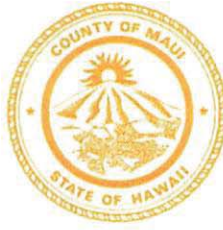


RICHARD T. BISSEN JR.
Mayor

KATHLEEN ROSS AOKI
Planning Director

GARRETT E. SMITH
Deputy Director



DEPARTMENT OF PLANNING
COUNTY OF MAUI
ONE MAIN PLAZA
2200 MAIN STREET, SUITE 315
WAILUKU, MAUI, HAWAII 96793

July 18, 2023

RECEIVED
2023 JUL 24 PM 1:43
OFFICE OF THE
COUNTY CLERK

Honorable Richard T. Bissen, Jr.
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

Richard Bissen Jr.
Mayor Date 7-21-23

For Transmittal to:

Honorable Alice L. Lee, Chair
and Members of the Maui County Council
200 South High Street
Wailuku, Hawaii 96793

Dear Chair Lee and Members:

SUBJECT: TRANSFER OF A CONDITIONAL PERMIT (CP) TO JOSHUA RAMU TREMBLAY FOR THE OLD WAILUKU INN, AN EXISTING TRANSIENT VACATION RENTAL (TVR), LOCATED AT 2199 KAHO'OKELE STREET, WAILUKU, ISLAND OF MAUI, HAWAII; TMK: (2) 3-4-005:015 (CP980006)

The Department of Planning (Department) is transmitting for your review and action, the transfer of a Conditional Permit (CP) to Joshua Ramu Tremblay for the Old Wailuku Inn Bed and Breakfast. A summary of the application is as follows:

APPLICATION SUMMARY	
Application - CP	The application is for the transfer of the existing CP for the Old Wailuku Inn Bed and Breakfast. The current permit is held by Janice Fairbanks and Thomas Fairbanks III who propose to transfer the permit to Joshua Ramu Tremblay, so they can retire. The transient vacation rental operation will continue as currently permitted. This application involves an amendment to Ordinance No. 3545, Bill No. 29 (2008). The original Ordinance was effective on March 9, 2008.
Applicant/Owner	Joshua Ramu Tremblay
Tax Map Key	(2) 3-4-005:015
Address	2199 Kaho'okele Street, Wailuku, Hawaii
Area	22,532 sf

Honorable Richard T. Bissen Jr., Mayor
 For Transmittal to:
 Honorable Alice L. Lee, Chair
 July 18, 2023
 Page 2

APPLICATION SUMMARY	
Land Use Designations	State Land Use District: Urban Maui Island Plan: Urban Growth Boundary Community Plan: Single Family Title 19, Zoning: R-2 Residential District NOT in the Special Management Area (SMA)
Brief Description	The Old Wailuku Inn is a 10-bedroom Bed and Breakfast at 2199 Kaho'okele Street, Wailuku, successfully operating since 1998. The operation of the Old Wailuku Inn Bed and Breakfast is proposed to continue as permitted. No changes to the existing operation are proposed. There are no outstanding Requests for Service regarding the Old Wailuku Inn.
Public Meeting	Held by Maui Planning Commission (Commission) on April 25, 2023 in Wailuku, Hawaii.
Testimony	No objections to the proposed transfer were given. One person testified in support.
Recommendation	The Commission recommended approval of the CP by a vote of six ayes and one excused.

The Commission reviewed the CP request on April 25, 2023, and recommended approval. The conditions were modified to reflect a new permit holder. The conditions of approval reflected in the amended Ordinance are as follows:

1. That the Conditional Permit shall be valid until March 9, 2038; provided, that an extension of this Conditional Permit beyond this period may be granted pursuant to Section 19.40.090, of the Maui County Code.
2. That the Conditional Permit shall be nontransferable unless the Council approves the transfer by ordinance.
3. That full compliance with all applicable governmental requirements shall be rendered.
4. That Joshua Ramu Tremblay, their successors and permitted assigns, shall exercise reasonable due care as to third parties with respect to all areas affected by subject Conditional Permit and shall procure at its own cost and expense, and shall maintain during the entire period of this Conditional Permit, a policy or policies of comprehensive liability insurance in the minimum amount of ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) naming the County of Maui (County) as a named additional insured, insuring and defending the Joshua Ramu Tremblay and the County against any and all claims or demands for property damage, personal injury and/or death arising out of this Conditional Permit, including but not limited to: (1) claims from any accident in connection with the permitted use, or occasioned by any act or nuisance made or suffered in connection with the permitted use in the exercise by Joshua Ramu Tremblay of said rights; and (2) all actions, suits, damages and claims by whomsoever brought or made by reason of the nonobservance or nonperformance of any of the terms and conditions of this Conditional Permit. A copy of the certificate of insurance naming the County as

Honorable Richard T. Bissen Jr., Mayor
For Transmittal to:
Honorable Alice L. Lee, Chair
July 18, 2023
Page 3

an additional insured shall be submitted to the Department within 90 calendar days from the effective date of this ordinance.

5. Joshua Ramu Tremblay shall develop the property in substantial compliance with the representations made to the Council in obtaining the Conditional Permit. Failure to so develop the property may result in the revocation of the Conditional Permit pursuant to Section 19.40.080, Maui County Code.
6. That Joshua Ramu Tremblay comply with the requirements imposed by the Department of Fire and Public Safety.
7. That the transient vacation rental operation shall be subject to periodic inspections by County enforcement personnel at reasonable times upon presentation of appropriate credentials.
8. That the maximum occupancy per room shall be limited to two persons.
9. That the Proprietor must include the number of the permit in all advertising.
10. That Joshua Ramu Tremblay shall file a supplemental public report with the Department of Finance, Real Property Assessment Division, identifying the property as a bed and breakfast for real property tax purposes.
11. That one parking stall shall be provided for each guestroom.

As Council approval is required for the transfer of the CP, the Department respectfully transmits the subject application to the Council for consideration. Accordingly, attached for your review are the following documents:

1. Proposed bill entitled, "A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. 3545, BILL NO. 29 (2008) TO TRANSFER A CONDITIONAL PERMIT TO JOSHUA RAMU TREMBLAY FOR THE OLD WAILUKU INN TRANSIENT VACATION RENTAL SITUATED AT 2199 KAHO'OKELE STREET, WAILUKU, HAWAII";
2. Letter to Kathleen Ross Aoki, Planning Director, from Thomas and Janice Fairbanks, requesting a transfer of Conditional Permit (CP 98/0006), dated March 30, 2023;
3. Department's Memorandum and Recommendation for the Maui Planning Commission dated April 3, 2023;
4. Letter from Kathleen Ross Aoki, Planning Director, to Mr. Joshua Tremblay dated May 12, 2023, with Maui Planning Commission's recommendation for Council approval of the CP transfer to Joshua Tremblay; and
5. Minutes of the April 25, 2023 Maui Planning Commission meeting.

Honorable Richard T. Bissen Jr., Mayor
For Transmittal to:
Honorable Alice L. Lee, Chair
July 18, 2023
Page 4

Should you have any questions, please feel free to transmit them to the Department of Planning via transmittal through the Office of the Mayor.

