

PC Committee

From: Michael <baskindesign@gmail.com>
Sent: Wednesday, October 31, 2018 8:58 AM
To: PC Committee
Subject: Fwd: Testimony of Michael Baskin PC-21 (CC 18-360)- Planning Committee November 1, 2018
Attachments: ATTACHMENT 1 -Greg Garneau Email to MB re M Mclean.pdf; LU Committee Re STRH Community Plan Amendment.pdf; Letter to County Council -Hearing 2-2-18 Re CC No 18-52.pdf; LU Committee.pdf; Mopsy_my friends.MP4; Letter to Planning Committee (11-01-18 Hearing) re STRH Community Plan Amendment-Final.pdf

(SEE PDF VERSION OF THIS EMAIL TESTIMONY ATTACHED HERETO—includes footnotes)

November 1, 2018

Planning Committee

Council of the County of Maui

Kalana O Maui Building, 8th Floor

200 South High Street

Wailuku, HI 96793

Email: pc.committee@mauicounty.us

Dear Planning Committee Chair and Members:

I have concerns regarding PC-21 (CC 18-360), “Short-term Rental Homes [STRH] in the Paia-Haiku Community Plan Area” (STRH) scheduled for hearing on Thursday, November 1, 2018.

The County Council (“Council”) has the responsibility to bringing peace to this matter related to the Paia-Haiku Community Plan. People are misinforming the Council and testifying against TVRs but are actually supporting TVRs. The Council has the chance to vote today to bring peace to this matter.

The Council already approved 88 as a cap, which we have not met. By amending the Paia-Haiku Community Plan, the Council will clear up any ambiguity between the new rules and an old outdated community plan.

In connection to this matter, I object to Planning Director Michele McLean's ("Director McLean") involvement in the proposed bills before the Planning Committee. I am an owner of one of the permitted STRHs in Paia and have been negatively affected by Director McLean's prior actions. Under the administration of the former Planning Director William Spence, Director McLean, as Deputy Director at the time, led the charge to draft the proposed bills. These bills are directly aimed at STRHs in the Paia-Haiku area to further her personal vendetta against me simply because I did not give work to her husband, an unlicensed contractor. These proposed bills do not solve any actual problems and simply a vehicle designed to implement a personal vendetta. I can provide documentation that backs up what I am asserting. Many witnesses also back up what I am asserting.

Director McLean has been directly behind and involved in the engagement of a select group of people to oppose my STRH and other properties. Many of these people, including Director McLean, were also members of the Paia Town Association and used that platform to oppose my STRH and TVRs. As such, she should be recused from any presentation, involvement and decision making in this matter as she clearly has bias against us and therefore against a strong part of the Paia community.

In an email dated December 6, 2013, Greg Garneau, my attorney at the time (and now an attorney with the County), outlined Director McLean's abuse and involvement in working with this small group of Paia neighbors "to put competition out of business" and using Council Member Mike White as a cover-up to protect the identification of those neighbors. **(Attachment 1)**.

The following is a summary of the initial events that occurred between me, Director McLean and other County officials and a select group of neighbors that led to unfair enforcement actions against me and my properties.

1. **The Initial Conflict that Led to Unprecedented Enforcement Actions by the Department of Planning and Director Michele McLean**

- In 2012, a private dispute began between me and the Director McLean's husband, Paul McLean.
- I was the designer of a house construction project for celebrity actor Owen Wilson.
- Paul McLean misrepresented himself as a licensed contractor under another person's contracting license, which had expired many years prior.

(I remain amazed that our current Planning Director is married to an unlicensed contractor, who was apparently allowed to do illegal work on Maui with no consequences. Unfortunately, this is just one of the many absurd conflicts that Director McLean has gotten away with. She has a habit of favoring her friends and punishing those not in her favor)

- Upon my advice, the clients declined to hire Paul McLean, and he was very upset.
- He has threatened me and struck me physically on several occasions.
- In response, I filed a TRO against him on May 2016 and he was charged with harassment.
- Following the private dispute, the Department and Director McLean targeted me and my properties for enforcement action.
- Director McLean collaborated with a small group of my neighbors and business competitors^[1] to file request for service ("RFS") complaints against me.

- These neighbors sent a series of emails[2] to Director McLean and Council Member Mike White, outlining each of my properties in detail and alleging numerous, unfounded, building code, SMA and zoning violations.
- In the summer of 2013, I sought to renew a SMA permit for construction work at the Paia Inn but Director McLean had instructed Department personnel to delay the issuance of a new SMA, which would result in the expiration of the associated building permit.
- Director McLean's interests in seeing my building permit expire is shown in a redacted email of June 20, 2013 in which she states, "The building permit will expire on June 29, by which date he will need SMA approval."
- While Director McLean was on vacation, Planning Program Administrator, Clayton Yoshida approved and issued the renewal of the SMA permit on July 31, 2013.
- When Director McLean returned from vacation, she unilaterally and without justification issued an "amended" SMA permit on August 21, 2013. The "amendment" contained no change in the substantive permit conditions applicable to construction.
- The amended SMA created the reopening of time for filing an appeal against the granting of the SMA. Within two weeks, just such an appeal was filed by the same group of neighbors with whom Director McLean was collaborating via Isaac Hall.
- Director McLean went far beyond the scope of her authority and caused significant damage to my business, all due to her and her husband's vendetta against me.

2. Unprecedented Issuance of Notices of Violation

- On November 18, 2013, the Department of Planning issued twenty-eight (28) separate notices to correct in response to the RFS complaints filed by Council Member White on behalf of my neighbors and business competitors without conducting a follow-up inspection to verify my compliance, attaching financial penalties and criminal sanctions.
 - The notices to correct gave me only **seven (7) days** to remedy the list of violations.
 - Despite many of the NOVs[3] being immediately resolved, I filed notices of appeal before the BVA to preserve my rights.
 - For the rock wall violation, former County inspector, Ron Sandate, conducted an investigation into the rock seawall towards the end of 2010 and beginning of 2011.
 - In January of 2011, Mr. Sandate contacted Mr. Baskin and confirmed that Mr. Baskin had no knowledge of the seawall and no participation in its construction.
 - Mr. Sandate's own letter verified Mr. Sandate's findings that Mr. Wynn was responsible for the construction of the seawall.
 - Despite clear County records demonstrating that Mr. Baskin had no participation in the construction of the seawall, he was still issued a NOV, which was a costly administrative appeal.
 - My attorneys worked with Corporation Counsel to have the Department of Planning withdraw many of the NOV'S which were either issued in error or were now baseless given the alleged violations had been previously remedied.

- The NOV's have cost a considerable amount in legal fees.
- Despite my cooperation, the Department filed an injunction to get me to cease all operations. I appealed it the Hawaii Supreme Court and the Court ruled I was entitled to Due Process.

3. **Business Competition and Negative Neighbor Relations Caused Legal Action**

- The legal proceedings and negative neighbor relations were caused by the concerted effort of a small group of Ms. McLean and business competitors.
- Between May and October of 2013, this group sent a series of emails to Council Member Mike White and Director McLean, alleging numerous violations for my properties without providing any evidence to support their allegations.
- In one email from Francine "Mopsy" Aarona, which was inadvertently sent to me, revealed that the neighbors were on a "mission" to target me and my properties for enforcement action.
- Other members of the group organized and funded an appeal against the County's issuance of an SMA Minor Permit for the Paia Inn. The emails make clear the neighbor's mission was to shut down the Paia Inn and damage my business.
- I made numerous attempts over the years to meet with the neighbors and to resolve any concerns they had. However, my efforts were discarded.
- White and Director McLean refused to meet with me, despite my numerous requests.
- I filed complaints with the Maui County Board of Ethics on April 11, 2014, which were dismissed as non-relevant, as I had filed appeals.

4. **Neighbors and Business Competitors**

Francine "Mopsy" Aarona

- Mopsy has been a spokesperson for Flatbread Pizza (when Martin Brass and Josh Stone were owners of the property) and has assisted them in a mission against our businesses.
- She had an arrangement with Flatbread and her name "Mopsy" appears on the Flatbread menu.
- Mopsy is a part owner of a property next to my residential property in Paia. She owns only 3% of the property and may not live on the property as her primary residence. She may live in Hawaiian Homelands.
- While Mrs. Aarona claims to oppose STRHs and TVRs in Paia, we note the following actions she has taken that run contrary to her testimony:
 1. Mopsy has given and continues to give beach access for guests of nearby STRHs from Ae Place (a private roadway). We believe she has an agreement in place with nearby STRH owners. She does not have permission of all the owners on Ae Place to allow such beach access.

(See, attached link below and video clip of Mopsy allowing beach access to STRH guest and stating that the tourists were her "friends.")

(See, also link below to video clip of Henry Aarona, Mopsy's husband, denying access)-

See, LINK to both video clips:

<https://www.dropbox.com/sh/zj8vvqc1uoawtn0/AACmWvUbPL55BbEHQDvvWiaLa?dl=0>

2. Mopsy has provided oral and written support and testimony for an STRH renewal application for a neighbor adjacent to her property on Ae Place, which provides a non-permitted fire exit for Flatbread.
3. Mopsy has denied beach access and now controls beach access to whomever she wants to for Ae Place based on her arrangements with nearby STRH owners. We have asked her on numerous occasions, without success, to meet with us to resolve this gate issue.
4. Our attorney has reached out to her as well (by letter dated December 7, 2017). To date, this matter is ongoing. (
5. Mopsy's property at 37 Ae Place has many illegal non-permitted structures in the shoreline, yet the County has taken no action against her.
6. Mopsy's husband has been aggressive towards me and has stopped me from walking down the beach access.

Martin Brass (Flatbread)

- He is the financial supporter, hiring attorneys behind an effort to damage me and our properties.
- He is very litigious bully, filing 5 separate law suits against other local business and residents
- When Flatbread Pizza was purchased, before any work began, Martin and Josh Stone went under contract to purchase the property (87 Hana Hwy and 40 Ae Place) and then approached me to see if I would be willing to be a partner, which I agreed to.
- We were in escrow purchasing the property together but during the course of the escrow, I could see that there were going to be an apparent relationship issues with Martin and decided not to continue. The parties agreed they would keep 87 Hana Hwy. and I would keep 40 Ae.
- Martin decided he wanted to actually continue to be an owner at 40 Ae, and he wanted to have an interest in my property at 93 Hana Hwy. I refused.
- In 2006, Martin and Josh paid one million on complete renovations with no SMA or building permits.
- The Planning Department did not take any significant action for these blatant SMA or building violations (and certainly not at the unprecedented and vigorously pursued levels of enforcement that the County did with our properties).
- There was never a fire exit out of 87 Hana and Martin threatened us continuously that if we did not allow his fire exit to go through our property at 40 Ae Place that he would make things difficult for us.
- For 8 years, Flatbread Pizza had an illegal fire exit through my property at 40 Ae Place.
- I informed Martin and Josh that I did not want the exit to go through my property.
- They filed complaints against me so I informed them that they had to remove their fire exit.

