

Council Chair
Alice L. Lee

Vice-Chair
Keani N.W. Rawlins-Fernandez

Presiding Officer Pro Tempore
Tasha Kama

Councilmembers
Gabe Johnson
Kelly Takaya King
Michael J. Molina
Tamara Paltin
Shane M. Sinenci
Yuki Lei K. Sugimura



Director of Council Services
Traci N. T. Fujita, Esq.

Deputy Director of Council Services
David M. Raatz, Jr., Esq.

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

May 18, 2022

Ms. Michele McLean, Director
Department of Planning
County of Maui
Wailuku, Hawaii 96793

Dear Ms. McLean:

**SUBJECT: CONSTRUCTION ON LOWER HONOAPIILANI ROAD
(NAPILI) (GREAT-36)**

The Government Relations, Ethics, and Transparency Committee received various inquiries from the public related to construction on property located at 5385 Lower Honoapiilani Road, Napili, Maui, Hawaii, and identified for real property tax purposes as tax map key (2) 4-3-002:057.

May I please request your response to the following questions based on public information and questions received:

1. What were the setback measurements taken during site visits of the property?
2. What tsunami hazards were considered when approving the Special Management Area ("SMA") permit?
3. Is a 45-foot-tall structure allowed under either Section 19.60.030, Maui County Code (Precise Plan for Napili Bay Civic Improvement District), or Section 19.14.050, Maui County Code (Development Standards for the H-1 Hotel District)? Please explain.
4. The SMA application shows estimated valuation of \$15,000 for existing use "Single Family Dwelling/Short Term Rental" with Proposed Action to "Construct a terrace wall on west property line; outer wall is 36'-48' tall, 18" wide and 210' long; Inner wall is 6-7'

tall, 18” wide and 580’ long. Outer wall nor inner wall retain more than 36” of earth.” The SMA assessment states: “1.A. In the event of a conflict or FMV may be verified by the Director of Public Works. In the event of a conflict between the estimates of the applicant and the Director of PW, the higher estimate amount shall be used by the director for the purposes of an assessment of the proposed action.” Is the estimated value reasonable? Was the Department of Public Works consulted to verify the value for the length and height of the walls?

5. DPW/DSA: Permit 20200048 shows the value at \$2,000,000. The SMA application shows the value at \$15,000. Which value should be used to determine which application is appropriate—SMA Exemption, SMA Minor, or SMA Major permit?
6. How is “Media Room” defined and where is it defined?
7. An email from the Planning Director to Christopher Salem, dated July 9, 2021, relating to a government records request, states: “Reports of Planning investigations. NOW to be sent for wall not having a SMA permit. DPW/DSA is aware and might investigate & cite wall not having a building permit. ATF & SMA approvals need to resolve the violations. Planning Staff to be instructed to consider impact of wall on mauka views. Developer stated it is not a retaining wall, so Planning can’t require height be lowered. . . The only outstanding thing . . . is measuring the pad height. We’ve ordered a tool to do this . . .”
 - a. Has the tool been ordered?
 - b. Has the pad height been measured and documented?
 - c. What was the outcome of the impact of the wall on mauka views?
 - d. If it is not a retaining wall, then how is it classified?
8. An email from Christopher Salem to the Mayor’s Chief of Staff, with the Planning Director copied, dated July 29, 2021, cited an SMA Permit Notice of Warning stating that “there were one or more violations.” What were the specific violations?

9. Receipt Number 21-0008049 issued on September 1, 2021, for APN: 2430020570000, Permit: SMX 20210301 shows an After-the-Fact Permit: 10% of Projected Value amount paid \$1,000. If \$15,000 is the value, is a \$1,000 payment sufficient?
10. Correspondence from Mancini, Welch & Geiger, dated December 7, 2021, states: "The Planning Department employees who reviewed these plans are more than competent . . ." Why was this project reviewed by a Plans Review Supervisor rather than a Plans Reviewer? In other words, what elevated the project to a higher level of review?
11. Correspondence from Mancini, Welch & Geiger, dated December 7, 2021, also states: "The Planning Departments position regarding transient vacation rental uses on this property also is suspect as it is inconsistent with prior approvals and authorizations issued by the Department." What are the dates of the prior approvals and authorizations? For what purposes were they granted?
12. Over the years, the owner has indicated the proposed use as "Short Term Rental." Section 3 of the Short-Term Rental Home ("STRH") Permit application, relating to Basic Qualifications & Standards (Abbreviated), states: "The construction of homes used for short-term rental must have been completed at least five (5) years prior to the date of the STRH application. Permits are held in the name of an individual(s) who holds legal title to the property. Permit-holders must hold title for at least five (5) years as of September 27, 2018. In some cases, the property may be owned by a trust, LLC, LLP or corporation which must be family-owned (see 19.65.030(G) for details)." On November 26, 2021, Ordinance 5300 (2021) took effect, with changes to the duration of construction and ownership from five to 15 years. Please explain how this component was or was not considered when approving any or all permits.
13. Can an SMA Major qualify for an SMA exemption?

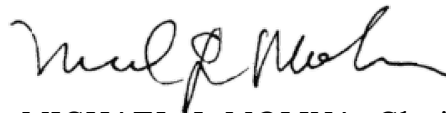
Ms. Michele McLean
May 18, 2022
Page 4

May I please request you transmit your response to great.committee@mauicounty.us **no later than 9:00 a.m. on May 24, 2022**, and include the relevant Committee item number in the subject line of your response.

May I further request that you or a designated representative attend the Government Relations, Ethics, and Transparency Committee meeting at 9:00 a.m. on May 24, 2022, via the BlueJeans online platform for this item.

Should you have any questions, please contact me or the Committee staff (Kasie Apo Takayama at ext. 7665, or Pauline Martins at ext. 8039).

Sincerely,

A handwritten signature in black ink, appearing to read "Michael J. Molina".

MICHAEL J. MOLINA, Chair
Government Relations, Ethics, and
Transparency Committee

great:ltr:036apl02:brs

cc: Mayor Michael P. Victorino