Sincerely,



KATHLEEN ROSS AOKI
Planning Director

Attachments

Copy To: Ann T. Cua, Planning Program Administrator (PDF)
Aliko Biniaris, Staff Planner (PDF)
Maui Planning Commission (PDF)
Thomas Fairbanks, Former Owner (PDF)
Joshua Ramu Tremblay, Applicant (PDF)
Kari Luna Nunokawa, Munekiyo Hiraga, Consultant (PDF)

KRA:AB:lp

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2199 Kaho'okele Street
Wailuku, Maui, Hawaii 96793
Tel (808) 244-5897
Fax (808) 242-9600
Toll Free (800) 305-4899
E-Mail: Maui BandB@aol.com

*I hope that I can make you see... This sun-lit, moon-witched, rainbow place
Of Beauty. Just a little space
Quite filled with flowers, vines and trees,
Walled in with stone, the haunt of bees
And butterflies and lunar moths.
When you are passing will you pause
Or—if you will—drop in and see
This garden that belongs to me.*

by Don Blanding

March 30, 2023

Ms. Kathleen Aoki, Director
Department of Planning
County of Maui
2200 Main Street
One Main Plaza, Suite 315
Wailuku, Hawai'i 96793

SUBJECT: Request to Transfer of Conditional Permit (CP 98/0006) for Old
Wailuku Inn (Ordinance No. 3545)

Dear Director Aoki:

In 1998, a Conditional Permit (CP 98/0006) was issued to operate a seven (7) bedroom Bed and Breakfast (B&B) at 2199 Kaho'okele Street via Ordinance No. 2733. See **Exhibit "A"**. In 2008 the Maui County Council granted Ordinance 3545, which allowed the CP 98/0006 to expand operations to 10 bedrooms at the subject property for the purposes of a B&B. Please see **Exhibit "B"**. As such, Ordinance 3545 supersedes Ordinance 2733 and 10 bedrooms are what is currently operated at the Old Wailuku Inn. The amended CP 98/0006, as granted by Ordinance 3545, was subject to 11 conditions.

1. *That the Conditional Permit shall be valid for a period of ten (10) years from the effective date of this ordinance; provided, that an extension of this Conditional Permit beyond this ten year period may be granted pursuant to Section 19.40.090, Maui County Code.*

The Old Wailuku Inn received a Time Extension in 2018. Please see to **Exhibit "C"**. This time extension allowed the CP to be valid until March 9, 2038.

2. *That the Conditional Permit shall be nontransferable unless the Council approves the transfer by ordinance.*

We are writing to request the Maui County Council approve a transfer of the CP to Joshua Ramu Tremblay, who is under contract to purchase the

subject property. The sale of the property is anticipated to close on April 10, 2023.

3. *That full compliance with all applicable governmental requirements shall be rendered.*

We confirm that we have operated the Old Wailuku Inn in full compliance with all applicable governmental requirements. To our knowledge, no complaints have been filed against the Old Wailuku Inn operation for the 25 years we have operated.

4. *That Janice Fairbanks and Thomas N. Fairbanks III, their successors and permitted assigns, shall exercise reasonable due care as to third parties with respect to all areas affected by subject Conditional Permit and shall procure at their own cost and expense, and shall maintain during the entire period of this Conditional Permit, a policy or policies of comprehensive liability insurance in the minimum amount of ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) naming the County of Maui as a named additional insured, insuring and defending Janice Fairbanks and Thomas N. Fairbanks III and County of Maui against any and all claims or demands for property damage, personal injury and/or death arising out of this Conditional Permit, including but not limited to: (1) claims from any accident in connection with the permitted use, or occasioned by any act or nuisance made or suffered in connection with the permitted use in the exercise by Janice Fairbanks and Thomas N. Fairbanks III of said rights; and (2) all actions, suits, damages and claims by whomsoever brought or made by reason of the nonobservance or nonperformance of any of the terms and conditions of this Conditional Permit. A copy of the certificate of insurance naming County of Maui as a named additional insured shall be submitted to the Department of Planning within ninety (90) calendar days from the effective date of this ordinance.*

We confirm compliance with this condition. Please see **Exhibit "D"** that shows the current insurance policy naming the County of Maui as additional insured.

5. *That Janice Fairbanks and Thomas N. Fairbanks III shall develop the property in substantial compliance with the representations made to the Maui County Council in obtaining the Conditional Permit. Failure to so develop the property may result in the revocation of the Conditional Permit pursuant to Section 19.40.080, Maui County Code.*

We confirm compliance with this condition. The Old Wailuku Inn has been operating as a 10-bedroom B&B transient vacation rental since the granting of Maui County Council Ordinance Nos. 2733 and 3545.

6. *That Janice Fairbanks and Thomas N. Fairbanks III shall comply with the requirements imposed by the Department of Fire and Public Safety.*

The Old Wailuku Inn is in compliance with the Department of Fire and Public Safety requirements.

7. *That the transient vacation rental operation shall be subject to periodic inspections by County enforcement personnel at reasonable times upon presentation of appropriate credentials.*

We confirm compliance with this condition. The County enforcement personnel is welcome to the property, at reasonable times upon presentation of appropriate credentials, to inspect operations.

8. *That the maximum occupancy per room shall be limited to two (2) persons.*

Each of the 10 rooms at the Old Wailuku Inn allows for a maximum occupancy of two (2) persons.

9. *That the proprietor must include the number of the permit in all advertising.*

We confirm that we are in compliance with this condition. All advertising includes the Conditional Permit number.

10. *That Janice Fairbanks and Thomas N. Fairbanks III shall file a supplemental public report with the Department of Finance, Real Property Tax Division, identifying the property as a bed and breakfast for real property tax purposes.*

We confirm that we have reported the Old Wailuku Inn to the Department of Finance and Real Property Tax Division to identify the property as a bed and breakfast.

11. *That one parking stall shall be provided for each guestroom.*

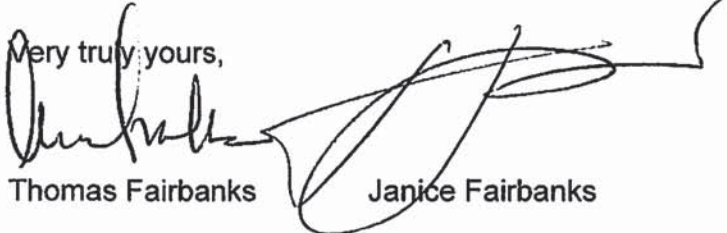
We confirm there is one (1) parking stall available for each of the 10 guestrooms.

Ms. Kathleen Aoki, Director
March 30, 2023
Page 4

As noted above, we respectfully request the Maui County Council approve transfer of the CP to Joshua Ramu Tremblay. Contact information for Mr. Tremblay is provided below.

Joshua Ramu Tremblay
107 Ho'ola'au Street
Wailuku, Hawai'i 96793

Should you have any further questions, please do not hesitate to contact me at (808) 264-4279.

Very truly yours,

Thomas Fairbanks Janice Fairbanks

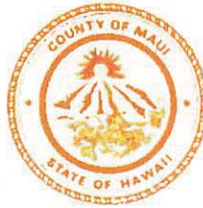
Enclosures

cc: Joshua Ramu Tremblay (w/enclosures)
Kari Luna Nunokawa (w/enclosures)

RICHARD T. BISSEN JR.
Mayor

KATHLEEN ROSS AOKI
Planning Director

GARRETT E. SMITH
Deputy Director



DEPARTMENT OF PLANNING
COUNTY OF MAUI
ONE MAIN PLAZA
2200 MAIN STREET, SUITE 315
WAILUKU, MAUI, HAWAI'I 96793

April 3, 2023

MEMORANDUM

TO: Kelli Pali, Vice Chairperson
and Members of the Maui Planning Commission

FROM: Kathleen Ross Aoki, Planning Director

SUBJECT: **TRANSFER OF A CONDITIONAL PERMIT (CP) FOR THE OLD WAILUKU INN, AN EXISTING TRANSIENT VACATION RENTAL (TVR) LOCATED AT 2199 KAHO'OKELE STREET, WAILUKU, ISLAND OF MAUI, HAWAII; TMK: (2) 3-4-005:015 (CP980006).**

Janice Fairbanks and Thomas Fairbanks III are the permit holders for Conditional Permit (CP) 98/0006 for the Old Wailuku Inn. The Old Wailuku Inn is a 10-bedroom transient vacation rental at 2199 Kaho'okele Street, Wailuku, successfully operating since 1998 in the R-2 Residential District.