- Martin hired attorney Isaac Hall and, over the years, unfairly tried to force me to comply with demands that I was not willing to agree to.
- Martin Brass has worked with Mopsy to file complaints against my properties.
- Mopsy has made it extremely difficult and has tried to damage us, but we believe it's mostly on behalf of Martin Brass.
- 87 Hana has since sold for \$5.1 million and part of the reason, we understand, is that Martin Brass was in a lawsuit with Flatbread, the tenant. They also have had extreme difficulties with him.
- Many people have had a lot of difficulty with Martin Brass, and we believe that his attitude and his desire to damage us, based on a competitive intent to try to acquire some of our properties through partners of his.
- Alan Arakawa appointed Josh Stone as Chair of the Charter Commission, and Josh was able to utilize this relationship to prevent any fines or violations against Flatbread despite significant major renovations without proper SMA, flood, parking or building permits.

5. **Hearing Officer Judge McConnell Confirms the Paia Inn is in Full Compliance with all County Requirements and is Consistent with the Paia-Haiku Community Plan.**

Paia Inn is in Full Compliance

In April 2018, the Planning Commission appointed retired Judge E. John McConnell as a Hearing Officer for a contested case hearing involving the applicant Seashore Properties, LLC. Seashore Properties sought a Special Use Permit to convert four (4) existing offices at the Paia Inn into TRVs, along with the original five (5) existing rooms, for a total of nine (9) rooms. Judge McConnell reviewed all the evidence and determined the Paia Inn is in “full compliance with all County requirements” and “There is simply no relevant evidence that supports denial of the Application”. McConnell’s decision affirmed Seashore Properties’ claims that the Paia Inn is not a hotel-resort development and is consistent with the Paia-Haiku Community Plan.

Opposition to the Paia Inn Should be Disregarded

Judge McConnell addressed the opposition to the Special Use Permit for the Paia Inn stating, “While there was testimony from Martin Brass and Francine Aaronson opposing the Application, and while they may have organized opposition to the Application, such testimony is not grounded in the applicable standards, and is not supported by evidence. Both apparently have personal issues with Mr. Baskin and may view the Paia Inn as a potential competitor. Accordingly, such testimony is irrelevant and should be disregarded. This matter should be decided on the merits.”

Based on the foregoing and my previous testimonies submitted to the Land Use Committee regarding these bills, we respectfully request the following:

1. Recuse Director McLean from all matters related to the proposed bills (PC-21). The County of Maui and Paia-Haiku shouldn't suffer just to fulfill Director McLean's personal vendetta that began with my concerns about hiring her husband, an unlicensed contractor;
2. Vote to recommend an update to the Paia-Haiku Community Plan to be consistent with Ordinance 3941(2012) by allowing STRHs in Paia-Haiku area. The Planning Committee should not base its decision on a small group of opponents but focus on the betterment of the entire community in the Paia-Haiku area.
3. Vote to recommend removing the language prohibiting new STRHs abutting the shoreline and simply update the Paia-Haiku Community Plan to allow for its use.
4. If there is an amendment to the Paia-Haiku Community Plan, it should include TVR use as the Council passed Ordinance No. 4153, 4152, 4088 with a vote of 8-0, allowing TVR in the business districts. (There has already been an application to have TVR in Paia, and the Planning Commission debated its use per the community plan, but the Planning Director has already approved TVR in Paia. This needs to be clarified so as to avoid legal disputes in the future).
5. If the Planning Committee is not able to outright vote to include the TVR ordinance in the Paia-Haiku Community Plan, we request that the language be sent back to the Planning Commission to recommend amending the Paia-Haiku Community Plan to include TVR.
6. We recommend the following language be considered to update the Paia-Haiku Community Plan:

“13. Limit visitor accommodations to permitted transient vacation rentals and short-term rental homes and owner-occupied bed and breakfast homes that are residential in both scale and character. Illegal visitor accommodations can diminish the availability and affordability of housing for residents and should be subject to strict enforcement action.”

Finally, I have attached additional testimony regarding this issue that I had previously submitted to the County Council members, Planning Commission and the Land Use Committee for your further consideration (previously LU 54 and CC 18-52):

1. Letter to County Council Hearing (dated January 30, 2018) (County Council members)
2. Testimony of Michael Baskin (March 13, 2018) (LU Committee STRH CP)
3. Testimony of Michael Baskin (March 13, 2018) (LU Committee)
4. Testimony of Michael Baskin- Video (March 13, 2018)

Thank you very much for your consideration of this letter.

Michael Baskin

[1] These neighbors included Josh Stone and Martin Brass, owners of the Flatbread building; Annie and Chris McNeil, owners of the short-term rental operation at 15 Nalu Place; Peter Winn, owner of the Short-Term Rental property adjacent to Baskin's short-term rental property at 23 Nalu Place; and Francine Aarona, owner of the property adjacent to Baskin's short-term rental property at 40 Ae Place.

[2] In one email, Director McLean writes about how the neighbors can use Council Member White to file RFS complaints on their behalf so that their identities may be shielded. McLean goes on to say that, if White does not file the complaints for them, then she would do so personally. Director McLean spoke on behalf of the Department of Planning at a March 25, 2013 Planning Commission meeting, in which she clearly stated, "...we don't allow anonymous complaints." Yet, she volunteered to file RFS complaints on behalf of a small group of my business competitors and assist in their self-proclaimed "mission" to target me for enforcement action.

[3] Of the twenty-eight NOVs that were issued on November 27, 2013, twelve (12) notices were corrected by removing or relocating small structures that were the subject of the notices. Six (6) of the notices were remedied by submitting applicable after-the-fact permits, as they related to construction or alteration of structures that were already in existence at the time I purchased the properties. Five (5) notices were premised on factual inaccuracies and inconsistent property boundaries and two (2) of the notices related to work that I had absolutely no participation in, which was verified by the County in 2011 and reflected in the County's own records.

From: **Greg Garneau** ggarneau@carlsmith.com
Subject: RE: Maui News calling me
Date: December 6, 2013 at 10:25 AM
To: **Michael Baskin** baskindesign@gmail.com, **Paul Alston** PAlston@ahii.com
Cc: **Pamela Bunn** PBunn@ahii.com

I'd like to hear Paul and Pam's take on this, but my thoughts are that you need to get your story out and work with Brian to do so. It is an opportunity to paint a picture of Josh Stone/Martin Brass using the system with Michele McLean to put competition out of business. Invite him out to see your business and show what it means to your employees and the economy of Paia. You have a lot of evidence to back up your side of the story.

Some points:

- Abuse by Michele McLean
 - Whole thing started when Michelle McLean's husband did not get the work with you. Came highly recommended, but when found out that was not licensed could not use him. Michelle has held a grudge, even though tried to explain to her that for legal reasons, liability and insurance, you could not use an unlicensed contractor. They live in Paia and he continues to work without a license.
 - Lots of unpermitted activity by neighbors but you did not report (and still have not reported) because have wanted to keep the peace and get along.
 - Know Michele McLean wanted to complain against you in the beginning and this is documented. Then , Mike White put up to it to make the complaints. Find it very unusual and irregular that County Deputy Director and Council member would initiate complaints and single out one person and not any others. Mike White never bothered to verify any information with us and, in fact, never returned numerous emails and calls or met with you to discuss. He has never explained why he is doing this.
 - Michele and Mike White have unleashed the full power of the County government against us and filed many, many NOV's. Is extremely excessive. Michele stopped us mid-construction even though we had a valid building permit. Dragged feet on approvals with the intent of having permit expire. Silenced staff who have been supportive and wanted to help us by complaining to their supervisors. This is her personal vendetta.
 - You are being singled out for unfair treatment.
 - County inspectors have been out to property and given full access to everything.
 - During their inspections, County personnel were made aware of the situation and saw for themselves the violations on neighbor's properties.
- Flatbread/Martin Brass/Josh Stone
 - Enclosed roofs on second story and lanai.
 - Converted the upstairs living area into restaurant space.
 - Expanded restaurant space into lanai doubling seating.
 - All work done, and continues to do even this past week, without SMA or building permits.
 - Despite all of this and County aware of this, no violations or stop work orders issued to Flatbread.
 - Josh Stone and Martin Brass are the money behind the intervention filed by Isaac Hall in your SMA.
 - Josh Stone and Martin Brass are also the money behind the intervention in the Rock & Brews SMA.
 - No coincidence and reason is quite obvious why this is coming up now and not before.
 - We had an application for a new restaurant at the Paia Inn that because of the threat to withhold our SMA for the work under construction, we were forced to withdraw.
 - Rock & Brews is building a new restaurant.
 - Josh Stone and Martin Brass are using whatever means they can to destroy their competition.
 - Gone so far as to tell us "We will destroy you" and threaten your wife and livelihood.
 - Because you would not give in to their demands, Flatbread has used the County and the legal system to retaliate, threaten and intimidate.
 - County is allowing this abuse of the system and no one – the Mayor, Mike White, or Will Spence have stepped in to correct the situation.
- McNeils
 - Violating terms of their STRH permit.
 - Operating 3 units.

- No violations or revocations of their permits.
- No longer live on property.
- When living there, gave permission to cross through your property to get to ocean.
- Once not living there, did not want guests to come through due to liability concerns.
- Complained to County that access closed.
- Not true – access to beach has historically been off A'e place and this is well documented. Kekahuna's blocked off with a gate in 2001.
- Give him the January 24, 2002 which documents the history of beach access on A'e road and the County's knowledge and history. (See attached memo to Council in 2002).
- County had knowledge. No reason to process a complaint against me based on McNeil's claim of closing beach access when knew it was false.
- McNeil's sued you with the help of Isaac Hall.
- Mike White complained about beach access.
- 2002 correspondence proved that the complaint of beach access is bogus.
- McNeil's using threats and County system to gain something they are not entitled to.
- Winn
- Enclosed lanais, built in setback, did work on seawall - all without proper permits.
- All work easily observable, yet no action taken.
- Kekahuna
 - Blocked beach access with a gate since 2001 and County has taken no action.
- County Process is Shibai
- At first, just trying to work with the County and respond.
- Also, met with Josh Stone and Martin Brass and tried to work with them.
- Had as many County inspectors and personnel out to inspect your properties and let look at everything.
- Instead of working with you, received 28 NOVs and revocation of your short-term rental permits.
- HUGE impact on the economy of Paia.
- No consideration of the impacts at all.
- How else do you know that is shibai?
- All the other violations were observed by County building and zoning inspectors, by John Rapacz and by Michele McLean, and told to the Mayor.
- NONE of these were investigated and ONLY you were charged. Even charged for work that wasn't done by you and isn't on your property (the seawall).

Gregory J. Garneau
Of Counsel | [Carlsmith Ball LLP](#)

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IMPORTANT/CONFIDENTIAL: This message may contain confidential and privileged information. If it has been sent to you in error, please reply to inform the sender of the error and then delete this message.

-----Original Message-----

From: Michael [<mailto:baskindesign@gmail.com>]
Sent: Friday, December 06, 2013 2:18 AM
To: Paul Alston; Gregory J. Garneau
Cc: Pamela Bunn

Subject: Maui News calling me

I got a call from Brian Perry of the Maui News

He said he got a tip from some one that our Strh Permits had been revoked. Looking for a comment.

