24/51

HAWAIIAN ISLANDS - 17

U. S. COAST AND GEODETIC SURVEY

TIDAL BENCH MARKS

Pukoo, Pukoo Harbor, Molokai Island
Lat. 21° 04'3; Long. 156° 48'.0

BENCH MARK 1 (1925) is a standard disk, stamped "1 1925", set in concrete base of shore end of what was formerly wharf. Bench mark is on west side where it joined shore. Only few piles of old wharf remain. Elevation: 4.98 feet above mean lower low water.

BENCH MARK 2 (1925) is a standard disk, stamped "2 1925", set in solid rock just above level of and on north side of main road, where it joins road from ruined wharf. Bench mark is 10 feet southeast of southeast corner of Molokai Soda Works. Elevation: 6.54 feet above mean lower low water.

BENCH MARK 3 (1925) is a standard disk, stamped "3 1925", set vertically, flush with large rock in stone wall about 400 yards airline from shore end of ruined wharf. Bench mark is about 50 yards northeast of northwest corner of Pukoo Fish Pond, on north side of main road, about 15 feet west of point where stone property wall joins stone highway wall and about 1 foot above ground. Elevation: 8.98 feet above mean lower low water.

Mean lower low water at Pukoo is based on 6 high waters and 7 low waters, April 6-9, 1925, reduced to mean values. Elevations of other tide planes referred to this datum are as follows:

	<u>Feet</u>
Highest tide (estimated)	3.5
Mean higher high water	2.10
Mean high water	1.60
Half tide level	0.90
Mean low water	0.20
Mean lower low water	0.00
Lowest tide (estimated)	-1.0

**ARCHITECTURAL DRAFTING SERVICE
P.O. BOX 1718**

KAUNAKAKAI, HI 96748

Phone: (808) 553-9045 - Fax: (808) 553-3952 - Mobile: (808) 870-3499

Email: luigi@luigimanera.com

March 1, 2018

State of Hawaii
Department of Accounting and General Services
Land Survey Division
Reid K. Siarot, State Land Surveyor
P.O. Box 119
Honolulu, HI 96810-0119

Reply to comments for:

Subject: Neighborhood Store and Lunch Counter
Applicant: Christine Ward
Permit No.: SUP2 2017/0024 and CP 2017/0005
TMK: (2) 5-7-005:004 (POR.)
Location: 8615 Kamehameha V Highway, Pukoo, Molokai
Description: To operate a store and lunch counter on 20,045 sq. ft. portion of a 70.944 acre parcel of land

Dear Mr. Siarot,

Thank you for your comments dated January 26, 2018.

Our reply is as follows:

There is no construction activity associated with this application and the government survey control station noted in your comments will not be disturbed.

There is no change to the existing business operation associated with this permit application.

Mahalo,


Luigi Manera, Consultant

EXHIBIT : 16

18/455
DAVID Y. IGE
GOVERNOR OF HAWAII



VIRGINIA PRESSLER, M.D.
DIRECTOR OF HEALTH

LORRIN W. PANG, M.D., M.P.H.
DISTRICT HEALTH OFFICER

STATE OF HAWAII
DEPARTMENT OF HEALTH
MAUI DISTRICT HEALTH OFFICE
54 HIGH STREET
WAILUKU, HAWAII 96793-3378

COUNTY OF MAUI
DEPT. OF PLANNING - CURRENT

JAN 26 2018

RECEIVED

January 24, 2018

Mr. William R. Spence
Director
Department of Planning
One Main Plaza Building
2200 Main Street, Suite 315
Wailuku, Hawai'i 96793

Attn: Sybil K. Lopez

Dear Mr. Spence:

Subject: Neighborhood Store and Lunch Counter
Applicant: Christine Ward
Permit No.: SUP2 2017/0024 and CP 2017/0005
TMK: (2) 5-7-005:004 (POR.)
Location: 8615 Kamehameha V Highway, Pukoo, Molokai
Description: To operate a store and lunch counter on 20,045 sq. ft. portion of a 70.944 acre parcel of land

Thank you for the opportunity to review this project. We have the following comments to offer:

The project must comply with Hawaii Administrative Rules, Chapter 11-62, "Wastewater Systems" Section 11-62-07.1, requirement for non-domestic wastewater.

Section 11-62-07.1 (b), states, Non-domestic wastewater includes, but is not limited to:

- (1) Wastewater from agricultural, commercial, or industrial activities or operations;
- (2) Solids, semi-solids or liquids removed from the non-domestic wastewater;
- (3) Wastewater that contains a mix of both domestic and non-domestic wastewater; or
- (4) Solids, semi-solids, or liquids removed from wastewater that contains a mix of both domestic and non-domestic wastewater.

If you have any questions, please call Roland Tejano, Environmental Engineer, at 808 984-8232.

EXHIBIT: 17

Mr. William R. Spence
January 24, 2018
Page 2

It is strongly recommended that the Standard Comments found at the Department's website: <http://health.hawaii.gov/epo/home/landuse-planning-review-program/> be reviewed and any comments specifically applicable to this project should be adhered to.

Should you have any questions, please contact me at 808 984-8230 or email me at patricia.kitkowski@doh.hawaii.gov.

Sincerely,



Patti Kitkowski
District Environmental Health Program Chief

c EPO {Via Email}

18/832
DAVID Y. IGE
GOVERNOR OF HAWAII



VIRGINIA PRESSLER, M.D.
DIRECTOR OF HEALTH

LORRIN W. PANG, M.D., M.P.H.
DISTRICT HEALTH OFFICER

STATE OF HAWAII
DEPARTMENT OF HEALTH
MAUI DISTRICT HEALTH OFFICE
54 HIGH STREET
WAILUKU, HAWAII 96793-3378

February 14, 2018

Mr. Luigi Manera
Architectural Drafting Service
P. O. Box 1718
Kaunakakai, Hawaii 96748

Dear Mr. Manera:

Subject: Neighborhood Store and Lunch Counter
Applicant: Christine Ward
Permit No. SUP2 2017/0024 and CP 2017/0005
TMK: (2) 5-7-005:004 (por.)
Description: 8615 Kamehameha V Highway, Pukoo, Molokai

Thank you for your letter dated February 5, 2018. Here are our comments:

The existing septic tank system for the permitted Food Establishment needs to comply with Hawaii Administrative Rules (HAR), Chapter 11-62, Section 11-62-07.1, Requirements for non-domestic wastewater, by installing a grease trap. The wastewater generated by the Food Establishment needs to go through a grease trap before entering the septic tank to comply with the current rules. Please contact Mr. Sonny Huh, Pretreatment Coordinator, at the County of Maui, Wastewater Reclamation Division. You may contact him at 808 270-7988 or email him at sonny.huh@co.maui.hi.us.

Should you have any questions, please contact me at 808 984-8230 or email me at patricia.kitkowski@doh.hawaii.gov.

Sincerely,

Patti Kitkowski

District Environmental Health Program Chief

COUNTY OF MAUI
DEPT. OF PLANNING - CURRENT

FEB 16 2018

RECEIVED

c Sybil K. Lopez, Planning Dept.
Sunny Huh, Wastewater Reclamation Div.
EPO

EXHIBIT

ARCHITECTURAL DRAFTING SERVICE

P.O. BOX 1718

KAUNAKAKAI, HI 96748

Phone: (808) 553-9045 - Fax: (808) 553-3952 - Mobile: (808) 870-3499

Email: luigi@luigimanera.com

February 5, 2018

State of Hawaii
Department of Health
Maui District Health Office
Patti Kitkowski
District Environmental Health Program Chief
54 High Street
Wailuku, Hawaii 96793-3378

Reply to comments for:

Subject: Neighborhood Store and Lunch Counter
Applicant: Christine Ward
Permit No.: SUP2 2017/0024 and CP 2017/0005
TMK: (2) 5-7-005:004 (POR.)
Location: 8615 Kamehameha V Highway, Pukoo, Molokai
Description: To operate a store and lunch counter on a 20,045 sq. ft. portion of a 70.944 acre parcel of land

Dear Ms. Kitkowski,

Thank you for your comments dated January 24, 2018.

Our reply is as follows:

The individual wastewater system for this property is existing, has been in service since it was originally installed, and is compliant with State law.

There is no change to the existing business operation associated with this permit application.

Mahalo,

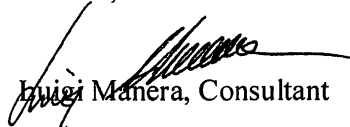

Luigi Manera, Consultant

EXHIBIT : 18

BEFORE THE MOLOKAI PLANNING COMMISSION

COUNTY OF MAUI

STATE OF HAWAII

In The Matter of The Applications of

MRS. CHRISTINE WARD FOR
NEIGHBORHOOD STORE "N" COUNTER

requesting a Conditional Permit and State Land Use Commission Special Permit in order to operate a store and lunch counter in the State Agricultural District on an approximately 20,045 sq.ft. portion of 70.944 acres of land at 8615 Kamehameha V Highway, TMK: 5-7-005:004, Pukoo, Island of Molokai.

DOCKET NO. SUP2 2017/0005
CP 2017/0024

Mrs. Christine Ward
Neighborhood Store "N" Counter
(SLopez)

MAUI COUNTY PLANNING DEPARTMENT'S RECOMMENDATION
TO THE MOLOKAI PLANNING COMMISSION
MAY 9, 2018 MEETING

DEPARTMENT OF PLANNING
COUNTY OF MAUI
2200 MAIN STREET, STE #315
WAILUKU, MAUI, HI. 96793

Conditional Permit

Land Use Commission Special Permit

K:\WP_DOCS\PLANNING\SUP2\2017\0005_ NeighborhoodStore\Staff Report to Approval\Recommendation.doc

BEFORE THE MOLOKAI PLANNING COMMISSION

COUNTY OF MAUI

STATE OF HAWAII

In The Matter of The Applications of

MRS. CHRISTINE WARD FOR
NEIGHBORHOOD STORE "N" COUNTER

requesting a Conditional Permit and State Land Use Commission Special Permit in order to operate a store and lunch counter in the State Agricultural District on an approximately 20,045 sq.ft. portion of 70.944 acres of land at 8615 Kamehameha V Highway, TMK: 5-7-005:004, Pukoo, Island of Molokai.

DOCKET NO. SUP2 2017/0005
CP 2017/0024

Mrs. Christine Ward
Neighborhood Store "N" Counter
(SLopez)

CONCLUSIONS OF LAW

Land Use Commission Special Permit

The application for a Land Use Commission Special Permit complies with the applicable standards for an "unusual and reasonable" use within the State Agricultural District for reasons stated in the Maui County Planning Department's Report to the Molokai Planning Commission dated May 9, 2018 for Docket No. SUP2 2017/0005 and as follows:

The use shall not be contrary to the objectives sought to be accomplished by chapters 205 and 205A, HRS, and the rules of the Land Use Commission.

The desired use will not adversely affect surrounding property;

The use would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage and school improvements, and police and fire protection;

Unusual conditions, trends and needs have arisen since the district boundaries and rules were established;

The land upon which the proposed use is sought is unsuited for the uses permitted within the district.

Conditional Permit

The Planning Department finds that the project meets the criteria for the issuance of a conditional permit. The use is anticipated to be in harmony with the area in which it is located and will not be significantly detrimental to the public interest, convenience and welfare. The application complies with the applicable standards for a conditional permit.

A conditional permit is reviewed pursuant to Title 19, Zoning, Chapter 19.40 Conditional Permits; Maui County Code, 1980, as amended. The intent of the conditional permit is to provide the opportunity to consider establishing uses not specifically permitted within a given use zone where the proposed use is similar, related or compatible to those permitted uses and which has some special impact or uniqueness such that its effect on the surrounding environment cannot be determined in advance of the use being proposed for a particular location.

Upon finding that reasons justifying granting of a conditional permit exist, and that the proposed use would not be significantly detrimental to the public interest, convenience and welfare, and will be in harmony with the area in which it is to be located; issuance of a conditional permit may be recommended, subject to such terms and conditions and for such period of time as the facts may warrant.

Should the Molokai Planning Commission determine that the permit requested is for a use which is substantially different from those uses permitted in the use zone, the Commission shall recommend denial of the request and may instruct the Applicant to seek a change in zoning should the facts warrant such an application.