The original Ordinance No. 2733 was approved by the Maui County Council (Council) and signed by the Mayor with an effective date of December 16, 1998, (See **Exhibit #1**). It granted the use of a seventh guest bedroom in a Type 3 Bed and Breakfast.

The Type 3 Bed and Breakfast permit was issued in 1998 as BB3 98/0001, as was the Conditional Permit CP980006.

The permits were renewed until Ordinance 3545 was passed by the Council which amended the Conditional Permit and allowed the addition of three bedrooms (for a total of 10) at the Old Wailuku Inn. The ordinance was signed by the Mayor with an effective date of March 9, 2008. (See **Exhibit #2**).

The Conditional Permit was valid for a period of 10 years from the effective date of the ordinance, (condition one of Ordinance 3545).

In a letter dated May 14, 2018, the Department of Planning issued approval of a time extension of the Conditional Permit for the Old Wailuku Inn, (See **Exhibit #3**) until March 9, 2038.

By letter dated November 21, 2022, Thomas and Janice Fairbanks, requested a transfer of their Conditional Permit for the Old Wailuku Inn to Joshua Ramu Tremblay, as they wish to sell their home and retire (See **Exhibit #4**). Condition two of Ordinance No. 3545 states, "That the Conditional Permit shall be nontransferable unless the Council approves the transfer by ordinance." In an affidavit dated November 14, 2022, Mr. Tremblay stated that he read and is aware of all conditions, requirements, and obligations as set

Kelli Pali, vice Chairperson
And Members of the Maui Planning Commission
April 3, 2023
Page 2

forth in the Conditional Permit (CP98/0006) and upon transfer of said Permit agrees to abide by, comply with, and implement all of the terms, conditions, obligations, and requirements set forth in the permit (See **Exhibit #5**).

In a letter dated February 21, 2023, Joshua Ramu Tremblay expressed his knowledge and familiarity with the site and its history as well as his intentions for the continued use (See **Exhibit #6**).

RECOMMENDATION

The Planning Department (Department) recommends that the Maui Planning Commission (Commission) recommend approval of the permit transfer request to the Conditional Permit, subject to the following conditions:


1. That the Conditional Permit shall be valid until March 9, 2038; provided, that an extension of this Conditional Permit beyond this period may be granted pursuant to Section 19.40.090, of the Maui County Code.
2. That the Conditional Permit shall be nontransferable unless the Council approves the transfer by ordinance.
3. That full compliance with all applicable governmental requirements shall be rendered.
4. That Joshua Ramu Tremblay, their successors and permitted assigns, shall exercise reasonable due care as to third parties with respect to all areas affected by subject Conditional Permit and shall procure at its own cost and expense, and shall maintain during the entire period of this Conditional Permit, a policy or policies of comprehensive liability insurance in the minimum amount of ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) naming the County of Maui (County) as a named additional insured, insuring and defending the Joshua Ramu Tremblay and the County against any and all claims or demands for property damage, personal injury and/or death arising out of this Conditional Permit, including but not limited to: (1) claims from any accident in connection with the permitted use, or occasioned by any act or nuisance made or suffered in connection with the permitted use in the exercise by Joshua Ramu Tremblay of said rights; and (2) all actions, suits, damages and claims by whomsoever brought or made by reason of the nonobservance or nonperformance of any of the terms and conditions of this Conditional Permit. A copy of the certificate of insurance naming the County as an additional insured shall be submitted to the Department within 90 calendar days from the effective date of this ordinance.
5. Joshua Ramu Tremblay shall develop the property in substantial compliance with the representations made to the Council in obtaining the Conditional Permit. Failure to so develop the property may result in the revocation of the Conditional Permit pursuant to Section 19.40.080, Maui County Code.
6. That Joshua Ramu Tremblay, comply with the requirements imposed by the Department of Fire and Public Safety.

Kelli Pali, vice Chairperson
And Members of the Maui Planning Commission
April 3, 2023
Page 3

7. That the transient vacation rental operation shall be subject to periodic inspections by County enforcement personnel at reasonable times upon presentation of appropriate credentials.
8. That the maximum occupancy per room shall be limited to two persons.
9. That the proprietor must include the number of the permit in all advertising.
10. That Joshua Ramu Tremblay shall file a supplemental public report with the Department of Finance, Real Property Assessment Division, identifying the property as a bed and breakfast for real property tax purposes.
11. That one parking stall shall be provided for each guestroom.

In consideration of the foregoing, the Department recommends that the Commission adopt the Department's Report and Recommendation Memorandum prepared for the April 25, 2023 Meeting as its Findings of Fact, Conclusions of Law, Decision and Order and authorize the Planning Director to transmit said Findings of Fact, and Conclusions of Law, Decision and Order to the Council on behalf of the Commission.

APPROVED:



KATHLEEN ROSS AOKI
Planning Director

Copy To: Ann T. Cua, Planning Program Administrator (PDF)
Jordan Hart, Zoning Administration and Enforcement Division Program Administrator (PDF)
Aliko Biniaris, Staff Planner (PDF)
Project File

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RICHARD T. BISSEN JR.
Mayor

KATHLEEN ROSS AOKI
Planning Director

GARRETT E. SMITH
Deputy Director



DEPARTMENT OF PLANNING
COUNTY OF MAUI
ONE MAIN PLAZA
2200 MAIN STREET, SUITE 315
WAILUKU, MAUI, HAWAI'I 96793

May 12, 2023

CERTIFIED MAIL - #7021 1970 0000 2808 5705

Mr. Joshua Tremblay
777 South Kihei Road Unit 218
Kihei, Hawaii 96753

Dear Mr. Tremblay:

SUBJECT: TRANSFER OF A CONDITIONAL PERMIT (CP) FROM CURRENT PERMIT HOLDERS JANICE FAIRBANKS AND THOMAS FAIRBANKS III TO JOSHUA TREMBLAY, FOR THE OLD WAILUKU INN, AN EXISTING TRANSIENT VACATION RENTAL (TVR), LOCATED AT 2199 KAHO'OKELE STREET, WAILUKU, MAUI, HAWAII; TMK: (2) 3-4-005:015 (CP980006)

At its regular meeting on April 25, 2023, the Maui Planning Commission (Commission) reviewed the request to transfer a CP from permit holders Janice Fairbanks and Thomas Fairbanks III to Joshua Tremblay, for the Old Wailuku Inn Bed and Breakfast transient vacation rental operation.

The Commission voted to recommend approval of the CP transfer to the Maui County Council.

CONDITIONAL PERMIT

The Commission recommended approval of the CP to the Maui County Council, subject to the following conditions:

1. That the CP shall be valid until March 9, 2038; provided, that an extension of this CP beyond this period may be granted pursuant to Section 19.40.090, of the Maui County Code (MCC).
2. That the Conditional Permit shall be nontransferable unless the Council approves the transfer by ordinance.
3. That full compliance with all applicable governmental requirements shall be rendered.