Said he would send some email questions over to me. Said he called the mayors office and spoke to Rod Antone and Rod emailed him the Strh revocation letters.

I called Rod and he confirmed that he had sent in Answers to Perry's questions already today.

News probably running this weekend in the paper.

Time to tell the whole story about flat bread and neighbors and maui county being very difficult to work with ?

Any advise?

M

LU Committee

From: Michael <baskindesign@gmail.com>
Sent: Tuesday, March 13, 2018 12:53 PM
To: LU Committee
Cc: Donald S. Guzman; Alike A. Atay; Elle Cochran; Kelly King; Yukilei Sugimura; Robert Carroll; Mike White; Riki Hokama; Stacy S. Crivello
Subject: Paia Haiku Community Plan Update - (LU-54)
Attachments: SMA Assessment-Exemption Form.pdf

Aloha LU Committee:

I own a permitted STRH in Paia. I am a 40 year resident of Paia and was the past vice-chair of the Paia Main Street Association of which I served for 8 years. We also own commercial properties in Paia. I wish to offer the following observations and suggestions regarding LU 54 (County Communication number 18-52):

1. After the Planning Commission July 25, 2107 hearing, we attended the 2 community meetings both in Paia and Haiku for input from the community to be considered in the Community Plan Amendment.
2. We are in favor of the Community Plan Amendment for STRH allowable use in the Community Plan.
3. The Community Plan is outdated and should have been updated long ago and was meant to be a guideline only.
4. What was decided at the hearing is different than the final version from the Planning Department and therefore we recommend removing the language regarding abutting the shoreline and simply update to allow for its use.
5. Not in favor of STRH language prohibiting no new STRH for property abutting shoreline as the shoreline is where STRH homes are popular to both visiting locals and global visitors.
6. Also, if there is a change in the Community Plan, it should include TVR use as Council passed 8-0 Ordinance No. 4153, 4152, 4088 allowing TVR in the business districts. There has already been an application to have TVR in Paia and the Planning Commission debated its use per the community plan, but the Planning Director has approved TVR in Paia already. This needs to be clarified so as to avoid legal disputes in the future.
7. If the Council is not able to outright vote to include the TVR ordinance in the Community Plan, we request that the language be sent back to the Planning Commission to recommend amending the Community Plan to include TVR.
8. We therefore recommend the following language be considered to update the community plan:

“13. Limit visitor accommodations to permitted transient vacation rentals and short-term rental homes and owner-occupied bed and breakfast homes that are residential in both scale and character. Illegal visitor accommodations can diminish the availability and affordability of housing for residents and should be subject to strict enforcement action.”

Mahalo,

Michael Baskin

Baskin Design, LLC
Architectural Designs

808.870.1800 - Direct

ALAN M. ARAKAWA
Mayor

WILLIAM R. SPENCE
Director

MICHELE CHOUTEAU McLEAN
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

SPECIAL MANAGEMENT AREA ASSESSMENT/EXEMPTION FORM (SM5)

Project Name:	PAIA TOWN CENTER – TVR UNITS
Proposed Development:	Nonstructural interior alterations to convert three (3) existing unoccupied office spaces into five (5) one-bedroom transient vacation rental (TVR) units within an existing commercial structure in the County B-2 Business Community District
SMA App. No.:	SMX 2017/0204
Project Address:	120 Hana Highway, Paia, Hawaii 96779
Tax Map Key:	(2) 2-6-005:033
Applicant:	Nicholas Argyropoulos, 1244 6th Street, Santa Monica, California 90401
Owner:	Same as Applicant
Consultant:	Jordan E. Hart, 115 North Market Street, Wailuku, Hawaii 96793
Valuation:	\$350,000.00
Approved Plans Dated:	June 2017

The proposed activity is determined to be:

15. Nonstructural improvements to existing commercial structures.

Per Section 22, Chapter 205A of the Hawaii Revised Statutes, as amended, the rules of the Planning Commission of Maui County, and the Department of Planning's Special Management Area (SMA) Assessment; the proposed activity has been determined not to be a development and is EXEMPT from the applicable requirements of Chapter 205A.

Comments/Remarks: Per plans titled, "Architecture Drawings Paia Town Center Floor Plan," prepared by Chris Hart & Partners, Inc., dated June 2017.

Reviewed by: EAA

Date: August 1, 2017

Permit No.: SM5 2017/0160

Approved by: 
for CLAYTON I. YOSHIDA, AICP, Planning Program Administrator
WILLIAM SPENCE, Planning Director

Date: 8/1/17

xc. John S. Rapacz, Planning Program Administrator (PDF)
Evelyn A. Aako, Staff Planner (PDF)
Jordan E. Hart, Consultant (Original)
CZM File (SMX)
SMX File (.txt)
Project File (with plans)
General File

WRS:CIY:EAA:PAD

K:\WP_DOCS\PLANNING\SM5\2017\0160_PaiaTownCenter_IntAlteration\SM5_Approval.doc

January 30, 2018

Via Email: county.clerk@mauicounty.us

Maui County Council
Kalana O Maui Building, 8th floor
200 S. High St.
Wailuku, Hawaii 96793

Re: County Communication No. 18-52 for Proposed Bills
Hearing: February 2, 2018

Dear County Council Members:

I am writing in response to the County Communication No. 18-52 ("CC No. 18-52") for the County Council's ("Council") consideration and passage of two bills relating to Short-Term Rental Homes and a Pa'ia-Ha'iku Community Plan ("Community Plan") amendment, scheduled for Friday, February 2, 2018.

1. The Paia-Haiku Community Supports an Amendment to the Community Plan to Include STRH

On July 25, 2017, the Planning Commission ("Commission") initially held a hearing regarding the proposed bills listed in CC No. 18-52 and discussed the conflict between the Community Plan and the Short-Term Rental Homes ("STRH") ordinance. The Commission discussed amending the Community Plan to resolve this conflict, but sought additional community input.

On August 23, 2017 and August 24, 2017, the Planning Department held community meetings in Paia and Haiku, respectively. I attended both meetings. While there were varying opinions, it seemed the community, as a whole, did not want to eliminate STRH entirely but to keep the cap at 88 and to amend the Community Plan accordingly. The community also wanted the County to strengthen enforcement against illegal operators. Attached hereto is Director William Spence's summary of the community input.

On September 26, 2017, the Planning Commission reconvened and recommended to the County Council that the Community Plan be amended to include STRHs in the Paia-Haiku area.

2. We Support Amending the Community Plan for STRHs as an Allowable Use

We support the first proposed bill listed in CC No. 18-52:

"A BILL FOR AN ORDINANCE AMENDING THE PA'IA-HA'IKU COMMUNITY PLAN RELATING TO VISITOR ACCOMMODATIONS". This bill's purpose is to update the Paia-Haiku Community Plan (1995), consistent with Ordinance 3941 (2012), by conditionally allowing Short-Term Rental Homes in the Community Plan Area.

3. The Planning Department's Second Proposed Bill Does Not Reflect the Planning Commission's Recommendation from the September 26, 2017 Hearing

In review of Director Spence's letter to the Council dated January 11, 2018, it is not entirely consistent with the Commission's recommendation voted on at the September 26, 2017 hearing. Specifically, I question the second proposed bill as listed in CC No. 18-52, as written:

"A BILL FOR AN ORDINANCE RELATING TO SHORT-TERM RENTAL HOMES IN THE PAIA-HAIKU COMMUNITY PLAN AREA."...This bill's purpose is to amend Chapter 19.65, Maui County Code, to provide Short-Term Rental Home permits shall not be issued for properties abutting the shoreline in the Paia-Haiku Community Plan Area, consistent with the Community Plan.

The proposed bill also seeks to delete and insert the following language:

...[Any proposed] No new ["bed] bed and [breakfasts"] breakfast homes or short-term rental homes should [not] be [situated near] permitted on properties that abut the shoreline so as to avoid the proliferation of [this use] these uses and subsequent changes in the character of the region's coast.

I have reviewed the minutes from the September 26, 2017 Planning Commission hearing, and I do not find any discussion or determination that the recommended bill would prohibit **new** STRHs on properties that **abut** the shoreline in Paia and Haiku. This discrepancy is confirmed by the meeting minutes and the Maui News, which reported on September 27, 2017 that the Commission members stated:

Limit visitor accommodations to permitted short-term rental homes and owner-occupied bed-and breakfast homes that are residential in both scale and character. Any proposed **new** bed-and-breakfast homes or short-term rental homes should **not be situated near the shoreline if it causes the proliferation** of these uses and subsequent changes in the character of the region's coast. Illegal visitor accommodations can diminish the availability and affordability of housing for residents and should be subject to strict enforcement action... Commissioners did not decide whether 'proliferation' would follow dictionary definition or a specific number, though that is something the council could take up. (Emphasis added).

(See, attached Maui News article dated September 27, 2017).

Clearly, the second bill being proposed before the Council is inconsistent with the Commission's recommendation, which was voted on at the September 26th hearing. By comparing the current language of said Bill with the Commission's recommendations, they are at odds. The proposed bill discussed at the September 26th hearing prohibited new STRH near the shoreline. There was no discussion or language that prohibited new STRH permits for properties abutting the shoreline. Even if a property abutted the shoreline, the County would only prohibit the issuance of the new STRH permits if it caused the proliferation of these uses and changed the character of the region's coast.

Further, this second proposed Bill is also ambiguous. I am one of the owners of an STRH property that abuts the shoreline within the Paia-Haiku area. This proposed bill, as written, singles out our property and has the potential to effectively prevent us from renewing our STRH permit in the future simply because our property abuts the shoreline and not based on a determination that our properties are causing any proliferation of these uses and changing the character of the coast, which was the concern of the Paia-Haiku community when drafting their plan 22 years ago.

Based on the foregoing, we urge the County Council to deny the second Bill as listed in CC No. 18-52.

4. The Outdated Community Plan Must Also be Amended to Include the TVR Ordinances

To the extent the County seeks to clarify apparent conflicts between the Community Plan and current zoning policies, we, again, would like to bring to your attention to a similar conflict between the Community Plan and the Maui County Code ("M.C.C.") concerning Transient Vacation Rentals ("TVR"). This conflict is essentially the same issue the Planning Department was addressing with the STRH amendment to the Community Plan.

In a letter dated September 29, 2017, we notified Planning Director William Spence, and copied each Council member, regarding an additional amendment needed to the Community Plan in order to bring the variance ordinances into alignment. We believe the Community Plan's objectives and policies concerning overnight accommodations do not reflect current County policy and, therefore, are outdated and unenforceable. See, attached September 29, 2017 letter.

According to the Community Plan, its objectives and policies are to "Prohibit hotel/resort development within the region" and limit visitor accommodations to owner-occupied "bed and breakfast" establishments that are residential in both scale and character and not situated near the shoreline. The Community Plan's prohibitions, if applicable, conflict with the County's ordinances. See, attached ordinances (pertinent portions).