Every conditional permit shall be conditioned upon the proposed development fully complying with all requirements of Title 19 and other applicable governmental requirements.

RECOMMENDATION

The Maui County Planning Department recommends to the Molokai Planning Commission, approval of the **Land Use Commission Special Permit** subject to the following conditions:

1. That the Land Use Commission Special Permit shall be valid until May 31, 2023 or for the duration of the Conditional Permit whichever is later, subject to extension by the Maui County Planning Director upon a timely request for extension filed at least one-hundred twenty (120) days prior to its expiration. The Planning Director may forward the time-extension request to the Planning Commission for review and approval and may require a public hearing on the time extension by the Planning Commission.
2. That the subject Land Use Commission Special Permit shall not be transferred without the prior written approval of the Planning Director. However, in the event that a contested case hearing preceded issuance of said Land Use Commission Special Permit, a public hearing shall be held by the appropriate Planning Commission upon due published notice, including actual written notice to the last known addresses of parties to said contested case and their counsel.
3. That the applicant, its successors and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject Land Use Commission Special

Permit and shall procure at its own cost and expense, and shall maintain during the entire period of this Land Use Commission Special Permit, a policy or policies of comprehensive liability insurance in the minimum amount of ONE MILLION AND NO/100 DOLLARS (1,000,000.00) naming the County of Maui as an additional insured, insuring and defending the applicant and the County of Maui against any and all claims or demands for property damage, personal injury and/or death arising out of this permit, including but not limited to: (1) claims from any accident in connection with the permitted use, or occasioned by any act or nuisance made or suffered in connection with the permitted use in the exercise by the applicant of said rights; and (2) all actions, suits, damages and claims by whomsoever brought or made by reason of the non-observance or non-performance of any of the terms and conditions of this permit. Proof of a policy naming the County of Maui as an additional insured shall be submitted to the Department within ninety (90) calendar days from the date of transmittal of the decision and order. The proof of insurance and all subsequent certifications of insurance coverage shall be submitted directly by the insurance carrier and shall include the applicable TMK and permit numbers

4. That full compliance with all applicable governmental requirements shall be rendered.
5. That the applicant shall submit to the Department a detailed report addressing its compliance with these conditions. Two (2) hard copies and one digital copy by a compact disk or similar means shall be submitted. The Compliance Report shall be submitted to the Department with the request for time extension.
6. That the applicant shall develop the property in substantial compliance with the representations made to the Planning Commission in obtaining the Special Permit. Failure to so develop the property may result in the revocation of the permit.

Be advised that compliance with Codes, Covenants, and Restrictions (CC&Rs) of any applicable Homeowner's or Apartment Owner's Association is the sole responsibility of the Applicant.

In consideration of the foregoing, the Planning Department recommends that the Molokai Planning Commission adopt the Planning Department's Report and Recommendation prepared for the May 9, 2018, meeting as the Findings of Fact, Conclusion of Law and Decision and Order and authorize the Planning Director to transmit said written Decision and Order on behalf of the Molokai Planning Commission for the Land Use Commission Special Permit.

Further, the Department of Planning recommends that the Molokai Planning Commission recommend approval of the **Conditional Permit**, subject to the following conditions:

1. That the conditional permit shall be valid until five (5) years from the effective date of the ordinance; provided that an extension of this permit beyond this period may be granted pursuant to Section 19.40.090, Maui County Code.
2. That the conditional permit shall be nontransferable unless approved by the Maui County Council.
3. That the Applicant, its successors, and permitted assigns shall exercise reasonable due care as to third parties with respect to all areas affected by subject Conditional Permit and shall procure at its own cost and expense, and shall maintain during the entire period of this

Conditional Permit, a policy or policies of comprehensive liability insurance in the minimum amount of ONE MILLION AND NO/100 DOLLARS (1,000,000.00) naming the County of Maui as an additional named insured, insuring and defending the Applicant and County of Maui against any and all claims or demands for property damage, personal injury and/or death arising out of this conditional permit, including but not limited to: (1) claims from any accident in connection with the permitted use, or occasioned by any act or nuisance made or suffered in connection with the permitted use in the exercise by the Applicant of said rights; and (2) all actions, suits, damages and claims by whomsoever brought or made by reason of the non-observance or non-performance of any of the terms and conditions of this conditional permit. A copy of the certificate of insurance naming County of Maui as an additional named insured shall be submitted to the Department of Planning within ninety (90) calendar days from the date of approval of this conditional permit. The proof of insurance and all subsequent certifications of insurance coverage shall be submitted directly by the insurance carrier to the Department and shall include the applicable TMK and permit numbers.

4. That the applicant shall develop and use the property in substantial compliance with the representations made to the Maui County Council in obtaining the conditional permit. Failure to do develop the property may result in the revocation of the conditional permit pursuant to Section 19.40.080, Maui County Code.
5. That full compliance with all applicable governmental requirements shall be rendered in a timely manner.
6. That the market shall open no earlier than 6:00 am and close by 9:00 p.m.
7. That all Department of Health applicable requirements shall be met, including Hawaii Administrative Rules, Chapter 11-62, "Wastewater Systems and with Hawaii Administrative Rules, Chapter 11-50, "Food Safety Code." (Compliance shall be determined by the Department of Health and shall be provided prior to opening the market to the public.)
8. That all parking shall be on-site; no street parking allowed.
9. That a parking plan shall be submitted for approval by the Zoning, Administration and Enforcement Division (ZAED) prior to opening the market. Evidence of ZAED approval shall be submitted within the compliance report.
10. That the applicant shall submit to the Department of Planning compliance reports on the following basis with a request for renewal of the Conditional Permit.
11. The compliance reports shall address compliance with the conditions established with the subject Land Use Commission Special Permit. The report shall be in the format where the condition is listed followed by a response from the applicant. A copy of the original approval shall also be submitted with this report.

Further, the conditional permit conditions will be enforced pursuant to the provisions of Chapter 19.530, '19.530.030 of the Maui County Code, as amended, 1980; and the Rules for Administrative Procedures and Civil Fines for Violations of Titles 12, 14, 16, 19, and 20 of the Maui County Code.

The conditions of this State Special Permit shall be enforced pursuant to: §205-12 and 205-13, Hawaii Revised Statutes.

In consideration of the foregoing, the Planning Department recommends that the Molokai Planning Commission adopt the Planning Department's Report and Recommendation prepared for the May 9, 2018, meeting as the Findings of Fact, Conclusion of Law and Decision and Order and authorize the Planning Director to transmit the Conditional Permit recommendation to the Maui County Council on behalf of the Molokai Planning Commission.d

APPROVED:



WILLIAM SPENCE

W Planning Director

ORDINANCE NO. _____

BILL NO. _____ (2018)

A BILL FOR AN ORDINANCE GRANTING CHRISTINE WARD A CONDITIONAL PERMIT TO OPERATE A STORE AND LUNCH COUNTER WITHIN THE COUNTY AGRICULTURAL DISTRICT, FOR PROPERTY SITUATED AT 8615 KAMEHAMEHA V HIGHWAY, PUKO'O, MOLOKAI, HAWAII AND IDENTIFIED AS A PORTION OF TAX MAP KEY NUMBER (2) 5-7-005:004

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Pursuant to Chapter 19.40, Maui County Code, and subject to the conditions imposed in Section 2 of this ordinance, a Conditional Permit is hereby granted to Neighborhood Store and Lunch Counter to operate a store and lunch counter within the County Agricultural District. The site is identified for real property tax purposes as a portion of tax map key (2) 5-7-005:084, comprising approximately 20,045 square feet of a larger 70.944 acre parcel, situated at Puko'o, Molokai, Hawaii and **generally shown on Exhibit "A"**, attached hereto and incorporated herein by reference.

SECTION 2. The granting of the Conditional Permit is subject to the following conditions:

1. That the Conditional Permit shall be valid for ten (10) years from the effective date of the ordinance, provided that an extension of this Conditional Permit beyond this period may be granted pursuant to Section 19.40.090, Maui County Code (MCC).
2. That the Conditional Permit shall not be transferrable unless approved by the Maui County Council by ordinance.
3. That Christine Ward shall exercise reasonable due care as to third parties with respect to all areas affected by the Conditional Permit and shall procure at her own cost and expense, and shall maintain during the entire period of the Conditional Permit, a policy or policies of comprehensive liability insurance in the minimum amount of \$1,000,000 naming the County of Maui as an additional insured, insuring and defending Christine Ward and the County of Maui against any and all claims or demands for property damage, personal

injury, and/or death arising out of the Conditional Permit, including, but not limited to: (1) claims from any accident in connection with the permitted use, or occasioned by any act or nuisance made or suffered in connection with the permitted use in the exercise by Christine Ward of said rights; and (2) all actions, suits, damages, and claims by whomsoever brought or made by reason of the nonobservance or nonperformance of any of the terms and conditions of the Conditional Permit. A copy of the certificate of insurance naming the County of Maui as an additional insured shall be submitted to the Department of Planning within 90 calendar days from the effective date of this ordinance. The proof of insurance and all subsequent certifications of insurance coverage shall be submitted directly by the insurance carrier to the Department of Planning and shall include the applicable tax map key and permit numbers.

4. That Christine Ward shall develop and use the property in substantial compliance with the representations made to the Molokai Planning Commission and the Maui County Council in obtaining the Conditional Permit. Failure to so develop and use the property as represented may result in the revocation of the Conditional Permit pursuant to Section 19.40.080, Maui County Code.
5. That full compliance with all applicable governmental requirements shall be rendered in a timely manner.
6. That the market shall open no earlier than 6:00 a.m. and close by 9:00 p.m.
7. That all Department of Health applicable requirements shall be met, including Hawaii Administrative Rules, Chapter 11-62, "Wastewater Systems" and the Hawaii Administrative Rules, Chapter 11-50, "Food Safety Code".
8. That all parking shall be on-site; no street parking allowed.
9. That a parking plan shall be submitted to the Zoning Administration and Enforcement Division for the Department of Planning (ZAED) for its approval.
10. That Christine Ward shall submit compliance reports to the Department of Planning with any request for renewal of the Conditional Permit.

11. The compliance reports shall also address compliance with the conditions established with the subject Special Use Permit. The report shall be in a format where the condition is listed followed by a response by Christine Ward. A copy of the original approval shall also be submitted with this report.

SECTION 3. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM
AND LEGALITY:

MIMI DESJARDINS
Deputy Corporation Counsel
County of Maui
2018-0984

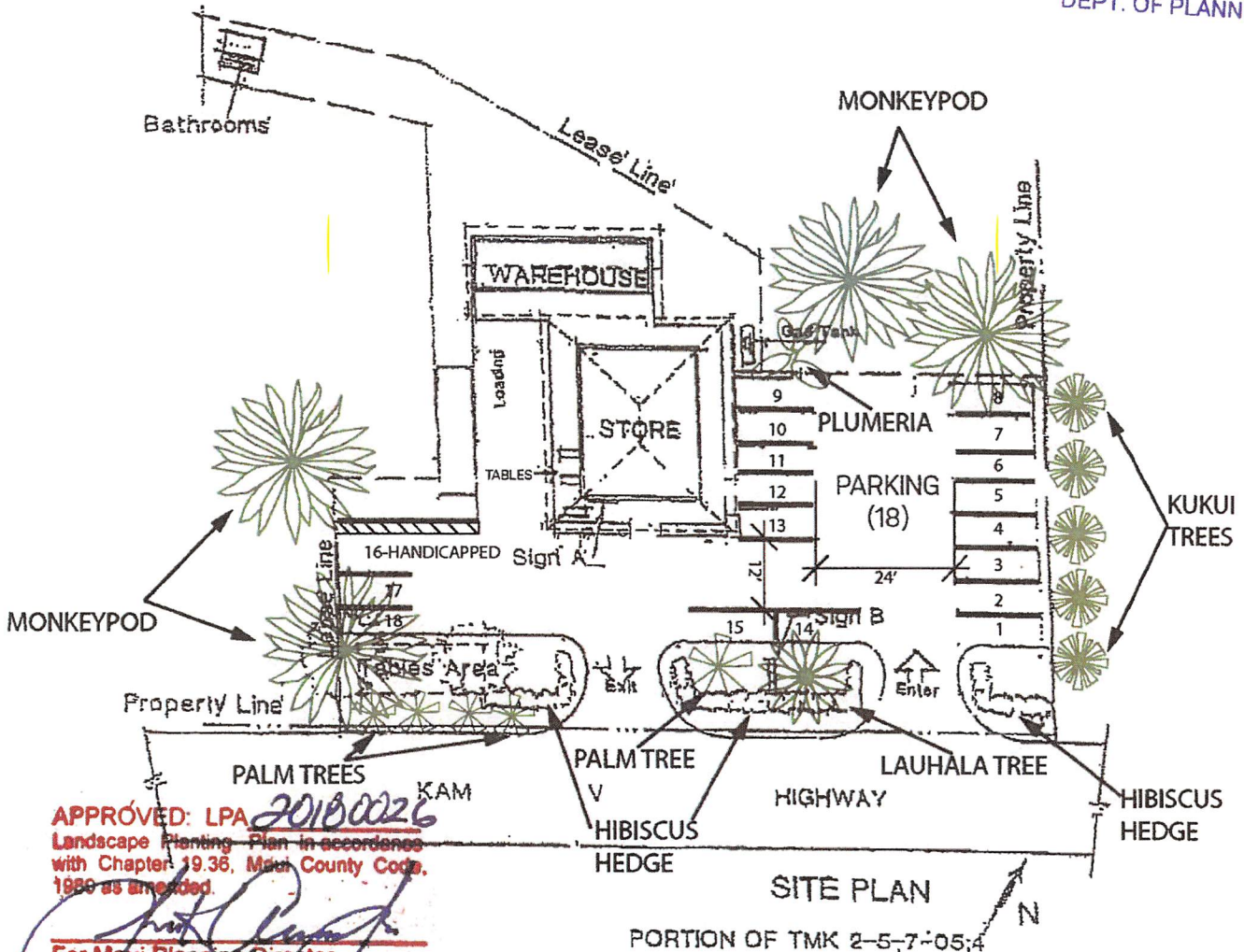
PARKING AND LANDSCAPING PLAN

17 PARKING STALLS 8'6" X 18' (STALLS 1-15, 17-18)
 1 HANDICAP PARKING STALL 11' X 18' (STALL # 16)
 1 LOADING ZONE 12' X 35'

RECEIVED

NOV - 2 2018

COUNTY OF MAUI
 DEPT. OF PLANNING



APPROVED: LPA 20180026
 Landscape Planting Plan in accordance
 with Chapter 19.36, Maui County Code,
 1989 as amended.

For Maui Planning Director
 Date: 11/5/18

Conditions of Approval:

1. The landscape planting shall be regularly irrigated by an automated system and maintained.
2. Electrical and plumbing permits shall be obtained from the Department of Public Works and Environmental Management, Development Services Administration (DSA) prior to initiation of installation of the irrigation system.
3. A PDF copy of the approved stamped plans shall be submitted to the Maui Planning Department, Zoning Administration and Enforcement Division (ZAED), prior to signing off on the building permit(s).

Note: Three (3) copies of the stamped plans are returned to the applicant for inclusion in the building permit plans and to prepare the PDF copy for filing with the Maui Planning Department, ZAED.

One copy is forwarded to the Zoning Inspector, ZAED.

NEIGHBORHOOD STORE

PUKO'O, MOLOKAI

NOT TO SCALE

MOLOKAI PLANNING COMMISSION
REGULAR MINUTES
MAY 9, 2018
(Agenda Items A - C.1.)

A. CALL TO ORDER

The regular meeting of the Molokai Planning Commission was called to order by Vice-Chairperson Lasua at approximately 11:00 a.m., Wednesday, May 9, 2018, at the Mitchell Pauole Center, 90 Ainoa St., Kaunakakai, Molokai.

A quorum of the Commission was present. (See Record of Attendance.)

Chairperson Lori Buchanan excused herself from chairing this meeting.

Vice-Chair Lasua: Okay, the Chair is going to sit back for a while. So I'll go ahead and call the meeting to order for the Molokai Planning Commission, on May 9, at 11 a.m. So first on the agenda is I'd like to amend the agenda. We'll go ahead and move item C.2., C.3. to right before the F. Communications, and then also for item -- item F.1., we'll defer that. Is that okay with the Commissioners? Okay, see no objection, we'll go ahead and amend the agenda.

There being no objections from the Commission, the agenda was amended with items C.2. and C.3. to be reviewed after item E.1.b.

B. PUBLIC TESTIMONY - At the discretion of the Chair, public testimony may also be taken when each agenda item is discussed, except for contested cases under Chapter 91, HRS. Individuals who cannot be present when the agenda item is discussed may testify at the beginning of the meeting instead and will not be allowed to testify again when the agenda item is discussed unless new or additional information will be offered. **Testimony will be limited to a maximum of three (3) minutes, with 30 seconds to conclude.**

Vice-Chair Lasua: So we'll go ahead and do public testimony. Is there any public testimony at this time? Come up and state your name, and you'll have three minutes. Okay, no public testimony. Okay, so we'll go to item C. Oh, I'll go ahead and close the public testimony then, and go on to item C., Public Hearings. So first item is C.1.

Vice-Chair Lasua read the following agenda item into the record:

C. PUBLIC HEARINGS (Action to be taken at the conclusion of each public hearing.)

1. **MRS. CHRISTINE WARD for NEIGHBORHOOD STORE AND LUNCH COUNTER requesting a Land Use Commission Special Permit and a Conditional Permit to continue the operation of the store and lunch counter on 20,045 sq. ft. of a 70.944 acre parcel in the State Agricultural District located at 8615 Kamehameha V Highway, TMK (2)**

5-2-011:037 (por.), Pukoo, Island of Molokai (SUP2 2017/0024) (CP 2017/0005) (S. Lopez)

Action can be taken on the Land Use Commission Special Permit and a recommendation can be made to the Council on the Conditional Permit.

Ms. Lopez: Thank you, Vice-Chair. I am Sybil Lopez, the Planner on this project that is in front of you. It's in the matter of the applications of Mrs. Christine Ward, for Neighborhood Store and Counter. This matter arises for a Conditional Permit and a State Land Use Commission permit, Special Permit, filed on November 29, 2017 by the consultant, Luigi Manera, who is here today, and I will turn the time over to him shortly to go through his powerpoint presentation with you, on behalf of Mrs. Christine Ward, who is the applicant, which holds the lease agreement with the property owner, Mancado and His Mission, LTD. The applicant is requesting to allow the operation of a store and a lunch counter. So I would like to turn the time over to Mr. Manera so he can go through his powerpoint presentation.

Mr. Luigi Manera: Thank you, Sybil. Thank you, Members of the Commission. Unfortunately, I don't know what happened to the owner, I think they're on their way, but, in any case, I'm going to start with the -- the applicant is Christine Ward. She lives in Kaunakakai -- I mean East End. The owner of the property is Mancado and His Mission. I'm the consultant, and the location is 8615 Kam Highway, located at Pukoo, East Molokai. The project area is 20,000 square-foot, and it is a part of a large property, about 71-acre. The State Land Use District is Agriculture, the Molokai Community Plan is Agriculture, the County of Maui Zoning is also Agriculture, the special -- it is located in the Special Management Area. Well, the Flood Zone, get two Flood Zones, X and AE(8), and the store and the lunch counter is actually located in the X, which just mean no flood. The AE zone is outside either in between the store and Kam Highway.

The Neighborhood Store began operation in 1969 with a wooden roadside store building and an unpaved parking area accommodating approximately three to four vehicles. On October 18, 1979, the Maui Planning Commission granted a Land Use Commission Special Use Permit to operate the Neighborhood Store to Ms. Theodora Quinones, lessee of the property.

On October 28, 1980, the Maui Planning Commission granted a Special Management Area Use Permit to allow for the construction of a new one-story wooden structure with a gross floor area of 1200 square feet. This structure replaced the existing structure which had -- was pretty dilapidated.

On December 18, 1981, the Maui Planning Commission granted a 12-month time extension on the Land Use Commission Special Use Permit and the Special Management Area Use Permit.

On June 26, 1984, the Maui County Planning Commission voted to approve a three-year time extension on the Land Use Commission -- on the Land Use Commission Special Use Permit and the Special Management Area Use Permit.

On January 9, 1991, the Molokai Planning Commission voted to approve a new Land Use Commission Special Use Permit for a period of five years as the previous permit expired on June 26, 1987.

On August 11, 1994, the Molokai Planning Commission voted to approve an amendment to Condition no. 6 of the Land Use Commission Special Use Permit and related SMA minor permit deleting the requirement to install the septic tank system subject to several conditions.

On June 28, 1995, the Planning Commission voted to approve the transfer in permit holder from Kaapahu Farms, Inc. to Castanera, Inc. and to approve a five-year time extension for the Land Use Commission Special Use Permit.

On April 11, 2001, the Molokai Planning Commission voted to approve a ten-year time extension for the Land Use Commission Special Use Permit.

On November 5, 2001, Ordinance 3000 granting a Conditional Permit for the continued operation of a retail grocery and snack shop became effective.

On January 28, 2004, the Planning Commission voted to approve a transfer in permit holder from Castanera, Inc. to MIA, Inc. for the Land Use Commission Special Use Permit.

On September 3, 2004, Ordinance No. 3206, amending Ordinance No. 3000, transferred the Conditional Permit from Castanera, Inc. to MIA, Inc.

On August 22, 2006, the Maui County Council amended Ordinance No. 3206 to Ordinance No. 3398 transferred from MIA to The Takata Corporation Inc. dba Manae Goods and Grindz without adjusting the expiration date. According to the records, the Conditional Permit and the Special Use Permit to simultaneously expired on September 3, 2014.

On April 5, 2018, the Planning Department filed a request for service, RFS 18-000496, in reference to operating without a permit.

The Neighborhood Store and Lunch Counter has been in continuous operation and service the family of the East End since 1969. The continued operation is critical to the health and the well-being of the Molokai East End residents, a lifeline for those who don't have the ability to travel to Kaunakakai Town for grocery and general merchandise needs. It also provides jobs for ten people - five in the store, five in the lunch counter. There's also the hour of operation, I don't think I can go through every one of them, but we have parking about -- look like we got about 18 parking stalls with a loading zone. There's also a plan of the property with the -- with the parking and the store, and a few photos alongside.

Vice-Chair Lasua: Is that it, Luigi? Okay. Any questions for Mr. Luigi at this time?

Ms. Buchanan: Mr. Vice-Chair, I have some questions for staff and for the applicant. The -- my first question is on the history of the project, so whoever researched the history of the project, then I have question on number 1, actually, most of all the items to number 14, so number 1, my question is how long? So the Planning Commission, and this is the Maui Planning Commission, granted the use permit to Mrs. Quinones, the lessee of the property, do we know how long that was for?

Ms. Lopez: Do you know how long that was for?

Mr. Manera: No.

Ms. Buchanan: No?

Mr. Manera: I contact Gus Quinones; he live in Washington; he gave me all this information.

Ms. Buchanan: Oh, nice.

Mr. Manera: And I don't know if correct or not, but that --

Ms. Buchanan: Okay.

Mr. Manera: That's how I got those things.

Ms. Buchanan: So, okay.

Mr. Manera: So then maybe -- something, but that's how --

Ms. Buchanan: So -- so the items 1 through -- so the items probably 1 through 12 was from personal comments?

Ms. Lopez: Was both - personal comments and from what was on record with the Department on file.