4. That Joshua Ramu Tremblay, their successors and permitted assigns, shall exercise reasonable due care as to third parties with respect to all areas affected by subject CP and shall procure at its own cost and expense, and shall maintain during the entire period of this CP, a policy or policies of comprehensive liability insurance in the minimum amount of ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00) naming the County of Maui (County) as a named additional insured, insuring and defending Joshua Ramu Tremblay and the County against any and all claims or demands for property damage, personal injury and/or death arising out of this CP, including but not limited to: (1) claims from any accident in connection with the permitted use, or occasioned by any act or nuisance made or suffered in connection with the permitted use in the exercise by Joshua Ramu Tremblay of said rights; and (2) all actions, suits, damages and claims by whomsoever brought or made by reason of the nonobservance or nonperformance of any of the terms and conditions of this CP. A copy of the certificate of insurance naming the County as an additional insured shall be submitted to the Department within 90 calendar days from the effective date of this ordinance.
5. That Joshua Ramu Tremblay shall develop the property in substantial compliance with the representations made to the Council in obtaining the CP. Failure to so develop the property may result in the revocation of the CP pursuant to Section 19.40.080, MCC.
6. That Joshua Ramu Tremblay, comply with the requirements imposed by the Department of Fire and Public Safety.
7. That the transient vacation rental operation shall be subject to periodic inspections by County enforcement personnel at reasonable times upon presentation of appropriate credentials.
8. That the maximum occupancy per room shall be limited to two persons.
9. That the proprietor must include the number of the permit in all advertising.
10. That Joshua Ramu Tremblay shall file a supplemental public report with the Department of Finance, Real Property Assessment Division, identifying the property as a bed and breakfast for real property tax purposes.
11. That one parking stall shall be provided for each guestroom.

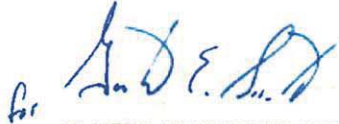
That CP conditions will be enforced pursuant to the provisions of Chapter 19.530, §19.530.030 of the MCC, as amended, 1980; and the *Rules for Administrative Procedures and Civil Fines for Violations of Titles 12, 14, 16, 19, and 20 of the Maui County Code*.

The Commission adopted the Department's Report and Recommendations prepared for the April 25, 2023, meeting as its Findings of Fact, Conclusions of Law, and Recommendation and authorized the Director to transmit said Recommendation to the Maui County Council on behalf of the Commission.

Mr. Joshua Tremblay
May 12, 2023
Page 3

Thank you. If additional clarification is required, please contact Staff Planner Alik Biniaris at aliki.biniaris@mauicounty.gov or at (808) 270-5570.

Sincerely,



KATHLEEN ROSS AOKI
Planning Director

Copy To: Ann T. Cua, Planning Program Administrator (PDF)
Jordan E. Hart, Planning Program Administrator (PDF)
Alik Biniaris, Staff Planner (PDF)
Department of Public Works (PDF)
Department of Finance, Real Property Assessment Division (PDF)
Department of Fire & Public Safety (PDF)
Joshua Tremblay, Applicant, New Owner (PDF)
Thomas Fairbanks, Former Owner (PDF)
Luna Nunokawa, Munekiyo Hiraga, Consultant (PDF)

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**MAUI PLANNING COMMISSION
REGULAR MINUTES
APRIL 25, 2023**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Vice-Chairperson Kim Thayer at approximately 9:05 a.m., Tuesday, April 25, 2023, in the Planning Conference Room, 250 South High Street, Wailuku, Maui, Hawaii 96768 and online via BlueJeans; Meeting ID: 722 485 001

Ms. Kim Thayer: Good morning everybody. The 25th . . . (*Technical difficulties*) . . .

Ms. Kathleen Aoki: Member Apo?

Mr. Blaine Apo: Good morning, Director.

Ms. Aoki: Great. Okay we can hear Member Apo. Okay, worst case scenario . . . (*Technical difficulties*) . . . Member Deakos, did you say any . . . (*Technical difficulties*) . . .

Dr. Mark Deakos: I heard my name. I think the audio is coming in and out if you're doing intros. Okay.

Ms. Aoki: Sorry. I'll go back. Please state where you are and if anyone is in the room. Thank you.

Dr. Deakos: Yeah, I'm alone in my, at my home, in Napili.

Ms. Aoki: Mahalo. Member Apo, could you just answer those questions please?

Mr. Apo: Good morning. I am in my office, alone, in Waikapu.

Ms. Aoki: Mahalo. Okay, and member, um, Tom. Sorry, Member Hipolito, let's try you again.

Mr. Mel Hipolito, Jr.: Okay. Good morning. Good morning, Director.

Ms. Aoki: Good morning.

Mr. Hipolito, Jr.: Good morning Chair. Good morning fellow Commissioners. I can hear really well now. I am in my office in Kahului. I am alone. Thank you.

Ms. Aoki: Mahalo. Member Lindsey? I don't see her on. Okay, for now we'll list her as excused; not responding. And we have Vice-Chair Thayer present.

Ms. Thayer: Aloha kakahiaka everybody. Okay. Uh, please bear with me, everybody, as I'm in the driver's seat for the first time. So let's see, public testimony will be taken when each agenda item is discussed. Please note, testimony will be limited to a maximum of three minutes. And for the sake of everybody's time, we ask that you do respect that. Let's see. Uh, testifiers via video on BlueJeans are asked to sign up using the chat function, providing their names and the item they wish to testify on. Testifiers via phone will be called by the Chair after in-person and video

testimony is finished. Testifiers will be called by the Chair to offer their testimony. Those participating by phone or video are asked to mute their audio and video when not testifying. This is very helpful to run an efficient meeting. And let's see. Oh, very important. Commissioners, shall not be contacted by the chat function. The chat function shall not be used to provide testimony or comments on BlueJeans. So if you have something to say, please sign up to testify.

So we have a relatively short agenda today, a communication item. And then we go into the Director's Report. So without further ado, we can get started with our first item.

Ms. Aoki: Thank you, Vice Chair, Acting Chair. Our first item this morning is a communications item. We have Thomas Fairbanks and Janice Fairbanks requesting a permit transfer of a Conditional Permit to operate a ten-bedroom or ten-room bed and breakfast, The Old Wailuku Inn, within the R2 Residential zoning district, located at two, one, nine, nine Kahookele Street. Um, representing the Department today is our planner Aliko Biniaris.

Ms. Thayer: Uh, can I note real fast that uh, Commissioner Lindsey has appeared.

Ms. Aoki: Mahalo. Commissioner Lindsey, can you please state out where you're at and if anyone's in the room with you please?

Ms. Ashley Lindsey: Aloha kakahiaka kakou . . . (*Spoke in Hawaiian*) . . . hale in Wailuku. Um, nobody's here with me today. Hi, hi, everybody. I am here in Wailuku, um, in my office, and there's nobody here. Although my son might be coming in on occasion, but we will see. Thank you.

Ms. Aoki: Mahalo.

Ms. Lindsey: Nice to see you folks today.

B. COMMUNICATIONS

- 1. THOMAS FAIRBANKS AND JANICE FAIRBANKS requesting a Permit Transfer of a Conditional Permit to operate a 10-room Bed and Breakfast named the Old Wailuku Inn within the R-2 Residential Zoning District located at 2199 Kahookele Street, TMK: (2) 3-4-005:015, Wailuku, Island of Maui (CP 98/006) (A. Biniaris)**

Ms. Thayer: Okay. Um, yes, so we will, ah, we will have you do your presentation first. Commissioners, if you have any questions, please write them down because right after her presentation, we'll go right into public testimony and we'll take everybody's questions after that.