Maui County Code (M.C.C.), section 19.15.030 allows up to twelve (12) bedrooms for TVR in the B-CT of Pa'ia-Ha'iku (Ord. No. 4153). M.C.C., section 19.16.040 allows up to twenty

(20) bedrooms for TVR in B1 (Ord. No. 4152) and M.C.C, section 19.18 allows up to twenty (20) bedrooms for TVR in B2 (Ord. No. 4088) as of right and potentially more with a special use permit. The B-CT ordinance was properly vetted through the community, approved unanimously by 8 members of the Maui County Council and signed by Mayor Arakawa in 2014. The B-CT's intent and purposes include preserving and maintaining the "country town" atmosphere and establishing a means of implementing various provisions of the Community Plan. The majority of the commercial properties in Pa'ia-Ha'iku area are zoned B-CT. It is my understanding that the Community Plan intended to prohibit large scale hotel/resort development such as those located in South and West Maui and was never intended to prohibit small transient accommodations such as those currently permitted by the TVR ordinances in commercial districts.

In fact, in September 2017, the Department of Planning approved the conversion of 3 offices spaces into 5 one-bedroom TVRs in the B2 zoning district in Paia (See, attached SMA Assessment/Exemption form and Permit Summary for Paia Town Center approving the rooms). This approval further supports the need for inclusion of TVRs in the proposed Community Plan amendment. This approval was executed administratively by the Director with no Community Plan amendment. This TVR allowance in B2 is an outright use approvable without neighbor notification, community input, etc. It seems unjust that neighboring properties in the same town would have such different requirements to achieve the same outcome (BCT requires a Special Use Permit). I believe the best place for small scale transient accommodations is within the business districts of our community and look forward to this code conflict being resolved so that some of the tourism pressures may be removed.

By amending the Community Plan to allow for a limited number of STRH in residential areas and small scale TVR in the business zoning districts of Pa'ia and Ha'iku, this amendment will fulfill the purposes and intent of the Community Plan to preserve the character of the community and prohibit large resort-style developments. I believe that the intent of passing the TVR use in the business district was to allow some relief to the residential areas by providing TVR in areas that are already commercial in nature while providing some economic diversity to the small towns.

In summary, the proposed changes to MCC 19.65.030 must include TVRs as part of allowable uses to update in Community Plan. Since ordinances number 4153, 4152, and 4088 allow TVRs in this area, we urge the Council to make the Community Plan consistent by confirming that TVRs in the BCT, B1 and B2 districts are allowable uses along with STRHs and bed and breakfasts.

5. Vote to Approve STRH and TVR Amendments in the Community Plan

We urge the County Council to vote today to approve the following amendment the Community Plan that allows STRH in the Community Plan area:

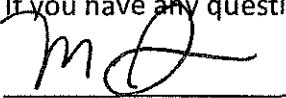
A Bill for an Ordinance Amending the Pa'ia-Ha'iku Community Plan Relating to Visitor Accommodations". This bill's purpose is to update the Paia-Haiku Community Plan (1995), consistent with Ordinance 3941 (2012), by conditionally allowing Short-Term Rental Homes in the Community Plan Area.

We also request that the Council determine that the TVR ordinance, as discussed above, should also be included in an amendment to the Community Plan.

In the alternative, if the Council is not able to currently vote on this matter, we request that the County Council refer it back to the Planning Commission to request that they include TVRs in a Community Plan amendment. By making these changes now to the Community Plan, the County will reduce the cost of government to address permit applications for existing and future TVR application requests, legal proceedings/appeals and provide the public with a better understanding of the TVR application process.

Thank you for your consideration.

If you have any questions, please call me directly at the number below.



Michael Baskin
(808) 870-1800

ALAN M. ARAKAWA
Mayor

WILLIAM R. SPENCE
Director

MICHELE CHOUTEAU McLEAN
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

September 26, 2017

MEMORANDUM

TO: MAUI PLANNING COMMISSION

FROM: WILLIAM SPENCE *W.S.*
PLANNING DIRECTOR

SUBJECT: **COMMUNITY INPUT ON SHORT-TERM RENTAL HOMES IN THE
PA`IA-HA`IKU COMMUNITY PLAN AREA**

Background:

At its meeting of July 25, 2017, the Maui Planning Commission deferred the matter of Short-Term Rental Homes in the Pa`ia-Ha`iku Community Plan Area for at least 60 days for the purpose of receiving community input.

As Commission members will recall, the Department of Planning has identified the following apparent conflict in County ordinances:

- Chapter 19.65, Maui County Code, adopted in 2012, includes a cap of 88 Short-Term Rental Home permits in the Pa`ia-Ha`iku Community Plan Area.
- The Pa`ia-Ha`iku Community Plan (1995) includes a policy against non-owner-occupied visitor accommodations.

Department personnel attended meetings of the Pa`ia Town Association on August 23, 2017 and the Ha`iku Community Association on August 24, 2017. Several dozen members of the public attended the Paia meeting, and more than 100 attended in Haiku. Many attendees provided verbal comments. More than 20 residents later submitted written comments, which are attached for your review. This report summarizes community input and provides my updated recommendation.

Summary of Community Input:

Strengthen enforcement against illegal operators

Most speakers voiced support for stronger enforcement against the operators of unpermitted vacation rentals. Illegal operations diminish the availability and affordability of long-term housing in the region, negatively impact neighborhood character, foster disrespect for the law, unjustly deprive the County and State of tax revenue, and are unfair to legal operators, according to numerous concerned citizens. The strong consensus on this point was notable, especially considering that enforcement was not a specific agenda item and the differences of opinion among attendees on other issues.

Maintain or strengthen shoreline protection

There was strong support for ensuring that the Community Plan's prohibition on visitor accommodations "near the shoreline" be maintained or strengthened, though there was some disagreement on how to define or apply this standard. A few residents suggested that "near the shoreline" should mean only those properties actually adjacent to the shoreline; another said the prohibition should extend to the Special Management Area line. The Department notes the SMA line is 1.5 miles from the shoreline in some areas.

County needs to take responsibility for conflict in laws

Some members of the public expressed dismay that the apparent conflict between the County Code and the Community Plan had not been previously resolved, although some also commended the County for seeking resolution at this time.

Do not lower cap on Short-Term Rental Homes in the region to zero

In Pa`ia, there was strong support for continuing to allow for the issuances of Short-Term Rental Home permits up to the Code-established cap, while opinion on this question was divided in Ha`iku. Some in Ha`iku requested banning new Short-Term Rental Homes in the Community Plan Area. Speakers in both places acknowledged economic benefits to local residents of having vacation rentals in the region, not just for operators but also for other small businesses in the North Shore region and other parts of Maui. There was some discussion that a cap of something between zero and 88 might be a reasonable compromise.

Amend Community Plan to allow Short-Term Rental Homes

In both places, most members of the public who expressed an opinion on the issue said the Community Plan should be amended to expressly authorize Short-Term Rental Homes. Some said the Community Plan is outdated or no longer as relevant as when it was adopted 22 years ago. Others, particularly in Ha`iku, advised that the Community Plan is a critical law that must be respected and retained.

Consider limiting permits to natural persons

Some concerns were raised about allowing business entities to hold Short-Term Rental Home permits because it can complicate enforcement action and tends to detract from the notion that the industry is for the benefit of local residents.

Recommendation:

In consideration of community input, the Department would now like to revise its recommendation on the legislation before you, as follows.

- 1) The Department recommends keeping the cap of 88 Short-Term Rental Homes for the Pa`ia-Ha`iku Community Plan Area, but also amending Chapter 19.65, Maui County Code, to add the following language immediately after "88," consistent with the Pa`ia-Ha`iku Community Plan:
 - a) "except that permits may not be issued for shoreline properties that may affect the character of the nearby shoreline."
- 2) The Department also recommends passing the bill to amend the Pa`ia-Ha`iku Community Plan that we put before you on July 25th, with the following revisions:
 - a) Add the following sentence:

"Illegal visitor accommodations can diminish the availability and affordability of housing for residents and should be subject to strict enforcement action."
 - b) Make minor wording changes to avoid weakening the Community Plan's existing language regarding uses "near the shoreline."

Revised bills incorporating these changes are attached for your consideration.

Thank you for your consideration.

The Maui News

Panel moves to allow north shore vacation rentals

County Council will need to amend current Paia-Haiku Community Plan, which prohibits short-term rentals



County Department of Planning Director Will Spence addresses the Maui Planning Commission on Tuesday. The commission voted 5-1 to recommend changing the 1995 Paia-Haiku Community Plan to allow for short-term rentals. The community plan had been at odds with the Maui County Code, which gave the Paia-Haiku area an 88 short-term rental cap in 2012. The issue now moves on to the Maui County Council. • The Maui News / COLLEEN UECHI photo

WAILUKU — With most people speaking out in favor of allowing short-term rental homes, the Maui Planning Commission voted 5-1 Tuesday to

recommend keeping the cap of 88 permitted short-term rentals for the Paia-Haiku area.

It's an issue that's been circulating through the community since July, when it first came before the commission. The panel was saddled with a decision of whether to change the 1995 Paia-Haiku Community Plan, which doesn't allow for short-term rentals, or the Maui County Code, which permits 88. The discrepancy between the two documents went unnoticed until recently.

On Tuesday, the commission decided to recommend council members approve a bill to change the community plan and allow short-term rentals. However, commission members also recommended adding a provision to the County Code to avoid a short-term rental boom on the shoreline.

The issue now moves on to the County Council, which will make the final call.

"Prohibition doesn't work," commissioner Lawrence Carnicelli said. *"As one of the testifiers said, if we change the law to zero (rentals), we're not going to stop vacation rentals on the north shore. . . . I think that we need to have a law in place to make these things legal so we can regulate them."*

The difference between the community plan and the county code for short-term rentals was overlooked in 2012, when the council passed an ordinance allowing transient rentals in the community. As part of the new law, council members placed a short-term rental cap on each region. The Paia-Haiku area received an 88-rental cap and currently has 47 permitted, according to county Planning Director Will Spence.

Spence said that when the short-term rental bill was passed in 2012, no one really discussed how the bill would be at odds with the community plan, which was adopted in 1995 and only allows for bed-and-breakfast homes, which unlike short-term rentals, must have an owner on site. Planning staff members realized the problem after later reviewing minutes of council meetings.

So, the issue was brought before the commission this year. Two community meetings were held in Paia and Haiku in August. Resident responses have been split, from those who say short-term rental owners take good care of their properties and don't bother neighbors, to others who believe the rentals are subtracting from the local housing inventory.

But on Tuesday, the nearly 20 testifiers mostly took issue with illegal rentals and said that permitted operators should be allowed to move forward.

"The problem isn't the people who've gone through the process and are adhering to the rules," said James Huntington, a Paia resident who got approved for a bed-and-breakfast business last summer. *"The problem is that there are more illegal rentals than there are legal rentals."*

Huelo resident Mark Vrieling said he's been working to get his rental approved for seven years now and has invested more than \$10,000 in property improvements.