Ms. Buchanan: Okay, my reason for questioning this is because it's part of the record, so because it's part of the record, one would assume that it's accurate, but I don't know if it's accurate, and I don't think it is accurate, and that's how come I just questioning the items 1 through 12, and I don't know how we can handle that, saying that it's -- some was personal comments and some was from the record, and if we -- if you asking why am I concerned about it, I'm concerned about because it involve the Maui Planning Commission, and then the Molokai Planning Commission, and when we get to item 8, in 2001, it was my understanding that the -- the Special Use Permit and the Conditional Permit was non-transferable, but the record as I read it today, eludes to the -- to that it was transferable, and so I question the validity of the -- this report. And then when we get to item number 10, when the transfer, it says transfer was from Castanera Inc. to MIA Inc., again, if my memory serves me correct, it was non-transferable, so when we went from MIA Inc. to now the Maui County Council amending ordinances, and I was wondering under what authority they had the ability to amend the Molokai Planning Commission's conditions, approved conditions, and then I had one question about where the ordinance numbers come in from 9 through 12. And on item number 6, it says that this Commission voted to approve amending a condition of number 6 of the Special Use Permit and the SMA Minor Permit deleting the requirement to install the septic tank system subject to several conditions, so we talking 1994, and now it's 2018, I kinda wanted one update of those conditions about the septic tank and the reason is, on the comments back from Public Works and others, there is some question about that system and the requirement to -- to delete the septic tank system is kinda substantial, and so if they still on that system as opposed to a leach field system, then I would like to know. And when the Ordinance 3398 was transferred from MIA to Takata Corporation, there was no adjusting of the expiration date, but it doesn't say when that expiration date was, but it seems in item 13 that everything expired in 2014, and then now, on April 5, 2018, the Planning Department filed a request for service because I guess the Planning Department realized that -- that the two permits had expired in 2014. Is that correct, Planner Lopez?

Ms. Lopez: Yes. So do you want me to go periodically to explain what or try to answer your questions?

Ms. Buchanan: Well, I -- I just, you know, every hearing is a contested case hearing so it's important for me that the history of the project, the items 1 through 14 is correct and factual, and if they're not, then maybe we should strike the history of the project as part of the record, unless you can correct all of the --

Ms. Lopez: It's factual based on government record, so it was -- this record was filed with the Department and it was recorded in the -- in the past --

Ms. Buchanan: Okay.

Ms. Lopez: Project folder. Because it was -- it was so old, so there was only some transference that came to the newer system, and the reason why it's during the -- you see "Maui County Planning Commission" because Molokai Planning Commission was never created yet.

Ms. Buchanan: Okay.

Ms. Lopez: And so prior to Molokai Planning Commission became into existence, everything went through the Maui Planning Commission. All projects during that time went to the Maui Planning Commission.

Ms. Buchanan: Okay.

Ms. Lopez: And so this was -- this was straight out of what was recorded in the past project, and I apologize that it was an oversight on my part that I thought I included the ordinance so you could see that there were -- what the ordinance each stated and you are right about transference, and so that is why they had to come in front of the Commission and in front of the Council for that kind of approval, and so as, historically, that's how this project and property went through that process, so the history of the project shows the timeline of how this project went from A to Z -- I mean A to B to C to now. So, hopefully, I explained that.

Ms. Buchanan: Okay, thank you, Planner Lopez. So can we go back to item number 6 then? Do you have a copy of the conditions that were made deleting the requirement to install the septic tank system?

Mr. Manera: Okay, Commissioner --

Ms. Buchanan: Yeah.

Mr. Manera: Buchanan.

Ms. Buchanan: Yes.

Mr. Manera: In regard of the septic, I know you say there's no leach line but, well, when you --

Ms. Buchanan: What is existing right now?

Mr. Manera: Okay, when you refer to septic, they call septic, it's not just the septic, it's also the whole system is the leach line included because the septic, it doesn't work without the -- without the leach line, so it's just a short term to say -- it's supposed be called IWS, individual wastewater system, which include the septic and the leach line. In this case, there is also a grease trap because --

Ms. Buchanan: Right.

Mr. Manera: They have a kitchen. Yes.

Ms. Buchanan: Okay.

Mr. Manera: That's --

Ms. Buchanan: That's what is --

Mr. Manera: Yes.

Ms. Buchanan: Existing right now?

Mr. Manera: That's what is there today.

Ms. Buchanan: Okay.

Ms. Lopez: And --

Ms. Buchanan: So -- go ahead.

Ms. Lopez: Oh, can I add --

Ms. Buchanan: Sure.

Ms. Lopez: Add to the answer? And so you do have it in Exhibit 3. Because it's a new application, we treat it as a new application with the current law, and so we did agency transmittals to these agencies and -- and, for example, Exhibit 3 shows that Wastewater Reclamation Division had comments, and so if there were anything to do with the septic, this is where they would put that information in there as of today, and this is their response, their comments. Did you respond?

Mr. Manera: Yes.

Ms. Lopez: Okay. I don't see it in here.

Ms. Buchanan: Okay, so the comment is pretreatment requirements?

Ms. Lopez: Yes.

Ms. Buchanan: Okay. So, Planner Lopez, the part about the non-transferable, when we start on item number 8, back in 2001, and then we move to item 9, November of 2001, so the ordinance granting the Conditional Permit for -- what was that? Where did the ordinance come from?

Ms. Lopez: What number is that? Number 8?

Ms. Buchanan: Number 8. And then too number 9.

Ms. Lopez: Ordinance granting a Conditional Permit ...(inaudible)...

Ms. Buchanan: I trying to find out where we lost the non-transferable condition.

Ms. Lopez: Okay, so under the conditions, one of the conditions, it'll -- this is what it would say: That the conditional permit shall be non-transferable unless approved by the Maui County Council. And so that -- that was the condition that carried throughout the permit.

Ms. Buchanan: So the Maui County Council overrode -- override the recommendations from the Molokai Planning Commission and went and transferred it anyway?

Ms. Lopez: Through their -- their process. So they would have to still go through Planning Commission, the Planning Commission make the recommendation, it went up to the Council --

Ms. Buchanan: No, I'm saying that the Molokai Planning Commission made one recommendation and it looks like --

Ms. Lopez: Council --

Ms. Buchanan: Back in November that that was overridden through ordinance by the County Council?

Ms. Lopez: November -- you mean on April 11, 2001-- no, wait, on November 5, 2001, Ordinance 3000 granting a Conditional Permit?

Ms. Buchanan: Yeah, because there was a 10-year time extension given by this Commission in 2001, and then shortly thereafter - April, May, June, July, August - 7 months later, the County Council went and did an ordinance granting the Conditional Permit, and then somehow that Conditional Permit, moving to January 28, 2004, if it -- it went -- it got approved to be transferred. I just trying to wrap my head around --

Ms. Lopez: Yeah, I understand. Sorry.

Ms. Buchanan: Where -- what happened.

Ms. Lopez: It kind of gets -- so it's two separate permits and they had two separate --

Ms. Buchanan: Right.

Ms. Lopez: Deadline dates. Expiration. And so because they had two separate expiration, one had to go in front of the other. I don't know what -- why it was separated that way, so I cannot explain that, and the reason why back then, you go 2004, is because they had to make the transfer from one entity to the other, and so they had to come back to request for that. So the SUP had the extension for 10 years, and the Conditional Permit would be able to grant the operating under that Conditional Permit, so it was two separate permits that you're describing.

Mr. Pele: Okay.

Ms. Buchanan: Go ahead.

Mr. Pele: Okay, Sybil, when I was reading it, I'll ask the question on that, was number 9 a result of the action taken for number 8? And it looks like to me number 11 was a result of the action take on item number 10. So they took -- the Planning Commission voted to approve the 10-year permit and then, as a result, there was an ordinance created for that later on in that year. I would like to think that government works the week after, but is that a -- I mean that's how I was reading it. I'm wondering if I'm -- I'm off base. Was number 9 a result of number 8? And is number 10 a result of the -- I'm sorry. Was number 11 a result of the action taken from number 10?

Ms. Lopez: No. So a Conditional Permit goes up to Council; Special Use Permits stays here with the Planning Commission. So because it's two separate permits, it has two separate processes that they have to go through, and so the end result for the State permit ends with Molokai Planning Commission, and the -- the -- the decision for the Conditional Permit ends with the Council, and so you see two things going on differently, but it's for two separate permits, and so kinda 8 is kind of in sync with 10 because it's a

Molokai Planning Commission decision, and 9 is kind of in sync with 11 because it's a Council decision. Yeah.

Mr. Pele: ...(inaudible)... by them having to get two separate permits.

Ms. Lopez: Well because at the 2004, at that time, it transferred to a new owner; 7 and 8 and 9 was a result of a time extension.

Mr. Pele: Right. But the transfer was approved by, it says here --

Ms. Lopez: 10, 11

Mr. Pele: By the Planning Commission, right?

Ms. Lopez: Yeah, number 10 and number 11.

Mr. Pele: Yeah. Okay. Thank you.

Ms. Lopez: Thank you. Thank you for that question.

Ms. Buchanan: Vice-Chair, okay, so, Planner Lopez, so I wanted to state for the record that -- that the Maui County Council overrode this Planning Commission's recommendations to the Council that the Conditional Permit and Special Use Permit was non-transferrable, and the reason why is, and there's also a statement within this packet that says there has been no request for services, and I believe there was a request for service when MIA, Inc. was the lessee of what is now Manae Goods and Grindz, and MIA, Inc. was problematic at the time, and MIA, Inc. had a lot of issues in their short ownership, and so I know that there was a request for service, I'm pretty sure, at that time. So the ordinance numbers change, Commissioner Pele, because you see from Castanera to MIA, and then from MIA to now Takata, that Conditional Use Permit was not to be transferred and the reason is when new ownership, because MIA, Inc. was problematic, that whenever new ownership was to take over, the Molokai Planning Commission wanted to review that application like we are today, and because to make sure that we never have the same issues we had with MIA, Inc., okay. So now we here, and on April 5, 2018, the Planning Department filed the request for service. When did the applicant receive the request for service?

Ms. Lopez: When did the application receive the ...(inaudible)...

Ms. Buchanan: On what date?

Ms. Lopez: You guys never received it yet?

Mr. Manera: Nope.

Ms. Buchanan: And was the -- what did the request for service say or did the Department issue a cease and assist or cease business or what happened?

Mr. Manera: Well, as of today, I never received nothing. No request for service. Nothing.

Ms. Buchanan: Okay. Planner Lopez, did the Department send by certified letter the request for service to the applicant?

Ms. Lopez: As far as what our KIVA system produced, it just has a file number for a request for service. I think that is still under investigation and under review, and I don't think it went out yet 'cause there's no -- there's nothing on record.

Ms. Buchanan: So the zoning inspector never come out or nobody did anything? Okay, how about we defer this then?

Ms. Lopez: Any questions?

Ms. Buchanan: Mr. Vice-Chair, I just trying to get information that we need. It doesn't seem that the information is available right now, so I don't know if we going go through the whole thing, and in the end, we cannot make one decision because get missing information unless you wanna go through the whole thing anyway. I have one more. Applicant, currently today, is Manae Goods and Grindz in operation and conducting business?

Mr. Manera: Well --

Ms. Buchanan: Yes?

Mr. Manera: Yes. Of course.

Ms. Buchanan: Okay.

Mr. Manera: Yeah. Absolutely.

Ms. Buchanan: Okay.

Vice-Chair Lasua: Anymore questions from the Commissioners?

Ms. Lopez: Deputy Director would like to make a comment if that's okay, Vice-Chair?

Vice-Chair Lasua: Go ahead.

Ms. Lopez: Thank you.

Ms. McLean: Thank you. I'm Michele McLean, I'm the Deputy Planning Director. I'll try to clarify a couple of the questions that have come up. As Sybil said, the State Land Use Commission is final decision made by this Commission. The Conditional Permit is final decision made by the Council. Typically, it's ideal for those time frames and the conditions to be in sync with each other, so when the Commission looks at the State Land Use Commission Special Permit, at the same time you make your final decision on that, you make a recommendation to the Council for the Conditional Permit. And again, Council has the final authority on that, but both permits, even if their Commissions aren't in sync with each other, both permits are binding and the conditions of both permits have to be met, so even if they differ somewhat, the applicant has to meet the conditions of both permits. Permits -- these types of permits will typically have a condition that they cannot be transferred without the approval of the body that approved them in the first place, so they can't just be transferred individually without coming before you for the State Land Use Commission Special Permit, and without going before the Council. And based on this chronology, it seems like those steps were followed.

Relating to request for service, that was filed this calendar year in 2018, these applications were filed in November of 2017. When a request for service is filed, what our zoning enforcement folks look at is what is the violation and what are the options for compliance, and in this particular case, they would have seen that one of the options for compliance would be to be getting permits again, and seeing that those permits had already been applied for, it was the decision to allow this application process to continue so that the Commission and then the Council could vote on those. Now if in your decision making you want to take into account that the permits had expired and the operation continued, that's up to your discretion.