Ms. Aliko Biniaris: Good morning, Commissioners. The project that is up for your review is the proposed transfer of a Conditional Permit for the Old Wailuku Inn, an existing transient vacation rental located at 2199 Kahookele Street in Wailuku. Janice and Thomas Fairbanks are the current permit holders and have been operating the inn since 1998, in the R2 Residential District. They are selling their home to Joshua Ramu Tremblay as they wish to retire. Condition

two of the Ordinance No. 3545 states that the Conditional Permit shall be non-transferable unless the Council approves the transfer by ordinance. Today, the project consultant, Munekiyo Hiraga, will give a short presentation and we can answer any questions that you might have about the proposal. Thank you.

Ms. Kari Luna Nunokawa: Hi Commissioners. Hope everyone is doing well. Aloha kakahiaka. My name is Kari Luna Nunokawa with Munekiyo Hiraga. And if possible -- is it okay if I share my screen? Okay. It's weird doing it in person and not being on BlueJeans. Okay. Hang on one second. Sorry, technical difficulties. I have to get into our remote system. Hang on one second. Okay. Alike, do you have the --? Yeah, maybe --. Let me try one more time.

Ms. Thayer: Thank you for your patience, everybody.

Ms. Nunokawa: Yeah. Thanks everyone. Yeah, that's would be great. For some reason it's not letting me share. Great. Okay, thanks everyone. So good morning and thank you for the opportunity to present a brief presentation on the Old Wailuku Inn at Ulupono Conditional Permit transfer request. Um, again, my name is Kari Luna Nunokawa from Munekiyo Hiraga. And we are assisting Mr. and Mrs. Fairbanks and Mr. Tremblay with the permit transfer process. Next slide, please.

The Old Wailuku Inn's current Conditional Permit holders, Mr. and Mrs. Fairbanks, they lived, owned and operated the Old Wailuku Inn for the last 25 plus years, and they just sold the property to Mr. Joshua Ramu Tremblay, who is seeking to continue the Old Wailuku Inn bed and breakfast operations. Next slide.

The purpose of the communications item on your agenda today is to kindly request the Commission's review and recommendation to approve the proposed Conditional Permit transfer from Thomas and Janice Fairbanks to Mr. Joshua Ramu Tremblay. In your staff report, you will also see that the Planning Department is also recommending their support for the permit transfer request. Slide four, please next slide.

So this is a regional location map. The property is outlined in blue; kind of a little bit tiny. You can see it's fronting High Street and Honoapiilani Highway; Wailuku Elementary School is kitty corner; and then Wailuku Elementary School Park. And then we're in the Kalana O Maui. Um, we're right next door to that today. So it's very, it's in very close proximity to where we are, it's just down the street. Next slide, please.

This is the closer view, aerial view, of the property. Kahookole Street is the ingress egress for visitors staying at the Old Wailuku Inn. And as you can see, there's High Street, Honoapiilani Highway, and Wailuku Elementary School. Next slide Please.

The historic Lufkin House has seven guest suites and the owner's quarters, and then the Vagabond House has three guest suites and you can see there are 14 parking stalls for the property. And again, the ingress egress is on Kahookole Street. Next slide, please.

So a little bit of the Conditional Permit history. In 1998, CP 98/0006 was granted to Thomas and Janice Fairbanks via Ordinance 2733, and that was to operate a seven bedroom bed and

breakfast. And then in 2008, there was a revision via Ordinance 3545 granted to the Fairbanks to operate a ten-unit bed and breakfast. And was subject to 11 conditions, one of which is that the Conditional Permit was not transferable without approval from the Maui County Council, and which is why we are here today as part of the process. In 2018, the Conditional Permit received the time extension until March 9th of 2038. November 21st, 2022, the Fairbanks filed the request to transfer the Conditional Permit to the Department of Planning to Joshua Ramu Tremblay. And on April 10th, so just a few weeks ago, Thomas and Janice Fairbanks sold the Old Wailuku and to Joshua Ramu Tremblay. Next slide, please.

Okay, so this gets a little tricky. We're going to share a short, short video, and if you click on that link, it will take you to the video.

Mr. Iggy Filippini: You want the audio to play, right, Kari? Yeah, but I'm not sure how I'm going to be able to do that because it's playing at my computer.

Ms. Nunokawa: We can do it here if you --

Mr. Filippini: You can?

Ms. Nunokawa: Yeah.

Mr. Filippini: Okay. Yeah, pull up the video there. Go ahead.

Ms. Nunokawa: Yeah, because this one I can share my laptop.

Mr. Filippini: I'm going to stop sharing so you can share yours.

Ms. Nunokawa: Okay. Here we go. Oh, maybe, maybe not. Let's see. You know, let's try this one more time. Why won't it share?

Mr. Filippini: Where is your video? . . . *(Technical difficulties)* . . . That's the one you're going to --

Ms. Nunokawa: Yeah.

Mr. Filippini: Now go back to it. Now select that.

Ms. Nunokawa: Yeah, and then I'm going to go to this one first. The audio.

Mr. Filippini: And then if you go to a full screen there and you won't have that. Yeah. And then for that, you just make it small, like, grab that and make it really slim. Hold it. Yeah, then you can even click on that part right there and it will go up. There you go.

Ms. Nunokawa: All right. Here we go.

(The following is the transcription of the video presentation):

Mr. Tom Fairbanks: Welcome to the Old Wailuku Inn at Ulupono, built in 1924 and known as the Historic Lufkin House. Well, the first recognition we got was when we were accepted on the State Historic Register. So it is kind of a rare experience and a rare home.

Ms. Janice Fairbanks: It's close to everything. We've got shopping. We want a cup of coffee, you can run down the street. Our doctors just down the street, dentist, we've got everything.

Mr. Fairbanks: It's, it's a great location to return to and to leave from, to go anywhere on the island because we're right in the center of the island.

Ms. Fairbanks: When we first looked at it, I walked up the stairs and I looked around and saw the muntin windows, it reminded me of my old home. Everything was always open and you look out and you see the trees. It's very private. It's quiet. Um, we can sit outside and not have to worry about pretty much anything. We listen to the birds. You cannot believe how beautiful the sound is.

Mr. Fairbanks: It's got a beautiful story behind the home, a very impactful history here in the community, with the people that lived here. They really were actually the movers and shakers in the development of the merchant class in Wailuku. And so that's one of the reasons why the home is famous. But also the architectural features of the home. The detail of the crown molding and the doors and the glass knobs. The, the real highlight of the home is actually the Ohia floors, and they're very rare, and very expensive, and very hard, but they're, they're beautifully restored. When our children moved out, we decided to go to bed and breakfast business. I mean, it was just set up perfectly for it.

We have ten guest rooms, each with their own en suite bathroom. And each room also has split air conditioner in each room.

The locals, when they come and stay with us, they always say it's, oh, it just feels like grandma's house or, you know, our auntie's house or something. And we were going to go visit auntie when we when we come to stay.

Ms. Fairbanks: Here, you're in Hawaii. I think we emit the feeling of being in Hawaii. And for a lot of people, they walk in and it's home. It's an easy transition going between home and business, always.

Mr. Fairbanks: It's been a labor of love for us. We think that the next owner should be proud knowing that they're contributing to the sense of place of Historic Wailuku Town."