"After going to that much effort, to think that we could be shut down now because you draw the line at only those that are existing seems unfair on a personal standpoint," Vrieling said. *"But on the bigger standpoint, 88 is still very, very few for all of the north shore."*

Commission members agreed to keep the 88-rental cap, but suggested splitting Paia and Haiku into separate categories. They also hoped the council would discuss ways to improve enforcement on illegal rentals.

One of the two recommended bills moving on to the council changes the community plan to say the following: *"Limit visitor accommodations to permitted short-term rental homes and owner-occupied bed-and-breakfast homes that are residential in both scale and character. Any proposed new bed-and-breakfast homes or short-term rental homes should not be situated near the shoreline if it causes the proliferation of these uses and subsequent changes in the character of the region's coast. Illegal visitor accommodations can diminish the availability and affordability of housing for residents and should be subject to strict enforcement action."*

The other recommended bill doesn't change the 88-rental cap in the county code but adds a provision saying that *"permits may not be issued for shoreline properties if it causes the proliferation of these uses and subsequent changes in the character of the region's coast."*

Commissioners did not decide whether *"proliferation"* would follow its dictionary definition or a specific number, though that is something the council can take up.

* Colleen Uechi can be reached at cuechi@mauinews.com.

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September 29, 2017

Via Email: planning@mauicounty.gov

County of Maui, Department of
Planning
Attn: William Spence
2200 Main Street, Ste. 315
One Main Plaza Building
Wailuku, Hawaii 96793

**Re: Amending the Paia-Haiku Community Plan to include TVR
in the Business Districts**

Dear Mr. Spence,

I am writing on a matter related to the September 26, 2017 hearing wherein the Planning Commission recommended to the County Council that the Pa'ia-Ha'iku Community Plan ("Community Plan") be amended to include STRHs in the Paia-Haiku area. We believe the Community Plan's objectives and policies concerning overnight accommodations do not reflect current County policy and, therefore, are outdated and unenforceable. However, to the extent the County seeks to clarify apparent conflicts between the Community Plan and current zoning policies, we would like to bring your attention to a similar conflict between the Community Plan and the Maui County Code ("M.C.C.") concerning Transient Vacation Rentals ("TVR"). This conflict is essentially the same issue the Planning Department is addressing with the STRH amendment to the Community Plan.

According to the Community Plan, its objectives and policies are to "Prohibit hotel/resort development within the region" and limit visitor accommodations to owner-occupied "bed and breakfast" establishments that are residential in both scale and character and not situated near the shoreline. The Community Plan's prohibitions, if applicable, conflict with the County's ordinances (ORD. #4088, 4152 and 4153) involving approval of TVR in the B-2 Community Business District ("B2"), the B-1 Neighborhood Business District ("B1") and the B-CT Country Town Business District ("B-CT") zoned properties in this area.

M.C.C, section 19.15.030 allows up to twelve (12) bedrooms for TVR in the B-CT of Pa'ia-Ha'iku. M.C.C., section 19.16.040 allows up to twenty (20) bedrooms for TVR in B1 and M.C.C, section 19.18 allows up to twenty (20) bedrooms for TVR in B2 as of right and potentially more with a special use permit. The B-CT ordinance was properly vetted through the community, approved unanimously by 8 members of the Maui County Council and signed by Mayor Arakawa in 2014. The B-CT's intent and purposes include preserving and maintaining the "country town" atmosphere and establishing a means of implementing various provisions of the Community Plan. The majority of the commercial properties in Pa'ia-Ha'iku area are zoned B-CT. It is my understanding that the Community Plan intended to prohibit large scale hotel/resort development such as those located in South and West Maui and was never intended to prohibit small transient accommodations such as those currently permitted by the TVR ordinances in commercial districts, for a maximum of 20 rooms.

As such, the Community Plan should be simultaneously amended to include language rectifying the conflict between the Community Plan and the M.C.C. ordinances allowing TVR in the business districts. TVR are currently allowed in properties zoned B-CT, B1 and B2. The B2 allowance is an outright use approvable administratively without neighbor notification, community input, etc. It seems unjust that neighboring properties in the same town would have such different requirements to achieve the same outcome. I believe the best place for small scale transient accommodations is within the business districts of our community and look forward to this code conflict being resolved so that some of the tourism pressures may be removed.

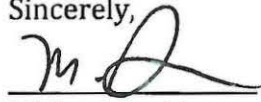
By amending the Community Plan to allow for a limited number of STRH in residential areas and small scale TVR in the business zoning districts of Pa'ia and Ha'iku, this amendment will fulfill the purposes and intent of the Community Plan to preserve the character of the community and prohibit large resort -style developments. I believe that the intent of passing the TVR use in the business district was to allow some relief to the residential areas by providing TVR in areas that are already commercial in nature while providing some economic diversity to the small towns.

By making these changes now to the Community Plan, the County will reduce the cost of government to address permit applications for existing and future TVR application requests and provide the public with a better understanding of the TVR application process.

I request that this issue be brought before the Planning Commission by scheduling it for hearing and to recommend to the County Council that the Community Plan be further amended to include language allowing TVR use in the B-CT, B1 and B2 districts.

Should you have any questions, please contact me at (808) 870-1800 or email: baskindesign@gmail.com.

Sincerely,

A handwritten signature in black ink, appearing to be 'M. Baskin', written over a horizontal line.

Michael Baskin

CC: county.council@mauicounty.us

Mike.White@mauicounty.us, Robert.Carroll@mauicounty.us,

Stacy.Crivello@mauicounty.us, Alika.Atay@mauicounty.us,

Elle.Cochran@mauicounty.us, Don.Guzman@mauicounty.us,

Kelly.King@mauicounty.us, Riki.Hokama@mauicounty.us,

Yukilei.Sugimura@mauicounty.us, county.auditor@mauicounty.us

ORDINANCE NO. 4152

BILL NO. 59 (2014)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.16, MAUI COUNTY CODE, RELATING TO B-1 NEIGHBORHOOD BUSINESS DISTRICT

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

SECTION 1. Chapter 19.16, Maui County Code, is amended to read as follows:

"Chapter 19.16

B-1 NEIGHBORHOOD BUSINESS DISTRICT

Sections:

- 19.16.010 [Generally.] Purpose and intent.
- 19.16.020 Permitted uses.
- 19.16.030 [Required conditions.] Accessory uses.
- 19.16.040 [Area regulations.] Special uses.
- 19.16.050 [Height regulations.] Development standards.
- 19.16.060 [Yards.] Rule making authority.

19.16.010 [Generally.] Purpose and intent. A B-1 neighborhood business district is one wherein retail businesses or service establishments supply commodities or perform services to meet the daily needs of the neighborhood.

19.16.020 Permitted uses. Within the B-1 neighborhood business district, the following uses shall be permitted:

- A. Barber or beauty shops;
- B. Baker goods stores;
- C. Book, stationery, or gift stores;
- D. Candy stores;
- E. Churches;
- F. Day care centers and nurseries;

<u>Other uses that are determined by the director of planning to be clearly incidental and customary to a permitted use</u>	
---	--

B. The following uses, located on a nearby lot are also deemed accessory, customary, incidental, usual, and necessary to the permitted uses in the B-1 neighborhood business district:

<u>Accessory uses</u>	<u>Criteria or limitations</u>
<u>Energy systems, small-scale</u>	<u>Provided the system is within a distance of four hundred feet of the nearest point of the lot it serves and there will be no detrimental or nuisance effect upon neighbors</u>

19.16.040 [Area regulations. The minimum lot area shall be six thousand square feet and the minimum lot frontage shall be sixty feet.] Special uses. The following are special uses in the B-1 neighborhood business district, and approval of the appropriate planning commission shall be obtained, upon conformance with the intent of this article and subject to such terms and conditions as may be warranted and required:

<u>Special uses</u>	<u>Criteria or limitations</u>
<u>Transient vacation rentals</u>	<u>One to twenty bedrooms; except on Molokai, where the maximum number of bedrooms and use shall be determined by the planning commission</u>

ORDINANCE NO. 4153

BILL NO. 60 (2014)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.15,
MAUI COUNTY CODE, RELATING TO COUNTRY TOWN BUSINESS
DISTRICTS AND AMENDING CHAPTER 19.510, MAUI COUNTY CODE,
RELATING TO APPLICATION AND PROCEDURES

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

SECTION 1. Chapter 19.15, Maui County Code, is amended to
read as follows:

"Chapter 19.15

COUNTRY TOWN BUSINESS DISTRICTS

Sections:

19.15.010	Purpose and intent.
19.15.020	Permitted uses.
<u>19.15.025</u>	<u>Accessory uses.</u>
19.15.030	Special uses.
19.15.040	Development standards.
19.15.050	[Limited conditional uses.] <u>Rule</u> <u>making authority.</u>
[19.15.060	Design guidelines and standards.]

19.15.010 Purpose and intent. A. The B-CT country town business district is intended to establish development standards for businesses in [the rural] smaller and/or more remote communities.

B. It is intended that the unique [urban] design character of [the more remote] these business districts be preserved and maintained to promote the "country town" atmosphere of [the various rural business] these communities in Maui County.

C. This B-CT country town business district zoning ordinance establishes the means of implementing

<u>Special uses</u>	<u>Criteria or limitations</u>
<u>Public utility substations</u>	<u>Provided there will be no detrimental or nuisance effect upon neighbors</u>
<u>Storage facilities not associated with a permitted use within the district</u>	
<u>Telecommunication offices and facilities</u>	<u>Provided, that all exterior telecommunication equipment shall be set back at least twenty-five feet from any property line and that such telecommunication equipment shall be screened from public view by appropriate means, including, but not limited to, landscape planting</u>
<u>Transient vacation rentals</u>	<u>One to twelve bedrooms</u>
<u>Upholstery, canvas, sign painting, and surfboard making shops</u>	<u>Conducted wholly within a completely enclosed building</u>
<u>Vehicle bodywork, frame or body parts straightening, steam cleaning, painting, welding, storage of non-operating vehicles, and tire recapping or re-grooving</u>	<u>Conducted wholly within a completely enclosed building</u>
<u>Other uses that are similar in character to permitted and special uses and consistent with the unique character, identity, and needs of the country town, and that are not detrimental to the welfare of the surrounding area</u>	

19.15.040 **Development standards.** The [Development] development standards for the B-CT country town business district shall be[:] as follows, unless otherwise specified in adopted design guidelines pursuant to section 19.510.100:

ORDINANCE NO. 4088

BILL NO. 92 (2013)

A BILL FOR AN ORDINANCE AMENDING SECTION 19.04.040,
MAUI COUNTY CODE, AND CHAPTER 19.18, MAUI COUNTY CODE,
RELATING TO B-2 COMMUNITY BUSINESS DISTRICT

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

SECTION 1. Section 19.04.040, Maui County Code, is amended
by adding new definitions to be appropriately inserted and to
read as follows:

"Entertainment establishment" means any indoor and/or outdoor establishment where entertainment, either passive or active, is provided for patrons, either independently or in conjunction with another use.

"Farmer's market" means the temporary use of a specified land area managed by a single operator who leases space/stalls for the outdoor sales of fresh fruit and produce, meat and fish items, plants and flowers grown, raised or caught within the State of Hawaii, including value added products derived from said products.