Ms. Buchanan: Ms. McLean, with respect, can I just stop you right there? That's what I asking. Where's that information? What you telling me now is all hearsay. You saying the Department could have done this, could have done that. Did they do it or not? That's what I asking. That's what I asking. I don't see that. If somebody told me, yeah, we did this, we did that, zoning went out, they did this. Fine. That answers the question. So what is it?

Ms. McLean: On this particular RFS, I do not know if the Department has sent an inspector out or not. What I can tell you -- what I can tell you is that if a zoning inspector came to me and said should I issue a notice of warning for this use, I would say you can issue a notice of warning but with enough time to allow the permit process to run its course

because this applicant, before the RFS was submitted, submitted the applications to get the permits that they need to become compliant, and so we would allow that process to run its course. Thank you for the opportunity to clarify that.

Ms. Buchanan: Thank you, Ms. McLean. Thank you, Vice-Chair. Again, I would just -- I would have to strike all that as hearsay because, Planner Lopez, where is the -- oh wait. I sorry. It's in here. The actual application is in here yeah, Sybil? The one from Manae Goods and Grindz. Towards the end. No?

Ms. Lopez: No. The application is not included in the report.

Ms. Buchanan: What is the date of application?

Ms. Lopez: The date of application was November 29, 2017.

Ms. Buchanan: By Manae Goods and Grindz? Yeah?

Ms. Lopez: By Mrs. Christine Ward.

Ms. Buchanan: Okay.

Ms. Lopez: Mr. Luigi Manera on behalf of the applicant.

Ms. Buchanan: Okay.

Ms. Lopez: And I just want to acknowledge that we do have Mr. Pia Ward here, Ms. Christine Ward's son that does help her with the operations of that business, if you have any questions for him.

Ms. Buchanan: Okay, thank you. Mr. Vice-Chair, maybe I have -- so, Planner Lopez, so the applicant is done making their presentation? Yeah?

Ms. Lopez: Do you have any final remarks? Yes.

Ms. Buchanan: Okay. So I have questions but I can hold them if we wanna move on to, yeah, public testimony. Yeah, I'll come back and ask --

Vice-Chair Lasua: Are there any other questions from the -- from the Commissioners? If not, we'll go into public testimony at this time. Any public testimony?

Ms. Stacy Crivello: Aloha. I'm here wearing a Molokai citizen or resident hat, and we all wear different hats, so, eventually, as Council Member, should this come forward, I would

definitely respond to the -- the needs of our community. So I come before you as in support and, hopefully, you can, you, as our Planning Commission, will be able to sweep through the waves that are before you and support of providing our Conditional Permit that is required. You know, we, Molokai, we all know that Manae is that's the only place that we can go and have something to eat, but more especially it's run by our local families, and, you know, we have process that we need to meet, and if the owners or the ownership is now applying through this process, many of us are kua'aina as to how we have to go through -- through all the different permits that are required, and I will say that's no excuse, so today, I believe Manae Grindz and Goods have hired Luigi to -- to help to go through this process, but I come before you, personally, and I just got off the plane so excuse me, I kinda off-balance in my ears, I ask you to really consider what is necessary for this business to continue. We don't want to change the zoning up in Manae. We don't want commercials. We don't want urban. We know that. So to run a business there, we come before you, and then the Council, Planning Department, and what have you to be able to operate for the conditioning permits. So if there is the conditions that they need to meet, let us get specific and what is it that, I ask you not to deny, not to defer, but to help us walk the business through the process so that they can still be operable and continue to be of service to our island, you know. So easy for us to say no, easy for us to say no can, deny, and what have you, that's the easiest thing to do. So I ask you how can we help this business to be able to provide the service, generate revenues, and -- and go through the necessary process. I briefly read where Planning Department is recommending, yeah, the Conditional Permits and is -- and I've heard Deputy go through the chronological steps, so-called, and she's here on behalf of the -- the Department, so I can appreciate that, and for us, as residents of Molokai, what do we want? Or what don't we want? And if it's the process that's difficult, and as a brand new applicant, let's walk them through. Let's hapai them, let's kakoo, and see how that they can meet and to be in compliance so that they continue because what few trips we make out down there, we're going to stop there and have breakfast, lunch, or even dinner. But I just look at it as a matter of supporting our -- our Molokai families as entrepreneurs, and we don't -- we don't want businesses here, we don't want corporations here. I mean many of us challenge all these different businesses that come here. I ask us to see how we can help this business to be in compliance and to further give them what conditions we want to provide so that they can be in compliance that is required of our bureaucracy. So, again, I'm not wearing my Council hat. I'll wear that when your recommendation comes to us. I'm just coming here as Molokai. I raised my kids in Manae. You lazy cook; you run down to the Neighborhood Store, you know, or and what we call Manae Food and Grindz, so that's my personal testimony that I come before you. Mahalo.

Vice-Chair Lasua: Any questions from the Commissioners for the testifier?

Ms. Buchanan: Vice-Chair --

Vice-Chair Lasua: Go ahead.

Ms. Buchanan: I wanted to respond to Councilwoman. I sorry. With all the hats that we wear, so please no take my questioning as I no support 'cause I do support Manae Goods and Grindz out there, always have, but I would say when you go back and you put on your Councilwoman hat, that you ask your colleagues to make the permits non-transferable and the only reason is we saw -- because this is a third-party lease, and it's a lease that anybody can lease, and -- and we saw with one of the lessees that it really didn't work out --

Ms. Crivello: Right.

Ms. Buchanan: But so that's the only thing I can see that would be my concern is having that ability for anybody to come in and just assume the permits. They should have to come in to this board again and do one new permit.

Ms. Crivello: Right. Going forward.

Ms. Buchanan: Yeah.

Ms. Crivello: Yeah, and I understand where you're coming from. I'd also, as wearing my Council hat, you know, it's either we change zoning down Manae so that they don't have to come down for Conditional Permits, we put in that -- but we don't want it to be urban and commercial, so we -- we provide this allowance for us to have Conditional Permits and maybe we gotta extend it longer so that -- that can be -- but I'll take your recommendation into serious consideration. Thank you.

Vice-Chair Lasua: Thank you, Stacy. Anymore questions? If not, anymore testifiers? Public testimony? Seeing none. Oh, sorry. Sorry, Mahina.

Ms. Mahina Poepoe: Mahina Poepoe. I just wanted to speak in support of the Neighborhood Store or Manae Goods and Grindz. We just still can't get away from calling it "Neighborhood Store" no matter how much I try. Our family house is three, four houses down, and I think it's important to look at, you know, the types of businesses, like 'cause, you know, I'm really anti-short-term rental because there are all those negative impacts that I tell you all the time, but with the case of the store, it's actually really a benefit because town is so far away and there are people, I noticed it's in the packet, I'm so bad without a script, but I noticed in the packet it mentioned that, you know, it's a benefit for tourists and it helps the tourists industry but I really think it's more largely beneficial to the residents. There are people who don't go to town to often who hitchhike to the store, and I think it serves the same purpose, I guess, as the Maunaloa Store in -- up there for that community. I guess that's all. I just wanted to support. Thank you.

Vice-Chair Lasua: Thank you, Mahina. Any questions for Mahina?

Ms. Buchanan: Vice-Chair, I have one question.

Vice-Chair Lasua: Go ahead.

Ms. Buchanan: Mahina, did you receive a notice from the Planning Department of this application?

Ms. Poepoe: Yes.

Ms. Buchanan: Okay, thank you.

Vice-Chair Lasua: Any other questions? If not, anymore testimony? Public testimony? Seeing none, I'll close the public testimony at this time, and then, Commissioners? Go ahead, Laa.

Mr. Poepoe: We doing question or discussion right now?

Vice-Chair Lasua: Question first, yeah, or --

Mr. Poepoe: Question first. No, I no more questions for staff. Oh, actually, I do have a question. Okay, let me think about how for word 'em. So since the -- the permit, the two permits lapsed, and they currently -- or they reapplied for their permit prior to being requested for service, are -- is the Neighborhood Store required to cease operations?

Ms. Lopez: Well, it is an expired permit, the expiration was in 2014, so by -- by law, they shouldn't be operating. I mean our law states that you need a permit in order to operate in that area, ag, State ag, County ag, community plan ag, so I don't know if that -- if you're asking something more specific but, according to the law, that is why the RFS was filed and staff did let -- mention and let the applicant know and, well, the consultant know.

Mr. Poepoe: Is the -- is there a option for the store to continue operating temporarily?

Ms. Lopez: The option is to come in and get an application and get a permit.

Mr. Poepoe: Was that fulfilled?

Ms. Lopez: This is why it's here today in front of you.

Mr. Poepoe: Okay. Thank you.

Ms. Lopez: You're welcome.

Vice-Chair Lasua: Anymore questions for the Planner?

Ms. Buchanan: Vice-Chair, I have a question but I'll yield to Uncle Billy.

Mr. Moore: Was a notice that their permit was going to expire in 2014 given to the applicant?

Ms. Lopez: That is not the County's responsibility to notice all almost to expiration permits out there. There are a lot of State Special Permits, Land Use Commission Permits that has expiration dates and we're not obligated to notify any permittees that -- even short-term rentals or bed and breakfast to let them know that their permit is about to expire. It does, however, say in their approval letters that this is your issue date, this is your expiration date. We do have noted in their letters that, you know, subject to expiration, you have 90 days to come in. Other than that, that's the sole responsibility of the applicant holder or the permittee.

Mr. Moore: No, I was just wondering because when your automobile registration is about to expire they give you a notice.

Mr. Pele: But not your license.

Mr. Moore: Yeah, but not your license. Thank you.

Ms. Lopez: You're welcome.

Vice-Chair Lasua: Anymore questions?

Ms. Buchanan: Vice-Chair, I have one question. I guess I can -- I go ask the other ones and then the other ones is for -- Planner Lopez, Exhibit 7, and then Exhibit 7, letter dated March 1, 2018 from the County of Maui to Neighborhood Store and Lunch Counter, and I guess this is from Mr. Manera, and it says, "Thank you for your comments dated February 5, 2018. We are not aware of any unpermitted work on the property." What is that in reference to?

Ms. Lopez: It is in reference to Exhibit 6. So if you go to the two page prior, on February 5, 2018, when the Planning Department transmitted agency comments, the Department of Public Works responded and one of their comments from the Development Services Administration Plans Review Section stated that Building Permit No. B1985-0312 was issued on February 27, 1985 for the market. It appears additions were added to the

building without a building permit. And so that was February 5th. That was in response to that February 5th letter, but if you turn to the next page on March 20th, which the consultant has been working with the Public Works to try and mitigate that situation, but March 20th, the Department of Public Works did respond and said we reviewed the subject application and have the following comment, comments from DSA Plans Review Section says we have no objection with the CP SUP moving forward. We will continue to work with the applicant in response to the February 5th comment from DSA, and if Mr. Manera wants to comment, if it's okay.

Ms. Buchanan: Yeah, please ...(inaudible)... on the record, yeah?

Ms. Lopez: They can let you know about the status of where that is with DSA.

Mr. Manera: Okay, first of all, the illegal is a structure, it's like 10 feet storage in the back of the building, and nobody -- they know somebody built it, probably Castanera or whoever, they did that without a permit, so when we applied for this special application, we got the comment, I say what illegal? So finally they send the letter showing look like there's a -- a storage addition in the back, 10 feet storage addition, so we went and we verified that was actually built. Instead 30 feet, it's 40 feet. That's basically what happened. So I went to Public Works and I say, okay, we're going to go ahead and apply for the proper permit but to get a permit for the unpermitted, it's going to take months and months and months, so I asked them if they let me proceed with the application and we moved forward with the building permit application, and they say that's okay, so that's -- that's -- that's what happened.

Ms. Buchanan: Okay. So to clarify, they saying it's okay, so is the applicant, at a later date in time, going to come in for an after-the-fact permit?

Mr. Manera: Yes. I'm going to go ahead with ...(inaudible)...

Ms. Buchanan: Okay, then -- then this application should say that someplace instead of us trying to figure it out. So okay. That can be one condition moving forward.