(End of video presentation)

Ms. Nunokawa: Okay, so we're going to switch computers now. Hang on one second. All right, so the Old Wailuku Inn has complied with all conditions of approval. And in the 25 plus years of operations, The Fairbanks have never received a complaint from other owners or lessees surrounding the Old Wailuku Inn. Um, transferee Joshua Ramu Tremblay also submitted a sign affidavit to agree to abide by, comply with, and implement all of the terms, conditions,

obligations, and requirements set forth in the permit. And you can see the compliance report also in your staff report. So next slide, please.

So just as a reminder, we were just respectfully requesting the MPC's review and recommendation to approve the proposed Conditional Permit transfer from Thomas and Janice Fairbanks to Mr. Joshua Ramu Tremblay. So thank you so much. That concludes our presentation.

Ms. Thayer: Thank you. We'll now go into public testimony. Um, so we have one person signed up so far, Mr. Thomas Croly. Tom Croly.

Mr. Thomas Croly: Aloha Commission. Tom Croly speaking today on my own behalf. In strong support of the Commissions' recommendation of approval of the transfer of the Conditional Permit to allow the Old Wailuku Inn to continue or probably restart their bed and breakfast operations under the new owner. Tom and Janice Fairbanks, as you've already heard from the video, have done a great job of establishing and operating this bed and breakfast over the past 25 years, and their decision to retire should not require this business to cease. If the new owner can operate with the same harmony within the neighborhood as the Fairbanks have, there is no reasonable justification to deny this permit transfer. But perhaps I might suggest that the new owner have a probationary period to ensure that he will, you know, uphold what the former owners did. Who knows? He tells you he's going to, but there, there -- it may be wise to put something in here to say we'll review this in a year or something like that.

The obvious issue here is that under Maui County Code Bed and Breakfast and Short-Term Rental Home Permits are not transferable. But it's important to note the distinction between this Conditional Permit that allows this B&B use and the B&B Permit. The Fairbanks were granted this Conditional Permit because of the number of bedrooms that they operate for short-term rental use exceeded the maximum number of bedrooms of six, which is the maximum under a bed and breakfast permit.

I was involved in the bed and breakfast ordinance law from about 2004 on when the original law first started to be amended. When this took place, the Council expressed a concern that a person or a business might be set up where people would purchase properties, turn them into bed and breakfast, and then flip them for a profit. And um, that made sense for them to say, hey, you can't transfer the permit for that purpose. But clearly, that is not what's happening here. When someone puts their lifeblood into a property for 25 years, they're not a flipper, right? And I would like to make the point that any bed and breakfast that's been operating for, say, 15 years or more without controversy in the neighborhood like this one, and no disturbances, no, no objections from, from the folks nearby would be allowed to make a transfer of their permit. For that to happen, the Council would have to change the bed and breakfast law. In this particular case, what's before you is a Conditional Permit, which really is a law unto itself. So with your recommendation, they could make this transfer. The Council has the authority to make this transfer without changing the law. But I might ask that the Commission send along a message to the Council to say that yes, in similar circumstances a bed and breakfast permit should also have this same consideration --

Ms. Takayama-Corden: Three minutes.

Mr. Croly: -- to be able to be transferred at some point. I have a little more to say, but I understand we're at three minutes. I'll just say that, I would just conclude with I'm probably the person with the most institutional knowledge about the bed and breakfast laws and so forth so if you have any questions, I'd be happy to, you know, manao my, my input on that. Thank you.

Ms. Thayer: Thank you. We have a question from Commissioner Hipolito.

Mr. Hipolito, Jr.: . . . (inaudible) . . .

Mr. Croly: Can't hear your Mel.

Mr. Hipolito, Jr.: Sorry. Chair, I would like to hear Mr. Croly continue, please.

Ms. Thayer: Okay.

Mr. Croly: Sure. Well, basically, I summarized what the rest of what I had to say. But, but primarily, I'm asking that you follow what's, what the Planning Department is recommending here and recommend approval of this transfer. But along with that, say that the Commission would support transfer of a bed and breakfast permit that might be under the same circumstances. The owners are getting ready to retire. They could -- pick a number whatever you want ten years, 15 years, 20 years, whatever you think would be reasonable, and that the Council should consider making a change like that. Again, because the, the, the no transfer rule was really designed to prevent someone from flipping properties, you know, from just turning them into bed and breakfast and flipping them. So that's really all I had to say. Thank you Mel for letting me finish.

Ms. Thayer: Thank you. Any other questions from the Commission? Oh, Commissioner Lindsey.

Ms. Lindsey: Hi. Nice seeing you. It's been a while.

Mr. Croly: Yes.

Ms. Lindsey: I thank you for your testimony today. I think in the past, there's B&B and short-term rental have, um, we've been seeing them and kind of feeling out for, um, their give back to the community and how, how well they fit into Maui as we know it and love it. Um, I see that these previous owners feel the same way, um, but you just said that the non-transfer laws was, was, was for us to -- can you repeat that? Can you go a little more into it?

Mr. Croly: Sure. So again, I want to stress that this permit that you're considering the transfer of is a Conditional Permit and it's not a B&B Permit even though it's allowing B&B use. But a B&B Permit, and again, that, this permit, the reason it's not a B&B permit is because it was for more than six bedrooms. But if it were a B&B Permit, this wouldn't be before you right now. It would simply be it can't be transferred. End of story. But, but for the B&B Permits, um, they, they did create this, this provision that says it can't be transferred. And the reason for that provision, the Council was very clear about that, that they didn't want someone to set up a business of establishing B&Bs and then flipping them for a profit for the business value of the, of the, you

know, the B&B. And I'm just making the case that for someone like the Fairbanks who owned this property for 25 years, clearly they're not flipping it, as would be the case for other B&Bs that are out there. And I counted 18, for example, of us and I happen to be one, so I'm speaking on my own behalf where we've been in business for more than 15 years and we don't have any, you know, objections from our neighbors and so forth. So shouldn't we be given the same opportunity as, as what's being presented before you today?

Ms. Lindsey: Thank you for that.

Ms. Thayer: Okay. Any other questions for the testifier? Seeing none.

Mr. Croly: Thank you, members.

Ms. Thayer: Is there anybody else online who wishes to testify or in the gallery? Looks like none. Okay, public testimony is closed. Um, all right, any questions from the Commissioners for the applicant? Oh, Dale, and then -- oh sorry -- Commissioner Thompson, and then Commissioner Hipolito.

Mr. Thompson: Yeah, just one, and it says that their hopes and desires to live in and continue operating. So, is that part of the application, it has to be owner occupied?

Ms. Nunokawa: Yes, as a bed and breakfast.

Ms. Thayer: Okay, thanks. Commissioner Hipolito?

Mr. Hipolito, Jr.: Thank you Chair. Ah, question for Ms. Nunokawa. So the ten bedrooms and plus following up kind of addition to Commissioner Thompson, is the ten bed, bedrooms inclusive of the living quarters or is the living quarters, ten plus the living quarters?

Ms. Nunokawa: I believe it's ten plus the living quarters. So if you see -- remember the site plan that I showed, it had the Vagabond House, it had seven units and the owner's quarter. And then the other --. I'm sorry, the Lufkin House had seven bedroom, and the owner's quarters, and then the Vagabond House had three units there.

Mr. Hipolito, Jr.: Okay. Thank you. That's my question.

Ms. Nunokawa: Okay, thanks.

Ms. Thayer: Any other questions from the Commission? Seeing none, okay. Thanks. Please have a seat now.

Ms. Nunokawa: Thank you.