"Recycling collection center" means a structure or site designated for collection, weighing, temporary storage, and small-scale (low technology) segregation of recyclable materials.

"Redemption center" means a facility that accepts and redeems deposit beverage containers.

"Swap meet or open air market" means the temporary use of a specified land area managed by a single operator who leases space/stalls for the

determined by the director of planning to be clearly incidental and customary to a permitted use	
--	--

19.18.040 [Height regulations. The maximum height of any building shall be limited by the total floor area which shall not exceed in square feet two hundred percent of the total lot area; and provided further, that no building be more than six stories in height.] Special uses. The following are special uses in the B-2 community business district, and approval of the appropriate planning commission shall be obtained, upon conformance with the intent of this article and subject to such terms and conditions as may be warranted and required:

<u>Special uses</u>	<u>Criteria or limitations</u>
Mortuaries	
Transient vacation rentals	Twenty-one to fifty bedrooms; except on Molokai, where the maximum number of bedrooms and use shall be determined by the planning commission
Other uses that are similar in character to permitted and special uses and that are not detrimental to the welfare of the surrounding area	

19.18.050 [Yards. No yard spacing shall be required, except such areas that shall be required for off-street parking; with the exception that where the side or rear of a lot in a B-2 community business district abuts a lot in any residential, apartment house or hotel district, the abutting side or rear yard shall have the same yard spacing as that required in the abutting residential, apartment house or hotel district, respectively; and provided further, that any apartment shall provide yard space in accordance with the requirements of the apartment district.]

ALAN M. ARAKAWA
Mayor

WILLIAM R. SPENCE
Director

MICHELE CHOUTEAU McLEAN
Deputy Director



COUNTY OF MAUI
DEPARTMENT OF PLANNING

SPECIAL MANAGEMENT AREA ASSESSMENT/EXEMPTION FORM (SM5)

Project Name:	PAIA TOWN CENTER – TVR UNITS
Proposed Development:	Nonstructural interior alterations to convert three (3) existing unoccupied office spaces into five (5) one-bedroom transient vacation rental (TVR) units within an existing commercial structure in the County B-2 Business Community District
SMA App. No.:	SMX 2017/0204
Project Address:	120 Hana Highway, Paia, Hawaii 96779
Tax Map Key:	(2) 2-6-005:033
Applicant:	Nicholas Argyropoulos, 1244 6th Street, Santa Monica, California 90401
Owner:	Same as Applicant
Consultant:	Jordan E. Hart, 115 North Market Street, Wailuku, Hawaii 96793
Valuation:	\$350,000.00
Approved Plans Dated:	June 2017

The proposed activity is determined to be:

15. Nonstructural improvements to existing commercial structures.

Per Section 22, Chapter 205A of the Hawaii Revised Statutes, as amended, the rules of the Planning Commission of Maui County, and the Department of Planning's Special Management Area (SMA) Assessment; the proposed activity has been determined not to be a development and is EXEMPT from the applicable requirements of Chapter 205A.

Comments/Remarks: Per plans titled, "Architecture Drawings Paia Town Center Floor Plan," prepared by Chris Hart & Partners, Inc., dated June 2017.

Reviewed by: EAA

Date: August 1, 2017

Permit No.: SM5 2017/0160

Approved by: 
for CLAYTON I. YOSHIDA, AICP, Planning Program Administrator
WILLIAM SPENCE, Planning Director

Date: 9/2/17

xc: John S. Rapacz, Planning Program Administrator (PDF)
Evelyn A. Aako, Staff Planner (PDF)
Jordan E. Hart, Consultant (Original)
CZM File (SMX)
SMX File (.txt)
Project File (with plans)
General File

WRS:CIY:EAA:PAD

K:\WP_DOCS\PLANNING\SM5\2017\0160_PaiaTownCenter_IntAlteration\SM5_Approval.doc



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Permit Summary

Permit:	SMX 20170204	Flags:	NO
Description:	SMA ASSESSMENT		
Project:	PAIA TOWN CENTER PAIA TOWN CENTER- TVR UNITS		
Status:	OPEN	Entered:	05-Jun-2017
Issued:	05-Jun-2017	Completed:	
Decision:			
Expiration:		Last Renewal:	
Location Desc.:			

Parcel Information		
Address	TMK	
120 HANA HY	2260050330000	GIS Parcel

Scope of Work
PROJ DESC: Paia Town Center TVR Units - Interior Alterations to Convert 3 offices spaces to 5 1 bedroom transient vacation rentals in the County B-2 Business Community District GEN LOCATION: 120 Hana Highway, Paia LAND AREA: 1.23 acres

Professionals / Contractors
There are no professionals for this application.

Structure Classification		[QUANTITIES]
Initial Value:	\$0.00	Calculated Value: \$0.00
Standard Plan:		Public Project:
# of Structures:		# of Res. Units:
Total Floor Area:		
Model:		

Occupancy Group	Construction Type	Structure Class
None attached.	None attached.	None attached.

Inspections

Inspection	Result	Completed Date	Completed By	Schedule	CORR		
					O	C	N
There are no inspections for this permit.							

Activities

Description	Assigned	Nodes		Dur.	Est. Completion	Target End	Decision	Decision Date
		Beg	End					
SMX - INITIAL CHECK (APPL COMPLETENESS)		1	2	4	09-Jun-2017	09-Jun-2017		
SMX - ROUTE TO ZAED/CURRENT PLANNING		2	3	1	13-Jun-2017	13-Jun-2017		
CURR DIV AGENCY TRANSMITTAL		3	4	45	28-Jul-2017	28-Jul-2017		
ZAED AGENCY TRANSMITTAL		3	4	45	28-Jul-2017	28-Jul-2017		
DLNR-SHPD, MAUI		4	5	7	08-Aug-2017	08-Aug-2017		
SMX - SMA ASSESSMENT	EAAKO	5	6	15	23-Aug-2017	23-Aug-2017	A	01-Aug-2017

Permit Flags

Flag	Description	Status
There are no flags on this application		

LU Committee

From: Michael <baskindesign@gmail.com>
Sent: Tuesday, March 13, 2018 1:14 PM
To: LU Committee
Cc: Donald S. Guzman; Alike A. Atay; Robert Carroll; Yukiiei Sugimura; Mike White; Elle Cochran; Kelly King; Riki Hokama; Stacy S. Crivello
Subject: Paia Community Plan Update - (LU-54)
Attachments: Letter to Aaron re Gate and Easement Ae Place.pdf; Mopsy Letter Support Goya STRH 2017.pdf; Map of Ae Place and Easement.pdf; Mopsy Video.MP4

March 13, 2018

Re: LU 54; CC 18-52 and

Neighbor Matters Related to Community Plan Update

To LU Committee:

I am writing on behalf of Paia Life, LLC, our Permitted Short-Term Rental Home ("STRH") in Paia, to support that section of the proposed Bill of LU 54 and County Communication No. 18-52 ("CC No. 18-52") that updates the Paia-Haiku Community Plan to be consistent with Ordinance 3941 (2012) by allowing STRH in the Community Plan.

As stated in the Planning Director's letter to the County Council dated January 11, 2018, the bills as listed in LU 54 and CC No. 18-52 would resolve apparent inconsistencies in the County policy for STRH in the Pa'ia-Ha'iku Community Plan ("Community Plan"). The Planning Department initiated this legislation to ensure consistency between the County Code and the Community Plan.

However, as a consequence of these inconsistencies, there has been debate amongst neighbors in the Paia and Haiku communities. For example, Francine Aaron (Mopsy) has been an opponent of STRHs in the Paia community, including mine, based on her argument that this use is not included in the Community Plan. She has testified before the Planning Department and the Planning Commission to oppose STRHs in Paia that she is against for her personal reasons.

While Mrs. Aaron opposes STRHs in Paia, we note the following actions she has taken that run contrary to her testimony:

1. While Mrs. Aaron has testified against STRH in Paia, she has given and continues to give beach access for vacations rental guests of nearby STRHs through Ae

Place (a private roadway). She has an agreement in place with nearby STRH owners. She does not have permission of all the owners on Ae Place to allow such beach access. (**See, attached video clip of Mopsy** allowing beach access to STRH guests and stating the guests these tourists are her "friends".

2. While Mopsy has testified against STRHs, she has provided oral testimony and written support for an STRH renewal application for a neighbor adjacent to her property on Ae Place that she has an arrangement with. (See, attached letter of support).
3. While Mrs. Aaronna opposes STRHs, she has removed our beach access gate for the Ae Place residents and now controls beach access to only who she chooses based on her arrangements with nearby STRH owners. We have asked her on numerous occasions, without success, to meet with us to resolve this access issue. Finally after years of attempts by us, our attorney had to reach out to her as well (See, attached Letter dated December 7, 2017 with photographs of the old and new gate, and a map of the property and beach access). To date, this matter is ongoing.

We urge the County Council to clear up the ambiguity in this matter for the Paia-Haiku Community by amending the Community Plan to allow for STRHs. The County Council has already vetted and passed the ordinance allowing for STRH.

By updating the Community Plan, it will help the community come together through a clear understanding of the STRH ordinance and its application and will help to stop neighbors disagreements with each other.

Please be sure to click on the short video clip attachment below.

Mahalo,

**Michael Baskin
Paia Life, LLC**

808.870.1800 - Direct

REVERE & ASSOCIATES, LLLC

A LIMITED LIABILITY LAW COMPANY
PALM PALMS PLAZA, 970 NORTH KALAHEO AVENUE, SUITE A301
KAILUA, HAWAII 96734

ANDREW D. CHIANESE
AMANDA L. DUTCHER
CLARISSE M. KOBASHIGAWA
MALIA R. NICKISON-BEAZLEY
TERRANCE M. REVERE

TELEPHONE: (808) 791-9550
FACSIMILE: (808) 791-9551

December 7, 2017

VIA CERTIFIED MAIL & REGULAR MAIL

Francine M. K. Aarona
Viola Jean Okanani Banks
Yvonne P. Cox
Patricia Ann Feiteira
Lita Leiahihi Kahihikolu
Ida K. Dec'd Koprincz
Debra Paleka
Benjamin Reverio
Henry Reverio
Roland Reverio
Healani Aida San Miguel
Alton Melvin Tavares
Howard Brendan Tavares
Kevin James Tavares
E. Haunani Valente
c/o P.O. Box 792002
Paia, HI 96779

Kekahuna Family Partnership
1639 Nakula Street
Wahiawa, HI 96786

Ione U Nobriga
P.O. Box 1032
Puunene, HI 96784

Re: **Your Prescriptive Easement Violation Re Denial of Beach Access from Ae Place**

Dear Mrs. Aarona:

We represent Michael Baskin for various legal matters. We understand that you are one of the current owners of 37 Ae Place. It is our understanding that the pedestrian gate to the beach access had been removed, and you had installed a personal driveway gate in its place, as shown below:



Before



After



My client has a deeded and recorded easement for his property at 40 Ae Place. This easement is intended for access to the beach for all owners on Ae Place. However, on November 6, 2017 at around 11 a.m., Mr. Baskin was walking within said easement with another individual, and Mr. Aaron denied them access to the beach. He displayed

aggressive behavior towards them and demanded that they leave. They complied by turning around and walking off the subject property.