Mr. Manera: Now, the unpermitted, what they call "unpermitted structure" is 10 feet roof with a chain link fence. I mean we talking real minor stuff over here. It's not like if they built half of the store or something. That's all.

Ms. Buchanan: Okay, but -- but the applicant will come in?

Mr. Manera: I will. Yes.

Ms. Buchanan: Okay.

Mr. Manera: Yes.

Ms. Buchanan: Alright. Okay, now I understand. So your letter back on the March 1, 2018, I see. Unpermitted. You will correct the discrepancy. So correcting the discrepancy on Exhibit 7 will be through an after-the-fact permit after this application today?

Mr. Manera: And SMA. Yes.

Ms. Buchanan: Okay. That should be part of the conditions of this permit. Okay, thank you. Thank you.

Vice-Chair Lasua: Any other questions?

Ms. Buchanan: Yeah, I sorry, Vice-Chair. I get question.

Vice-Chair Lasua: Go ahead.

Ms. Buchanan: See, I was going tell you defer. Okay, hang on.

Ms. Nuesca: Can -- can I -- can I ask a quick question? Probably for the applicant, I just -- because the permits expired in 2014, and I know they took -- they applied in 2017, why was it so long, like why did they wait?

Mr. Manera: Oh. No, you know better than me. Yeah, because of ...(inaudible)...

Ms. Lopez: Okay. Okay, so thank you for that question. So because it was, as you can see historically, it's been transferred, the current lessee was unaware of such permit, so during the transfer from Takatas to who we have now today, the Wards, they were unaware that they needed any type of Special Use Permit or a Conditional Permit, so they did not ever come in, so what brought it to the attention was the short-term rentals that was popping up within that area, and one of the questions were stated in public testimony was are there any other commercial uses on the east side of Molokai that is on ag property, and when you look on the east end of Molokai, and you look in our system, there's only one commercial -- one property that is State ag, County ag that operates a commercial use, and today it is before you as this SUP2 and a Conditional Permit, and by having that request for government records, it revealed and exposed that the Neighborhood Store has been operating without a permit since 2014 and so thus, the hence, now it is known to the applicant or the leaseholder that they needed to come to do some type of permit that they knew nothing about, and they're here today, that learned through that experience a lot about the State Special Use Permit and a Conditional Permit

and this -- these two permits are only looking at the use of being on top of a County zone ag and State ag, so when you talk about building permits and SMA, that's like another subject that you probably be in your front door in the next six months, so that is the whole reason why it took that long for them to come here in front of you. So I hope I answered your question.

Vice-Chair Lasua: Any other questions for the planner?

Ms. Buchanan: I sorry, Vice-Chair, yes I do have a question.

Vice-Chair Lasua: Go ahead.

Ms. Buchanan: Planner Lopez, Exhibit 14, the State Historic Preservation Division letter, the comments from SHPD indicates the Pukoo Heiau or Ka Ouaawa Heiau site is located at the foot of the hill directly behind of the existing Neighborhood Store and Lunch Counter. Is the applicant aware of that? Maybe that's a question for the applicant. Is the applicant aware of the historical site located right behind the Neighborhood Store? And then my second question going be -- oh no. Go ahead.

Mr. Manera: Well, I didn't know until I received the letter you --

Ms. Buchanan: Oh my.

Mr. Manera: You got.

Ms. Buchanan: Okay.

Mr. Manera: Well --

Ms. Buchanan: So now that the applicant is aware, and this is dated February, February, March, April, May, so it's been two months since the applicant has been aware of the comments from the State Historic Preservation, my question would be to the applicant, since the store in close proximity, and it's not indicated on any of the map except through -- by letter, this letter from SHPD, I wanted to know what steps the applicant is taking to protect the historical site.

Mr. Manera: Well, I think maybe -- you know something about that? Well, I don't know what to tell you.

Mr. Pia Ward: I think -- I think you should be asking the landowner that question, how they got the permit to put it there in the first place, so you can peel back the layers.

Ms. Buchanan: Can you state your name for the --

Mr. Ward: My name is Pia Ward.

Ms. Buchanan: Thank you, Pia.

Mr. Ward: Owner of Manae Goods and Grindz.

Ms. Buchanan: Okay. Mahalo. So then you're not aware, yeah? I mean --

Mr. Ward: No. We wasn't aware.

Ms. Buchanan: Okay. Thank you.

Mr. Pele: I have questions.

Ms. Buchanan: Go.

Mr. Pele: Is there a stipulation to make them take any action? I mean the letter here says that -- I'm just asking what I'm reading -- that they have no objections to the issue of these permits, this is coming from the State, so I'm wondering is there any kind of stipulation that makes them do what you're asking them to do?

Ms. Buchanan: Well, it would be a condition of mine that they take steps to protect the historical sites.

Mr. Pele: But I just think it's a little unfair to make a condition of yours. They wouldn't know that ahead of time.

Ms. Buchanan: Okay. So, Commissioner Pele.

Mr. Pele: Yeah.

Ms. Buchanan: Had we already had law school training from the school, Hawaiian school, there is a lot of laws, and this is State Historic Preservation --

Mr. Pele: Would it not be in this letter? Would it not be in this letter for them to do something? Is that what this is for in the packet?

Ms. Buchanan: Maybe the Deputy like answer that question.

Mr. Pele: Yeah. I mean I'm just asking --

Ms. Buchanan: Because you know --

Mr. Pele: If there are stipulations maybe --

Ms. Buchanan: She get more authority than me. I just one commissioner.

Mr. Pele: Yeah, so I'm -- when I'm reading this, I'm reading that there's no objections, so I'm wondering how we expect the applicant to take any kind of action if they're not required.

Ms. Buchanan: We ask to protect iwi kupuna and archaeological sites, but she can expound on that.

Mr. Pele: I'm just saying wouldn't it be in the packet? A requirement? I'm just looking that wouldn't there be a requirement for them to do this 'cause I don't see it here, any requirements in the packet.

Ms. McLean: Right, it isn't, and this is something that the -- that the applicant should be able to answer. They only lease a portion of the property. I don't know where their lease area ends.

Mr. Pele: Okay.

Ms. McLean: So if the heiau is not located on the land that they lease --

Mr. Pele: Right.

Ms. McLean: Then I don't see how they could bear responsibility for ...(inaudible)...

Mr. Pele: Yeah, and I'm not trying to --

Ms. McLean: But I think it could be --

Mr. Pele: To waive their right to -- to do anything. I would just think if they were required to do anything, it would be listed in this packet, which it's not. I mean I can make up a million things I want them to do, and I don't want to approve, I want them, you know, but I'm trying to go what's based on in this packet and I'm just wondering is there something else I should base my opinions on or make -- form my own opinions on or --

Ms. McLean: I agree with you that I think SHPD would have specified if there was an action required.

Mr. Pele: Okay. I'm just trying to stick to the information that was given to me and not make up information that I want them to do.

Ms. McLean: Right.

Mr. Pele: That's all I'm wondering about.

Ms. McLean: SHPD, I have found that SHPD is very proactive and requires studies and plans if there are features that need protection or that would be impacted by a proposed use, and in this case, they did not say anything related to that.

Mr. Pele: Okay. Thanks.

Vice-Chair Lasua: Anymore questions?

Ms. Buchanan: I sorry, Mr. Vice-Chair, getting back to Exhibit 14, if you look at the end, it says, "SHPD requests the opportunity to review and comment on any future permit applications involving ground disturbing activities. The permit issuance process may continue." I think -- I think for the simple fact that the applicant is now aware that there are sites that have a number assigned to them, which makes them of historical significance within the Molokai site survey of archaeological survey, I think it's just a good thing to be pono when you know that you have an -- a heiau located probably in close proximity, you wouldn't be, like -- like a grave site, yeah, if I knew I have an existing grave site someplace, I wouldn't be parking one car over there, I wouldn't be piling stuff over there. That's the reason, yeah. It's just for respect. And then later when we have our law training, you going realize how important that is to be made aware of, what your responsibility --

Mr. Pele: I understand that but you taking shots at me. I'm going on what's --

Ms. Buchanan: Yeah.

Mr. Pele: What's in the application. That's what we need to focus on, for me, not for you, for me, and it's not really appreciative of the condescending nature, I'm just reading what I'm reading for the sake of this man who's applying for this permit and his requirement, and I don't see the requirement in here that you're asking for. We talk about hearsay.

Ms. Buchanan: Yeah.

Mr. Pele: You're applying hearsay now to this. What you wanna see.

Ms. Buchanan: I not asking them to require anything.

Mr. Pele: And I don't think that's fair. We need to go on -- I'm trying to read what's in this packet and make a decision, and I don't see that in this packet.

Ms. Buchanan: Okay.

Mr. Pele: And it's great to be condescending to me, I know I look stupid but --

Ms. Buchanan: Oh I sorry if I was. No I wasn't.

Mr. Pele: I read what's in the packet.

Ms. Buchanan: I apologize if you thought so. I'm sorry. I think it just points out that we still get plenty training that we need to do and I glad the Deputy is here to hear that how important and the County keep on telling us no, no, no, we cannot do it, so -- so we do have a trap out Exhibit 17, yeah, Sybil? And, Commissioner Pele, I sorry and I apologize if I seem like I was condescending. I really didn't mean to. Thank you. I sorry.

Mr. Pele: I accept that apology, but you gotta understand I was just trying to focus what's in front of me to make the best decision for these people on this island. It's not about me.

Ms. Buchanan: Yeah.

Mr. Pele: It's about making the best decision for these people on this island, and I don't see any of that in this packet. I don't see these roadblocks that we're trying to put up.

Ms. Buchanan: I not putting up roadblocks. I think --

Mr. Pele: But I think it's unfair to ask him about an archaeological preservation plan when he's not required to do so. If he was required to do so, I'd be jumping all over him right now for that answer, but he's not required to do so in his packet, and I don't think we should make that part of his requirement in his packet. He's just trying to -- trying to get his permit.

Ms. Buchanan: Commissioner Pele, I don't think I said that he needed to do a plan or anything. I just wanted to point out if they knew that it existed 'cause it's important to know that it exist. That's all. But thank you.

Vice-Chair Lasua: Anymore questions, Commissioners, for the Planner?

Ms. Buchanan: Okay, I guess not.

Vice-Chair Lasua: So if there's no other questions, Commissioners, we can move and can I get a motion?

Mr. Poepoe: I motion to have the -- the application approved, the two permits, and open to conditions as well.

Mr. Pele: I would like to add the condition that after-the-fact permits for Exhibit 17 be required. Oh. Oh I second. I thought you was open and that we should -- it should be non-transferable. Do I need to --

Ms. Desjardins: Can I just interject really quickly?

Mr. Pele: Okay.

Ms. Desjardins: On making the motions, you have two things in front of you, one is you have the jurisdiction to approve or deny the Special Use Permit and then --

Mr. Pele: Okay.

Ms. Desjardins: The second thing is -- with conditions if you choose conditions, and the second one is to make a recommendation to the Council on the Conditional Use Permit whether to -- whether you approve, you recommend or not recommend that when they take action on the Conditional Use Permit.

Mr. Poepoe: Okay.

Ms. Desjardins: Thank you.

Mr. Poepoe: Thank you for the -- the training.

Vice-Chair Lasua: Okay, go ahead, Laa.

Mr. Poepoe: Strike my last -- my last motion from the record. I motion to approve the --

Ms. Lopez: Can I interject? I didn't state my recommendations.

Mr. Poepoe: Oh, okay, sorry.

Vice-Chair Lasua: Oh, I'm sorry.

Mr. Poepoe: Extra training today.

Vice-Chair Lasua: That's right. Go ahead, Sybil, and do your recommendation.

Ms. Lopez: Okay. So upon the recommendations, we got alternatives. So State Land Use Commission Special Permit, number one you got a deferral. The Commission may defer action to another meeting date in order to obtain additional information that will assist in their deliberation on the application. Number two, approve the State Land Use Commission Special Permit with condition -- conditions as an unusual and reasonable use in the State agricultural district. Number three, to deny the State Land Use Commission Special Use Permit as not being an unusual and reasonable use in the State Agricultural District.