Ms. Thayer: And discussion? Deliberation? Motion? Or we can -- yeah, we'll have your recommendation. Oh, Commissioner Lindsey, did you raise your hand? Oh, sorry, one second. Go ahead.

Ms. Lindsey: Um, I think there is --. So this, I looked at this property online because it's been for sale for a little while and it is completely set up, like, it has commercial or commercial laundry in it. It's like a full on commercial facility. Realistically, I can imagine, like somebody turning it back into a house. That's just something. I, I don't know. I feel like I needed to be said there. I don't think there was enough information about like the location, the property, and its use and how well they do their job, or how it's made to do that job, the building and upgraded. That's all.

Ms. Thayer: Okay. All right. We can hear the recommendation. Thank you.

Ms. Biniaris: The Department is recommending approval based upon the 11 conditions as listed in the memorandum and recommendation. In consideration of the foregoing, the Department of Planning recommends the Maui Planning Commission adopt the Planning Department's report and recommendation prepared for the April 25th, 2023 meeting as its Facts of -- Findings of Fact, Conclusion of Law, and Decision and Order, and to authorize the Director of the Plan, of Planning to transmit said written Decision and Order on behalf of the Planning Commission. Thank you.

Ms. Thayer: Thank you. So, Commissioners, for context, we are providing a recommendation to the Council, and the Council will make the final action on this. Commissioner Deakos?

Dr. Deakos: Thank you, Chair. Um, I'm just wondering about the probation period, if that would be something we may want to consider just because we know sometimes people sell a good sell and then it doesn't turn out to be what they say. So I like that idea of a one year probation period. Is that something we could?

Ms. Thayer: Um, we'll have the planner to come up and answer that.

Ms. Biniaris: So as it stands now, um the Department issued a renewal in a letter dated May 14th, 2018, and the renewal is up in March, on March 9th, 2038. Um, but we do shorter term renewals like five-years or 10 years, and then we usually check for compliance. So the Department can do that without bringing it to a meeting and taking up your time as well. We check for compliance and we check that everything is good, and we could do the site visits and that sort of thing. Yeah, it's a suggestion.

Dr. Deakos: Okay. Thank you. Thank you, Chair.

Ms. Thayer: Um, would you like to make a --. Oh, we'll need a motion first, but you could think about that for a condition. Commissioner Thompson.

Mr. Thompson: Oh, hi Chair. I make a motion to accept this with the conditions from the Planning Department.

Ms. Thayer: Okay, as recommended by the Department. Is there a second? Commissioner Apo? Or is that a question?

Mr. Apo: I have a question real quick. So what would prevent this property from being transferred again with the Conditional Permit already have been processed . . . (inaudible) . . . ?

Ms. Thayer: Oh, yeah, we'll need a second for discussion; I've been told by Corp Counsel. Ah, let's see, Commissioner Lindsey, is that a second? Yes. Okay, second by Commissioner Lindsey. Okay, let's open up for discussion on the motion. Commissioner Apo go ahead.

Mr. Apo: Sorry, thank you. Being that it's a non-transferable by the way the law states it, if I'm understanding correctly. So say . . . (inaudible) . . . purchases it and his permit is good to 2038, what would stop him from transferring it again to some other, another new owner?

Ms. Thayer: Go ahead, Director.

Ms. Aoki: Thank you. Commissioner Apo, so it's a condition. It would would not stop anybody from selling the property and trying to do exactly what they're doing today. They would have to come in to the Planning Commission, get the recommendation up to the Council to transfer the permit, and then Council would have to approve that.

Mr. Apo: Okay. Perfect. Understood. Thank you.

Ms. Aoki: You're welcome.

Ms. Thayer: Commissioner Hipolito.

Mr. Hipolito, Jr.: Thank you, Chair. Uh, I think my question is to the Director. One of the conditions, item number seven, it says periodic inspections by County enforcement personnel. If they would find that the applicant has not, or is not, and has not met conditions, at that point, what would, what would take place?

Ms. Aoki: Thank you, Commissioner. Um, I think it could be twofold. They could either be issued a Notice of Warning that they're not in compliance with the Conditional Permit. So our inspectors would go out. If they're not in compliance, we issue a Notice of Warning, get them, try to get them into compliance. If they don't, we can issue an NOV. There's also the ability to take this back to the Council who could rescind or modify or whatever you want to call it, this Conditional Permit to, to rescind it and say that they're not granted that permit anymore. But initially, I would say we would go out and do Notices of Warnings.

Mr. Hipolito, Jr.: Thank you, Director. So technically, they're on probation until 2038?

Ms. Aoki: That is correct. Like all permit people who have permits, the minute there's a complaint, we can, we will go out and inspect and can issue Notice of Warnings, if applicable.

Mr. Hipolito, Jr.: Thank you, Director.

Ms. Aoki: Yeah, it's a discretionary permit, so --.

Ms. Thayer: Any other discussion? Commissioner Deakos?

Dr. Deakos: Yeah, thank you, Chair. Yes, so I understand, you know, that the Planning Department responds. This seems like a very unique situation where because it's not a bed and breakfast, because it was more than six units, it's conditional. So it doesn't fall under the law. It's -- there's so many exceptions here. I'd hate for this to go sideways. It seems like them coming back in a year and finding out that it's sort of, I think, it would put pressure that they do everything properly knowing they're under a one-year probationary period. And for us to just kind of listen to it for a year from now and, and say, okay, great, everything's going good. I might, I would suggest maybe a friendly amendment for a one-year probation period for them to come back rather than the Department having to issue the, the warnings and go through that whole process.

Ms. Aoki: Chair, if I could ask Corp Counsel to comment on a one-year probation versus just granting the Conditional Permit for a year, or clarification from Commissioner Deakos exactly what you would want? Would you want them to come back in in a year and, and just provide a status report to the Commission that they're doing great or not? Or I mean, we can, we can ask for a compliance report. I don't know. Alike, is that on there, any kind of compliance report for a year?

Ms. Biniaris: When we issue the renewal, we have a compliance report, right, that makes sense, check in and say that they're compliant with all the conditions. Also, condition number five, um, Joshua Ramu Tremblay shall develop the property in substantial compliance with the representations made to the Council in obtaining the Conditional Permit. Failure to so develop the property may result in the revocation of the Conditional Permit pursuant to Section 19.40.080 of the Maui County Code.

Ms. Aoki: So Commissioner Deakos, if I may, it, what, what would be if you want to look at the project again, in a year, we could ask them to do a compliance report and what it is that you want them to report on. You could also not, not recommend that it be 15 years. You could recommend that it be five years, which a lot of Conditional Permits start off at five years or 10 years. You know, you have that ability to fluctuate how many years. I, I think a year, there's a lot of time, work and energy, and money that goes into these permits, especially when you have to go to Council. So I would actually discourage a year. And having said that, if any complaints come in, we would be able to, to address those complaints and issues Notices of Warning. And even in the notice, if they're so egregious, we could issue a Notice of Violation and tell them to cease, cease operations. So there's a lot of ways that we can address issues if they come up.

Dr. Deakos: Okay. Yeah, I, I defer to the Planning Department, and if you guys are confident. I thought it would be less work to bring it back here. But if you guys are confident you, you can evaluate and do all that, I, I will defer to your guys' recommendations. So I'll, I'll pull my friendly amendment.

Ms. Thayer: Okay, thanks. I think, you know, to your point, another check and balance is there's neighbors very close surrounding this entire property, so if anything goes sideways, I think the neighbors will know very quickly. Let's see, any other discussion from the Commission? Otherwise, we can call for a vote. Yeah, sure, roll call vote, please. Thank you.