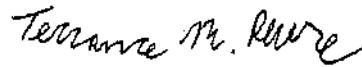
My client has reached out to you in the past in an effort to resolve this issue, without any success. In an email dated October 24, 2014, he requested that the 3-foot gate for beach access be reinstalled. Again, on June 21, 2016, my client notified you of his deeded and recorded access and requested that said gate be reinstalled. He also offered to pay for the reinstallation of the gate and a lock system. To date, the 3-foot gate has not been reinstalled and your family has now denied my client access to his easement. Copies of the October 24, 2014 and June 21, 2016 emails are attached hereto as Exhibit 1.

We fully intend to regain our client's access to the easement. As such, please reinstall the old gate or a similar one within the next 30 days. If you no longer have the old gate or wish to pay for one, my client is willing to install one at his expense as well as all expenses to move your driveway gate over onto your property.

In order for there to be no confusion as to the property line and boundaries of the legal easement, we can also order a survey to mark the boundaries ensuring the easement is in the proper legal place to reinstall the gate.

Please confirm within seven days of receipt of this letter how you wish to proceed.
If you wish for us to contact your attorney instead on this matter, please let us know.

Very truly yours,



TERRANCE M. REVERE
CLARISSE M. KOBASHIGAWA

REVERE & ASSOCIATES, LLLC
A Limited Liability Law Company

Cc Jim Geiger, Esq.

To whom it may concern;

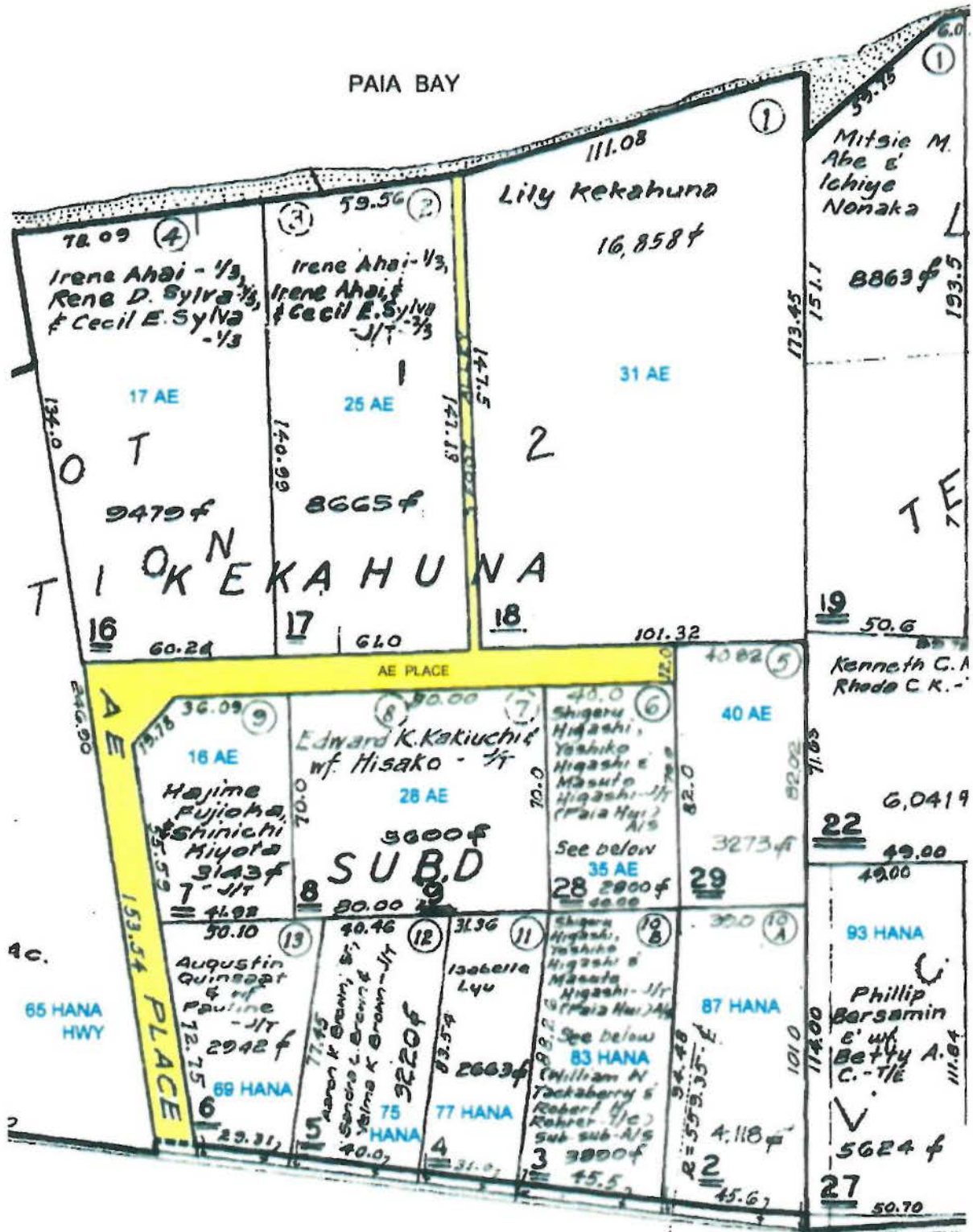
My name is Francine K.Aarona and I live at 37 AE Lane. Francisco and Tamara Goya are my neighbors who have a Short Term Rental. They are very respectful to their neighbors and so are their guest who come for a vacation. We have never experienced any problems with their guest. We have come to know some of them who come back every year. On behalf of my family and I, please renew their permit request to continue their Short Term Rental.

Respectfully submitted,
Francine K.Aarona
I (808) 927-7637
mopsaarona@gmail.com

EXH

14

PAIA BAY



HANA HWY



Seashore Properties, LLC

PO Box 790100, Paia, HI 96779

E-Mail: info@paiaproperties.com

Phone: 808.579.6364 Fax: 808.579.6362

November 1, 2018

Planning Committee
Council of the County of Maui
Kalana O Maui Building, 8th Floor
200 South High Street
Wailuku, HI 96793
Email: pc.committee@mauicounty.us

Dear Planning Committee Chair and Members:

I have concerns regarding PC-21 (CC 18-360), "Short-term Rental Homes [STRH] in the Paia-Haiku Community Plan Area" (STRH) scheduled for hearing on Thursday, November 1, 2018.

The County Council ("Council") has the responsibility to bringing peace to this matter related to the Paia-Haiku Community Plan. People are misinforming the Council and testifying against TVRs but are actually supporting TVRs. The Council has the chance to vote today to bring peace to this matter.

The Council already approved 88 as a cap, which we have not met. By amending the Paia-Haiku Community Plan, the Council will clear up any ambiguity between the new rules and an old outdated community plan.

In connection to this matter, I object to Planning Director Michele McLean's ("Director McLean") involvement in the proposed bills before the Planning Committee. I am an owner of one of the permitted STRHs in Paia and have been negatively affected by Director McLean's prior actions. Under the administration of the former Planning Director William Spence, Director McLean, as Deputy Director at the time, led the charge to draft the proposed bills. These bills are directly aimed at STRHs in the Paia-Haiku area to further her personal vendetta against me simply because I did not give work to her husband, an unlicensed contractor. These proposed bills do not solve any actual problems and simply a vehicle designed to implement a personal vendetta. I can provide documentation that backs up what I am asserting. Many witnesses also back up what I am asserting.

Director McLean has been directly behind and involved in the engagement of a select group of people to oppose my STRH and other properties. Many of these people, including Director McLean, were also members of the Paia Town Association and used that platform to

oppose my STRH and TVRs. As such, she should be recused from any presentation, involvement and decision making in this matter as she clearly has bias against us and therefore against a strong part of the Paia community.

In an email dated December 6, 2013, Greg Garneau, my attorney at the time (and now an attorney with the County), outlined Director McLean's abuse and involvement in working with this small group of Paia neighbors "to put competition out of business" and using Council Member Mike White as a cover-up to protect the identification of those neighbors. **(Attachment 1).**

The following is a summary of the initial events that occurred between me, Director McLean and other County officials and a select group of neighbors that led to unfair enforcement actions against me and my properties.

1. **The Initial Conflict that Led to Unprecedented Enforcement Actions by the Department of Planning and Director Michele McLean**

- In 2012, a private dispute began between me and the Director McLean's husband, Paul McLean.
- I was the designer of a house construction project for celebrity actor Owen Wilson.
- Paul McLean misrepresented himself as a licensed contractor under another person's contracting license, which had expired many years prior.
(I remain amazed that our current Planning Director is married to an unlicensed contractor, who was apparently allowed to do illegal work on Maui with no consequences. Unfortunately, this is just one of the many absurd conflicts that Director McLean has gotten away with. She has a habit of favoring her friends and punishing those not in her favor)
- Upon my advice, the clients declined to hire Paul McLean, and he was very upset.
- He has threatened me and struck me physically on several occasions.
- In response, I filed a TRO against him on May 2016 and he was charged with harassment.
- Following the private dispute, the Department and Director McLean targeted me and my properties for enforcement action.
- Director McLean collaborated with a small group of my neighbors and business competitors¹ to file request for service ("RFS") complaints against me.
- These neighbors sent a series of emails² to Director McLean and Council Member Mike White, outlining each of my properties in detail and alleging numerous, unfounded, building code, SMA and zoning violations.

¹ These neighbors included Josh Stone and Martin Brass, owners of the Flatbread building; Annie and Chris McNeil, owners of the short-term rental operation at 15 Nalu Place; Peter Winn, owner of the Short-Term Rental property adjacent to Baskin's short-term rental property at 23 Nalu Place; and Francine Aarona, owner of the property adjacent to Baskin's short-term rental property at 40 Ae Place.

² In one email, Director McLean writes about how the neighbors can use Council Member White to file RFS complaints on their behalf so that their identities may be shielded. McLean goes on to say that, if White does

- In the summer of 2013, I sought to renew a SMA permit for construction work at the Paia Inn but Director McLean had instructed Department personnel to delay the issuance of a new SMA, which would result in the expiration of the associated building permit.
- Director McLean's interests in seeing my building permit expire is shown in a redacted email of June 20, 2013 in which she states, "The building permit will expire on June 29, by which date he will need SMA approval."
- While Director McLean was on vacation, Planning Program Administrator, Clayton Yoshida approved and issued the renewal of the SMA permit on July 31, 2013.
- When Director McLean returned from vacation, she unilaterally and without justification issued an "amended" SMA permit on August 21, 2013. The "amendment" contained no change in the substantive permit conditions applicable to construction.
- The amended SMA created the reopening of time for filing an appeal against the granting of the SMA. Within two weeks, just such an appeal was filed by the same group of neighbors with whom Director McLean was collaborating via Isaac Hall.
- Director McLean went far beyond the scope of her authority and caused significant damage to my business, all due to her and her husband's vendetta against me.