Conditional Permit, second one. Number one, deferral, which is the Commission may defer action to another meeting date in order to obtain additional information that will assist in their deliberation on the application. Two, they recommend approval of the Conditional Permit to the County Council. The Commission is not the authority on Conditional Permits and, therefore, can only make a recommendation to the County Council to approve or deny the Conditional Permit. The County Council is the authority to act on Conditional Permits. And, number three, to recommend denial of the Conditional Permit to the County Council.

So the Maui County Planning Department's recommendation to the Molokai Planning Commission on May 9, 2018 that the application for a land use special use commission special permit complies with the applicable standards for an unusual and reasonable use within the State Agricultural District for reasons stated in the Maui County Planning Department's report to the Molokai Planning Commission for Docket No. SUP2 2017-0005 and as follows: That the use shall not be contrary to the objectives sought to be accomplished by Chapters 205 and 205A, under the Hawaii Revised Statutes, and the rules of the Land Use Commission; that the Conditional Permit, that the Planning Department finds that the project meets the criteria for the issuance of a Conditional Permit. The use is anticipated to be in harmony with the area in which it is located and will not be significantly detrimental to the public interest, convenience, and/or welfare. The application complies with the applicable standards for a Conditional Permit.

And the recommendation to the Molokai Planning Commission, approval of the Land Use Special Permit subject to the following six conditions: That be advised that the compliance with codes, covenants, and restrictions of any applicable homeowners or apartment owners association is the sole responsibility of the applicant, and in consideration of the foregoing, the Planning Department recommends that the Molokai Planning Commission adopt the Planning Department's report and recommendations prepared for the May 9, 2018 meeting as a findings of facts, conclusions of law, and decisions and order and authorize the Planning Director to transmit said written decisions

and order on behalf of the Molokai Planning Commission for the Land Use Commission Special Permit.

But further, the Department of Planning recommends that the Molokai Planning Commission recommends approval of the Conditional Permit to the Maui County Council subject to the following 11 conditions, further, that the Conditional Permit conditions will be enforced pursuant to the provisions of Chapter 19.530, 19.530.030, and the Maui County Code, as amended 1980, and the Rules for Administrative Procedures and Civil Fines for violations of Titles 12, 14, 16, 19, and 20, of the Maui County Code. So these conditions of this State special -- of the Conditional Permit shall be enforced by the Hawaii Revised Statutes.

So there you go. Your recommendations for both State Land Special Use Permit and the Conditional Permit.

Vice-Chair Lasua: Thank you, Sybil.

Ms. Lopez: You're welcome.

Vice-Chair Lasua: Go ahead, Commissioners. Can I get a motion?

Mr. Poepoe: Motion to approve the State Land Use Special Permit with the conditions recommended by the Department and open to any other conditions.

Vice-Chair Lasua: Moved and seconded to approve the Land Use Commission -- for the Land Use Special Permit. Any discussion?

Mr. Pele: Can we add the language for the -- the Exhibit no. 17 for the after-the-fact permit to be part of the conditions?

Ms. Buchanan: Mr. Chair?

Vice-Chair Lasua: Go ahead.

Ms. Buchanan: Are we taking -- are doing two separate permits on two separate motions, the first for the Land Use --

Vice-Chair Lasua: Yes.

Ms. Buchanan: Commission Special Permit, and then the second would be the Conditional Permit with conditions?

Vice-Chair Lasua: Yes.

Ms. Buchanan: Okay, thank you. So that would be my comments that conditions would be put on the second Conditional Permit.

Vice-Chair Lasua: Okay. Go ahead, Commissioner Pele. Did you have a --

Mr. Pele: Only that the language non-transferable is in there and the concern that Exhibit no. 17 in the packet requiring the after-the-fact permit for that structure that Luigi said he would be seeking be added to the conditions. Sybil, what is the time -- time limit for this permit?

Ms. Lopez: For the State Special Permit -- for the State -- 5 years for the SUP2 and for the Conditional Permit is 5, but we're just looking at the SUP2, which is till May 31, 2023 or -- it says or for the duration of the Conditional Permit whichever is later subject to the extension by the Maui County Planning Director upon a timely request for extension filed at least 120 days prior to its expiration. That is your Condition no. 1.

Ms. Buchanan: Mr. Vice-Chair, on Condition no. 1, under the recommendations for Land Use Commission Special Permit, number 1: That the Land Use Commission Special Permit shall be valid until May 31, 2023. Can we strike everything after that? Until the sentence that says, "the Planning Director," strike "may" and insert "will" forward the time extension request to the Planning Commission for review and approval and may require a public hearing on the time extension. That would be -- we in discussion, yeah?

Vice-Chair Lasua: Yeah.

Ms. Buchanan: On the recommendation. Yeah. And then on item number 2: That the subject Land Use Commission Special Permit shall not be transferred without the prior written approval of - can we insert -- strike the "Planning Director" and insert the "Molokai Planning Commission?" And then that's it. Yeah. That's just for discussion. And if the Commission is amenable, that would be a friendly -- friendly amendment to the motion stated by Commissioner Poepoe.

Mr. Poepoe: Would that have to be read out word for word again 'cause I not taking notes?

Ms. Desjardins: Okay, so I just wanna be clear. We're looking at page 3 of the recommendations and what the Planning Department's recommending is numbers 1 through 6, with an addition that the Special Management Area Permit be applied for within a period of time, is that what you're requesting that the SMA permit be part of the special conditions?

Mr. Poepoe: If I can adopt the conditions as stated without repeating it?

Ms. Desjardins: So it would be numbers 1 through 6, and then I'll get to Ms. Buchanan's amendments in a second, and then number 7 would be that the SMA permit be applied for within a certain period of time. Did I get that right?

Mr. Poepoe: The land use permit.

Ms. Desjardins: The -- this would be the -- the after-the-fact permit.

Mr. Poepoe: Is that -- that's what you asked?

Ms. Desjardins: Was that what you asked for?

Mr. Pele: I didn't put a time line on it. I just -- the applicant said that they would seek -- it would brought up that they said that they would seek that. I guess any reasonable time?

Ms. Desjardins: So, right now, the recommendation from you is that it be included without a time restraint.

Mr. Pele: Yeah, I don't have a time.

Ms. Desjardins: And you folks can discuss that.

Mr. Pele: I don't have a --

Ms. Desjardins: But my bigger question is, I'm sorry to cut you off, is can you clarify, please, Deputy Director, as to the recommended amendments to number 1 and 2 whether that's possible to exclude the Planning Director under the law or is that required?

Ms. McLean: That would be up to the Commission to decide who grants the extension and who has the authority over transfers, so if the Commission wants that to be the Commission, then -- then that wording can be changed as Commissioner Buchanan suggested. For the compliance issue, it's not clear what -- what permits are required, I assume SMA and building permits are required, but that's not a certainty so if the condition could read something more like all structures on the property shall be properly permitted within a -- a certain amount of time because there are alternatives to getting after-the-fact building permits, for example, they could remove the structure, so if that's what they choose to do rather than getting after-the-fact permits, that would also achieve compliance and would also meet the -- the exact wording of the condition. Thank you.

Mr. Pele: And I'll -- I'll defer to the rest of the Commission. I mean I heard our Chairman bring that up and I thought it was a valid point if we want to keep -- to include that, you guys can adjust the language anyway you see fit. Luigi didn't have a problem with applying for the SMA, I believe he said, and the permit, so I think we should allow them, I don't know how much time is a sufficient amount of time, but perhaps you guys could share some recommendations.

Mr. Manera: In regard of the after-the-fact, we can apply in the next, say, six months and whatever it takes. That's fine. I mean --

Mr. Pele: Fine with me. Six months it is.

Mr. Manera: Yeah. That -- that's reasonable. Since I'm over here, can I ask? I wanna ask you something. You talking about the 5-year extension on the permit? No? No, no, 5 years for the Special Use and all that. No?

Vice-Chair Lasua: Special use.

Mr. Manera: On Condition no. 1. There is no way we can do 10 years instead?

Ms. Buchanan: You know, I remember doing 10 years on this in the past, yeah, and I think it was because the lessee had changed and there was so much issues with one of the lessees that that's how come the 10-year came back to five years, and that is my reason for adjusting number 1, if everybody reading it, it -- what is very simple, it just says that the permit shall be valid until 2023, and then that the Planning Director will forward the time extension to us and that's what I -- it used to be like that.

Mr. Manera: Yeah.

Ms. Buchanan: And then, at some point, it stopped being like that, so I was hoping to get back to that because I think it works actually smoother that way.

Mr. Manera: I -- that's what the family really want --

Ms. Buchanan: Yeah.

Mr. Manera: But, you know.

Ms. Buchanan: So 10 years, if we in discussion, 10 years is -- you can ask for 10 years and 10 -- 10 years is reasonable as long as the recommendation from this Planning Commission does not get overridden by the County Council as it did in the historical so -

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Ms. McLean: It's very important to understand, with the State Special Permit, the Council cannot override you.

Ms. Buchanan: Okay.

Ms. McLean: So if you say renewal by the Commission, transferability only by the Commission, the Council may do something different with the Conditional Permit, but they cannot change your decision on the Special Permit.

Ms. Buchanan: Okay. So the part where the Planning Director can administrarily extend on a time extension, that's what I trying to cut out of here.

Ms. McLean: You can do -- it is entirely your call what you do on the State Land Use Commission Special Permit, so, yes, you can have Commission renewal. Council may allow the Director to do renewal on the Conditional Permit, but they cannot change your decision, so if you say Planning Commission for the renewal and transfer, that's the final decision and that cannot be changed. It cannot be changed.

Mr. Pele: And -- and her request to have it switched to our review rather than just the Planning Department's review, that's doable by us also, correct?

Ms. McLean: Absolutely. For this -- just for the State --

Mr. Pele: Just the State Land Use, yes. I'm understanding that.

Ms. McLean: You can make that same recommendation to Council for the Conditional Permit; if Council doesn't want to do that for the Conditional, Council can change the Conditional, but yours -- your decision is final. Period. That's it. That's it. Department cannot change it. Council cannot change it.

Mr. Pele: I'm -- I'm very -- the reason why I asked the length of the permit 'cause I would -- I would be very -- I would push for 10 years so long as those conditions that you requested are met, non-transferable, Planning Department must come to us first, but I think a 10-year special permit would benefit the owner of the property and allow them to concentrate on running their business rather than dealing with government every 5 years. That's just my opinion.

Ms. Buchanan: Vice-Chair, my next question would be to Corporation Counsel. Does the Conditional Permit have to -- you cannot have one without the other in order to operate the commercial business in a ag conservation zone?

Ms. Desjardins: That's correct. You have to have both permits, so let me, in listening to the discussion, perhaps number 1, Land Use Commission Special Permit could be amended to read something along the lines of that the Land Use Commission Special Permit shall be valid until May 31, 2028, if you choose to go a 10-year term, for the duration -- and then you can take out "or for the duration of the Conditional Permit," take that out, and then just say, "subject to extension by the Molokai Planning Commission upon a timely request for extension filed at least 120 days prior to its expiration," and then remove the rest of the language. That's what I thought I heard the conversation leaning towards.

Mr. Pele: I would like to ask Deputy Planning Director, how likely is it that the Council will stray from anything that we do when they deal with the special -- the Conditional Permit? I mean is it, and I'm just asking this, I know there's no definite answer, we can't look into the future, but if we put a 10-year permit out there, is it unlikely that they would go against the grain of what we're -- for their -- for their permit? Have you --

Ms. McLean: Thank you for the question. I -- if you granted a 10-year term for the Special Permit --

Mr. Pele: Correct.

Ms. McLean: And recommended a 10-year term for the Conditional Permit, I do not think they would change that.

Mr. Pele: Okay. Thank you.

Ms. McLean: And even if they were to -- even if they were to give a 25-year Conditional Permit, after 10 years, they still have to come back to you for the State Land Use Commission Special Permit.

Mr. Pele: Okay. Thank you.

Ms. Lopez: Can -- can I add to -- that's why with the condition no. 1 it says the duration or for the duration of the Conditional Permit, so if you guys don't want 10 years and you guys want 5, and the Council pushes for 10, so that condition means it'll go for the 10, well especially -- I mean because you have it in the condition.