2. Unprecedented Issuance of Notices of Violation

- On November 18, 2013, the Department of Planning issued twenty-eight (28) separate notices to correct in response to the RFS complaints filed by Council Member White on behalf of my neighbors and business competitors without conducting a follow-up inspection to verify my compliance, attaching financial penalties and criminal sanctions.
- The notices to correct gave me only seven (7) days to remedy the list of violations.
- Despite many of the NOVs³ being immediately resolved, I filed notices of appeal before the BVA to preserve my rights.
- For the rock wall violation, former County inspector, Ron Sandate, conducted an investigation into the rock seawall towards the end of 2010 and beginning of 2011.
- In January of 2011, Mr. Sandate contacted Mr. Baskin and confirmed that Mr. Baskin had no knowledge of the seawall and no participation in its construction.

not file the complaints for them, then she would do so personally. Director McLean spoke on behalf of the Department of Planning at a March 25, 2013 Planning Commission meeting, in which she clearly stated, "...we don't allow anonymous complaints." Yet, she volunteered to file RFS complaints on behalf of a small group of my business competitors and assist in their self-proclaimed "mission" to target me for enforcement action.

³ Of the twenty-eight NOVs that were issued on November 27, 2013, twelve (12) notices were corrected by removing or relocating small structures that were the subject of the notices. Six (6) of the notices were remedied by submitting applicable after-the-fact permits, as they related to construction or alteration of structures that were already in existence at the time I purchased the properties. Five (5) notices were premised on factual inaccuracies and inconsistent property boundaries and two (2) of the notices related to work that I had absolutely no participation in, which was verified by the County in 2011 and reflected in the County's own records.

- Mr. Sandate's own letter verified Mr. Sandate's findings that Mr. Wynn was responsible for the construction of the seawall.
- Despite clear County records demonstrating that Mr. Baskin had no participation in the construction of the seawall, he was still issued a NOV, which was a costly administrative appeal.
- My attorneys worked with Corporation Counsel to have the Department of Planning withdraw many of the NOV's which were either issued in error or were now baseless given the alleged violations had been previously remedied.
- The NOV's have cost a considerable amount in legal fees.
- Despite my cooperation, the Department filed an injunction to get me to cease all operations. I appealed it the Hawaii Supreme Court and the Court ruled I was entitled to Due Process.

3. **Business Competition and Negative Neighbor Relations Caused Legal Action**

- The legal proceedings and negative neighbor relations were caused by the concerted effort of a small group of Ms. McLean and business competitors.
- Between May and October of 2013, this group sent a series of emails to Council Member Mike White and Director McLean, alleging numerous violations for my properties without providing any evidence to support their allegations.
- In one email from Francine "Mopsy" Aarona, which was inadvertently sent to me, revealed that the neighbors were on a "mission" to target me and my properties for enforcement action.
- Other members of the group organized and funded an appeal against the County's issuance of an SMA Minor Permit for the Paia Inn. The emails make clear the neighbor's mission was to shut down the Paia Inn and damage my business.
- I made numerous attempts over the years to meet with the neighbors and to resolve any concerns they had. However, my efforts were discarded.
- White and Director McLean refused to meet with me, despite my numerous requests.
- I filed complaints with the Maui County Board of Ethics on April 11, 2014, which were dismissed as non-relevant, as I had filed appeals.

4. **Neighbors and Business Competitors**

Francine "Mopsy" Aarona

- Mopsy has been a spokesperson for Flatbread Pizza (when Martin Brass and Josh Stone were owners of the property) and has assisted them in a mission against our businesses.

- She had an arrangement with Flatbread and her name “Mopsy” appears on the Flatbread menu.
- Mopsy is a part owner of a property next to my residential property in Paia. She owns only 3% of the property and may not live on the property as her primary residence. She may live in Hawaiian Homelands.
- While Mrs. Aarona claims to oppose STRHs and TVRs in Paia, we note the following actions she has taken that run contrary to her testimony:
 1. Mopsy has given and continues to give beach access for guests of nearby STRHs from Ae Place (a private roadway). We believe she has an agreement in place with nearby STRH owners. She does not have permission of all the owners on Ae Place to allow such beach access.

(See, attached link below and video clip of Mopsy allowing beach access to STRH guest and stating that the tourists were her “friends.”)

(See, also link below to video clip of Henry Aarona, Mopsy’s husband, denying access)-

See, LINK to both video clips:

<https://www.dropbox.com/sh/zj8vvqc1uoawtn0/AACmWvUbPL55BbEHQDvvWiaLa?dl=0>

2. Mopsy has provided oral and written support and testimony for an STRH renewal application for a neighbor adjacent to her property on Ae Place, which provides a non-permitted fire exit for Flatbread.
3. Mopsy has denied beach access and now controls beach access to whomever she wants to for Ae Place based on her arrangements with nearby STRH owners. We have asked her on numerous occasions, without success, to meet with us to resolve this gate issue.
4. Our attorney has reached out to her as well (by letter dated December 7, 2017). To date, this matter is ongoing. (
5. Mopsy’s property at 37 Ae Place has many illegal non-permitted structures in the shoreline, yet the County has taken no action against her.
6. Mopsy’s husband has been aggressive towards me and has stopped me from walking down the beach access.

Martin Brass (Flatbread)

- He is the financial supporter, hiring attorneys behind an effort to damage me and our properties.
- He is very litigious bully, filing 5 separate law suits against other local business and residents

- When Flatbread Pizza was purchased, before any work began, Martin and Josh Stone went under contract to purchase the property (87 Hana Hwy and 40 Ae Place) and then approached me to see if I would be willing to be a partner, which I agreed to.
- We were in escrow purchasing the property together but during the course of the escrow, I could see that there were going to be an apparent relationship issues with Martin and decided not to continue. The parties agreed they would keep 87 Hana Hwy. and I would keep 40 Ae.
- Martin decided he wanted to actually continue to be an owner at 40 Ae, and he wanted to have an interest in my property at 93 Hana Hwy. I refused.
- In 2006, Martin and Josh paid one million on complete renovations with no SMA or building permits.
- The Planning Department did not take any significant action for these blatant SMA or building violations (and certainly not at the unprecedented and vigorously pursued levels of enforcement that the County did with our properties).
- There was never a fire exit out of 87 Hana and Martin threatened us continuously that if we did not allow his fire exit to go through our property at 40 Ae Place that he would make things difficult for us.
- For 8 years, Flatbread Pizza had an illegal fire exit through my property at 40 Ae Place.
- I informed Martin and Josh that I did not want the exit to go through my property.
- They filed complaints against me so I informed them that they had to remove their fire exit.
- Martin hired attorney Isaac Hall and, over the years, unfairly tried to force me to comply with demands that I was not willing to agree to.
- Martin Brass has worked with Mopsy to file complaints against my properties.
- Mopsy has made it extremely difficult and has tried to damage us, but we believe it's mostly on behalf of Martin Brass.
- 87 Hana has since sold for \$5.1 million and part of the reason, we understand, is that Martin Brass was in a lawsuit with Flatbread, the tenant. They also have had extreme difficulties with him.
- Many people have had a lot of difficulty with Martin Brass, and we believe that his attitude and his desire to damage us, based on a competitive intent to try to acquire some of our properties through partners of his.
- Alan Arakawa appointed Josh Stone as Chair of the Charter Commission, and Josh was able to utilize this relationship to prevent any fines or violations against Flatbread despite significant major renovations without proper SMA, flood, parking or building permits.

5. **Hearing Officer Judge McConnell Confirms the Paia Inn is in Full Compliance with all County Requirements and is Consistent with the Paia-Haiku Community Plan.**

Paia Inn is in Full Compliance

In April 2018, the Planning Commission appointed retired Judge E. John McConnell as a Hearing Officer for a contested case hearing involving the applicant Seashore Properties, LLC. Seashore Properties sought a Special Use Permit to convert four (4) existing offices at the Paia Inn into TRVs, along with the original five (5) existing rooms, for a total of nine (9) rooms. Judge McConnell reviewed all the evidence and determined the Paia Inn is in “full compliance with all County requirements” and “There is simply no relevant evidence that supports denial of the Application”. McConnell’s decision affirmed Seashore Properties’ claims that the Paia Inn is not a hotel-resort development and is consistent with the Paia-Haiku Community Plan.

Opposition to the Paia Inn Should be Disregarded

Judge McConnell addressed the opposition to the Special Use Permit for the Paia Inn stating, “While there was testimony from Martin Brass and Francine Aarona opposing the Application, and while they may have organized opposition to the Application, such testimony is not grounded in the applicable standards, and is not supported by evidence. Both apparently have personal issues with Mr. Baskin and may view the Paia Inn as a potential competitor. Accordingly, such testimony is irrelevant and should be disregarded. This matter should be decided on the merits.”

Based on the foregoing and my previous testimonies submitted to the Land Use Committee regarding these bills, we respectfully request the following:

1. Recuse Director McLean from all matters related to the proposed bills (PC-21). The County of Maui and Paia-Haiku shouldn’t suffer just to fulfill Director McLean’s personal vendetta that began with my concerns about hiring her husband, an unlicensed contractor;
2. Vote to recommend an update to the Paia-Haiku Community Plan to be consistent with Ordinance 3941(2012) by allowing STRHs in Paia-Haiku area. The Planning Committee should not base its decision on a small group of opponents but focus on the betterment of the entire community in the Paia-Haiku area.
3. Vote to recommend removing the language prohibiting new STRHs abutting the shoreline and simply update the Paia-Haiku Community Plan to allow for its use.
4. If there is an amendment to the Paia-Haiku Community Plan, it should include TVR use as the Council passed Ordinance No. 4153, 4152, 4088 with a vote of 8-0, allowing TVR in the business districts. (There has already been an application to have TVR in Paia, and the Planning Commission debated its use per the community plan, but the Planning Director has already approved TVR in Paia. This needs to be clarified so as to avoid legal disputes in the future).

5. If the Planning Committee is not able to outright vote to include the TVR ordinance in the Paia-Haiku Community Plan, we request that the language be sent back to the Planning Commission to recommend amending the Paia-Haiku Community Plan to include TVR.
6. We recommend the following language be considered to update the Paia-Haiku Community Plan:

“13. Limit visitor accommodations to permitted transient vacation rentals and short-term rental homes and owner-occupied bed and breakfast homes that are residential in both scale and character. Illegal visitor accommodations can diminish the availability and affordability of housing for residents and should be subject to strict enforcement action.”

Finally, I have attached additional testimony regarding this issue that I had previously submitted to the County Council members, Planning Commission and the Land Use Committee for your further consideration (previously LU 54 and CC 18-52):

1. Letter to County Council Hearing (dated January 30, 2018) (County Council members)
2. Testimony of Michael Baskin (March 13, 2018) (LU Committee STRH CP)
3. Testimony of Michael Baskin (March 13, 2018) (LU Committee)
4. Testimony of Michael Baskin- Video (March 13, 2018)

Thank you very much for your consideration of this letter.

Michael Baskin