Ms. Buchanan: Mr. Vice-Chair, okay, so now that we're all thoroughly confused, for the record, I just wanted to reiterate, did the applicant ask to extend the 5-year to a 10-year application bringing the date of the May 31, 2028 under consideration and asking us to amend the application to reflect that?

Mr. Manera: Yes. That's correct.

Ms. Buchanan: Okay, can the record reflect that the applicant is asking for amendment to -- for the Land Use Commission Special Permit to be valid until May 31, 2028?

Mr. Manera: Yeah. Correct.

Ms. Buchanan: Thank you.

Vice-Chair Lasua: Okay.

Ms. Buchanan: Okay, one thing down.

Vice-Chair Lasua: Anymore -- anymore discussions?

Ms. Buchanan: Again, back to item 1 'cause you -- we're going to have to restate this motion.

Vice-Chair Lasua: Right.

Ms. Buchanan: Okay.

Mr. Poepoe: Is anybody writing this down?

Vice-Chair Lasua: Okay.

Ms. Buchanan: Okay, hang on.

Ms. Lopez: Yes, but there are two options, yeah, for condition 1, to either strike everything after the date or strike out the last sentence of the date, the last sentence of the paragraph, so there were two options on condition 1 that I have, I'm writing, so I just wanna --

Ms. Buchanan: Okay. So -- so we still in discussion, so my discussion would be, under the recommendation for the Land Use Commission Special Permit, and maybe as a friendly amendment to the motion by Commissioner Poepoe would be that the Land Use Commission Special Permit shall be valid until May 31, 2028 or for the duration of the Conditional Permit, whichever is later, subject to the extension by the, strike "Maui County Planning Director" and insert "Molokai Planning Commission," upon a timely request blah, blah, blah. And again -- and then we just strike all the rest. Okay, so that's the friendly amendment to that motion for -- on the accepting the recommendations. And then number 2, in line 2, it says "Prior written approval of," strike the "Planning Director" and

insert the "Molokai Planning Commission." And then everything is all good until we added that item number 7, and the general verbiage that all structures should be permitted or applied for permit and whatever the six months date is, Planner Lopez, that would be item number 7. I'd like to see if that can be a friendly amendment to Commissioner Poepoe's motion.

Vice-Chair Lasua: Okay. Everybody got that? Commissioner Poepoe, is that valid with you?

Mr. Poepoe: Yes.

Vice-Chair Lasua: Okay. Yeah, can I get a second on that amended motion?

Mr. Pele: I second.

Vice-Chair Lasua: Okay. Okay. More discussion? Anymore discussion on that amended motion? If not, can we take a vote? Ready for the question? All in favor raise your right hand? All opposed, you left hand? Okay, motion approved.

It was moved by Commissioner Laakea Poepoe, seconded by Commissioner John Pele, then

VOTED: to approve the Land Use Commission Special Permit with conditions, as amended, as follows:

Condition no. 1: That the Land Use Commission Special Permit shall be valid until May 31, 2028 or for the duration of the Conditional Permit, whichever is later, subject to the extension by the Molokai Planning Commission upon a timely request for extension filed at least one-hundred twenty (120) days prior to its expiration. (Delete remainder of condition.)

Condition no. 2: That the subject Land Use Commission Special Permit shall not be transferred without the prior written approval of the Molokai Planning Commission. However, in the event that a contested case hearing preceded issuance of said Land Use Commission Special Permit, a public hearing shall be held by the appropriate Planning Commission upon due published notice, including actual written notice to the last known addresses of parties to said contested case and their counsel.

Add Condition no. 7: That all structures on the property shall be permitted or have permits applied for within six (6) months.

(Assenting - L. Buchanan, L. Lasua, W. Moore, J. Nuesca, J. Pele, L. Poepoe)
(Excused - L. Espaniola)

Ms. Lopez: Thank you. Thank you, Vice-Chair. Thank you, Commission.

Vice-Chair Lasua: So we go back to the conditional -- the land use --

Ms. Lopez: Do you want it repeated or we good? Okay. Just checking. Do you want to make the same change from Condition 1 of State Special Permit to Conditional Permit -- for the Conditional Permit, Condition no. 1? Yes? Okay.

Vice-Chair Lasua: So can I get a motion for the Conditional Permit? Motion to -- for the Conditional Permit.

Mr. Poepoe: Motion to recommend the Conditional Permit for this application and with the adjustment of 10 years to coincide with the Land Use Special Permit.

Mr. Pele: I second.

Vice-Chair Lasua: Okay.

Ms. Buchanan: Mr. Chair?

Vice-Chair Lasua: Go ahead.

Ms. Buchanan: Discussion.

Vice-Chair Lasua: Go ahead.

Ms. Buchanan: Item number 2, That the Conditional Permit shall be non-transferable unless approved by the -- strike -- oh, no can, yeah? Ah, darn it. Okay. Hang on then.

Ms. Lopez: So while you thinking that, can I add just so you guys aware because the historical data kind of was confusing but on Condition 1, it'll be from the effective date of the ordinance, so you have two different date unless you want it simultaneously done, like how you said on the Condition 1 of the State Special Permit. Just wanna let you guys know that - of the dates, so that would be consistent, the State special permit of the date of -- it'll be effective will be the same date as it'll be effective of the ordinance of the Conditional Permit so that all of the two permits will be under one date.

Vice-Chair Lasua: Right.

Ms. Lopez: Okay. Thank you.

Ms. McLean: If I may. Same as both are coming to you today, 10 years from now, both would come to you again for you to consider a time extension and then recommending an extension of the Conditional Permit to Council, so the same two items would come back together again. The only difference would be also if there's transfer, transfer would have to come to you at any point within this 10 years, transfer would also have to go to the County Council at any point in those 10 years, so they would both come to you together either for a time extension or for transfer the way it's written now.

Ms. Buchanan: Deputy, question. So, just to reiterate, so we not -- there is no way that a new lessee could come -- could have this two permits transferred to a new lessee within the 10-year time period unless they came in and applied for a new permit. Is that correct?

Ms. McLean: They could not -- this permit would not allow them to operate.

Ms. Buchanan: Okay.

Ms. McLean: So --

Ms. Buchanan: So they could lease, but they cannot operate?

Ms. McLean: Not lawfully. Correct. They would have to come to you.

Ms. Buchanan: Okay. Thank you.

Ms. McLean: And -- and the Council, the way that this is written as well.

Vice-Chair Lasua: Was there anymore changes or additions to the motion?

Ms. Buchanan: Mr. Vice-Chair, maybe -- I trying to figure out how we can make this really strong on number 2, that the Conditional Permit shall be non-transferable, period, and strike the rest. Can we just do that? Then that kinda tells the County Council that, you know, we do want it non-transferable even though we know they cannot. Is that okay? Seems kind of --

Vice-Chair Lasua: Okay with the Commissioners?

Mr. Pele: But what good would it -- if we're controlling the State Land Use Permit as non-transferable, what good would -- would -- if we couldn't change this language, what good would the Conditional Permit be without the Land Use Permit? I mean -- you know what I mean? Like so if the County did transfer it, we're not going to transfer the Land Use Permit so it would still deem them un-operable, correct?

Ms. Desjardins: Yeah, so both permits have to be in sync with each other so even if they did transfer, it wouldn't work because the --

Mr. Pele: Yeah, so we -- I don't wanna talk like this, but essentially we're holding the trump card with the Planning Commission 'cause we control the Special Use Permit, correct? So I don't know if the point is -- I mean I understand where you're going with it, but we still hold that -- that non-transferable in the special land use and -- but -- yeah.

Ms. Nuesca: So -- but if we -- if we did, because that Special Land Use Permit is subject to our approval, and if we did approve someone to transfer, like how MIA transferred over to the Wards, would that Conditional Permit then not be able to be transferred at all? I was wondering if maybe we could -- it says that the Conditional Permit be non-transferable unless approved by the Maui County Council with prior approval from the Molokai Planning Commission?

Ms. Desjardins: So the -- if there was a change for the Conditional Permit, you would -- it would have to come before the Molokai Planning Commission first anyways, and because the law does allow the Maui County Council to amend the Conditional Permit whether you put it in there or not, it doesn't matter, you still have to follow the law, but understanding I think where you folks are coming and trying to make the language strong, it doesn't change the law. You still, like you said, hold the trump card because if you don't change the Special Use Permit, there isn't going to be a transfer.

Ms. Buchanan: Mr. Vice-Chair?

Vice-Chair Lasua: Go ahead.

Ms. Buchanan: I get one last comment. I think, and I apologize again to anybody if I came off as condescending, that wasn't my intent, I just old and I getting fussy, but I still trying to wrap my head around how, in the history of the project, on number 8, we went from 8, 9, 10, and 11, and 12, I still trying to figure out how that went happen, and I not going muddy the water now, but I still trying to wrap my head around how one non-transferable permit from this Planning Commission got turned into one ordinance that got amended on the Conditional Permit. So I just throwing that out there as a matter of the record. But we in discussion on the second motion, on the Conditional Permit, so we good. I don't know how that went happen.

Mr. Pele: I think that's -- that's the two separate permits though, right? They control -- they did their thing, the Council, and Planning Commission did their thing on the special land use, and I don't think there was that, so what we're trying to do now I think, that you brought that up, is maybe give notice to the County Council to, hopefully, take our lead, although we don't control the -- their Conditional Use Permit, my thought process is they would follow the Planning Commission's recommendation on the land use, and you can take that for what you will.

Ms. Desjardins: Can I interject something really quick?

Vice-Chair Lasua: Go ahead.

Ms. Desjardins: When I read number, let's see, number 10, it looks like in January of 2004, the Molokai Planning Commission voted to approve a transfer, and then from there, it went to the Council and the Council approved it because the Molokai Planning Commission voted to approve it, and that's how the transfer went from Castanera to MIA. So it did go -- come before the Molokai Planning Commission.

Mr. Pele: Yeah, that's what I was asking if that was the result. It looks like we did our, well not we, but the Planning Commission made their recommendation, and then the County Council just followed that recommendation with their permit. Is that what I was seeing in those 8, 9, 10, 11? But it's still, the ordinance you said, they changed it, right, is I think the one that you're keying on and I understand that they kinda just did their own thing with that transfer and --

Ms. Desjardins: There's a little bit of confusion between 11 and 12. It looks like, on number 12, it looks like the Maui County Council amended the ordinance further to transfer from MIA to Takata, but there isn't anything in the record here that indicated that the Molokai Planning Commission approved that transfer; that, I think, is where a little bit of confusion lies. Just for the record.

Ms. Buchanan: Just trying to be cautious that that doesn't happen again. That's all.

Mr. Pele: I think the language you put in with the Special Use covers us. I feel good about that having to come to the Planning Commission. I think you've kinda dealt -- dealt that hand to us, if you ask me. I'm comfortable with that amendment from the Planning Director to the Planning -- to the Planning Commission.

Vice-Chair Lasua: Okay. Everybody satisfied with the conditions? Additions? Okay. Everybody ready for the question? All in favor, raise your right hand? All opposed, your left hand. Motion carried.

It was moved by Commissioner Laakea Poepoe, seconded by Commissioner John Pele, then

VOTED: to recommend approval of the Conditional Permit with conditions, as amended as follows:

Condition no. 1: That the conditional permit shall be valid until ten (10) years from the effective date of the ordinance; provided that an extension of this permit beyond this period may be granted pursuant to Section 19.40.090, Maui County Code.

**(Assenting - L. Buchanan, L. Lasua, W. Moore, J. Nuesca, J. Pele, L. Poepoe)
(Excused - L. Espaniola)**

Vice-Chair Lasua: Next item, we're going to skip -- skip through the C.2. and 3., and move on to D.1.a and b, so we can start with Unfinished Business D.1.a.

RECORD OF ATTENDANCE:

Present:

Lori Buchanan, Chairperson
Lawrence Lasua, Vice-Chairperson
William Moore
Jaylene Nuesca
John Pele
Laakea Poepoe

Absent(A)/Excused(E):

Leonora Espaniola

Others:

Michele McLean, Deputy Planning Director
Clayton Yoshida, Planning Program Administrator, Current Division
David Raatz, Administrative Planning Officer
Sybil Lopez, Staff Planner, Molokai
Mimi Desjardins, Deputy Corporation Counsel
Suzette L. Esmeralda, Secretary to Boards & Commissions II