Ms. Aoki: Commissioner Thompson?

Mr. Thompson: Aye.

Ms. Aoki: Commissioner Lindsey?

Ms. Lindsey: Aye.

Ms. Aoki: Commissioner Hipolito?

Mr. Hipolito, Jr.: Aye.

Ms. Aoki: Commissioner Deakos?

Dr. Deakos: Aye.

Ms. Aoki: Commissioner Apo?

Mr. Apo: Aye.

Ms. Aoki: And Vice-Chair Thayer?

Ms. Thayer: Aye.

It was moved by Mr. Thompson, seconded by Ms. Lindsey, then unanimously

VOTED: To Recommend Approval of the Permit Transfer of the Conditional Permit to the County Council as Recommended by the Department. (Assenting – D. Thompson, M. Hipolito, A. Lindsey, M. Deakos, B. Apo, K. Thayer) (Excused – K. Pali)

Ms. Aoki: Vice-Chair, your motion passes; seven ayes. Seven ayes, no opposed. Hold on.

Ms. Biniaris: Just to be clear, are we going with the 2038 date?

Ms. Aoki: There was no amendments.

Ms. Thayer: Yeah, so the main motion was to, um --

Ms. Biniaris: Thank you.

Ms. Thayer: -- yes, staff recommendation.

Ms. Aoki: All right. Thank you very much. Congratulations.

C. DIRECTOR'S REPORT

1. **Designation of the South Maui Advisory Committee to conduct the public hearing and provide a recommendation on the following applications:**

MR. WILLIAM SPENCE on behalf of MR. CHRISTOPHER AND MS. CANDICE HAYES are requesting a District Boundary Amendment and Change of Zoning for the Ohukai Light Industrial Park, consisting of 21 lots for use as storage base yards, a central paved roadway and related improvements. The project will be located on approximately 14.626 acres of land at 454 Ohukai Road, Kihei, Maui, Hawaii at TMK: (2) 3-9-001:034 (ZPA2022-00002) (T. Furukawa).

The Commission may take action to designate that the South Maui Advisory Committee conduct the public hearing and provide a recommendation on the subject applications request or take other action.

Ms. Thayer: Okay. Thank you everybody. And moving on now to the Director's Report. So our first item listed is the question of designating the South Maui Advisory Committee to conduct a public hearing and provide a recommendation on this application. Do you read this or do I? Okay, um, so this application from Mr. William Spence on behalf of Mr. Christopher and Ms. Candice Hayes were requesting District Boundary Amendment and Change of Zoning for the Ohukai Light Industrial Park consisting of 21 lots for use as storage base yard, a central paved roadway and related improvements, located on Ohukai Road in Kihei, Maui. So we can take action to designate the South Maui Advisory Committee to conduct a public hearing and provide a recommendation on the applicant's application to us, this body, or we can take other action, which would mean having the public hearing occur before this body here. We do have one person signed up to testify, Ms. Zandra Amaral Crouse is, I believe, online.

Ms. Zandra Amaral Crouse: Good morning Commissioners. Can you hear me?

Ms. Thayer: Yes. Oh, yes, one second. Yes, one second. To make everybody clear, we are only --

Ms. Crouse: I know, you're not taking action on that, but we need to have a say on . . . (inaudible) . . . if we can testify. Thank you.

Ms. Thayer: Yeah, this is for --. This is for --. Can you mute yourself please? Can you mute yourself please? Okay, so yes, so again, we are only deliberating on where the public hearing will take place, not the merits of the project itself. Okay, Ms. Crouse, you can go ahead with your testimony.

Ms. Crouse: Thank you. thank you. Thank you very much. Yes, I spoke with Mr. Mayor at the C-PAC meeting and be advised as much. But I think referring it to the South Maui Advisory Committee is the most prudent thing to do because we got a base yard wanting to trucks and trucks on the road right across the subdivision. And the gas, the fumes, um, it's inappropriate and I think those of us that live in Kihei, and those that sit on the South Maui Advisory Committee are well aware of that. So that would be simply what I wanted to say is that I also am in favor of, strong, along with 200 of our residents here to send it to the South Maui Advisory

Committee so that this can be explored more. But I thank you for your time. Thank you for your diligence, and I pray that you take into consideration our humble request. Mahalo. A hui hou malama.

Ms. Thayer: Okay, hold on. Hold on. Any Commissioner have questions for the testifier? Seeing none, okay, thank you for your testimony.

Ms. Crouse: You're welcome.

Ms. Thayer: Commissioners, discussion? Commissioner Thompson?

Mr. Thompson: Why thank you Chair. Well, I believe it's duplicit and I'd rather have the presentations made here along with the hearings so that we could firsthand hear all those pro and cons of this project. Like I said, it's just duplicitous. It's bad government splitting it off and then bringing it back. Thank you.

Ms. Thayer: Thank you for your manao. Any other Commissioners want to weigh in? Ah, Commissioner Hipolito?

Mr. Hipolito, Jr.: Thank you, Chair. I agree with Commissioner Thompson that I would like to see this come before the Planning Commission and not getting it from, without hearing the representatives of the community, not just in Kihei, but the entire Maui County who have the opportunity to testify and to share their manao. So I agree with Commissioner Thompson that it should come before the Maui Planning Commission. Thank you.

Ms. Thayer: Thank you. Commissioner Deakos?

Dr. Deakos: Just for clarification. So if it, if we, if it gets punted to the South Maui, does it not come back to us?

Ms. Thayer: Um, it does, but the, the actual public hearing that gets noticed in the paper and everything that would happen in South Maui and not before this body. So there would still be an opportunity to testify, but this would not be the full public hearing with the full noticing that would take place.

Dr. Deakos: Okay. Just having participated in community plans and all that, the community itself, in my opinion, has the best knowledge of that community and what they want. So personally, I would like a majority of that vetted locally in those communities. So I -- and then any additional testifiers had comments on a particular project, then they would have an opportunity. So I would, I would prefer to see it go to the South Maui. Thank you, Chair.

Ms. Thayer: Thank you. Commissioner Apo, if we could hear your manao on this that would be probably helpful for our decision making.

Mr. Apo: Thank you. So I'm just a little confused, not confused, but it could go both ways. Because if we hold onto it and look it over and have the public testimony come before us, the community will also have their chance to come on that and give us their feelings as well. So I

kind of fully pulling towards more on we look, take a look into it. Um, but I'm not sure how much testifiers or people would be aware of what's going on. I don't know how heavy of an outreach they have there to get all the people in surrounding area. I'm not sure about that. But I think if we take a look at it on our end, everybody still have the opportunity to give their, their yay or nay, come from the public for their input.

Ms. Thayer: Yeah. So the --. I guess to answer that question real fast, the public notice would be the same. So it would appear in the newspaper and be posted online, be part of the agenda in all the same way, regardless of what location the public hearing takes place. Commissioner Deakos, your hand?

Dr. Deakos: Yeah, just because I'm new, I'm, you know, what has been precedent? Like you said, if the notification is the same and everybody can testify at both equally, what exactly is the difference and what has been more precedent in the past, if you don't mind?

Ms. Thayer: Well, um, I guess as an overview, we've only had a few projects that have come before us with this question of whether where the public hearings should take place. And by and large, um, we've decided to hold most of them here before this body for a lot of the reasons that Commissioner Thompson and Commissioner Hipolito brought up in that, you know, this is a central meeting that everybody has access to. And you know, I would add in that light industrial space is an island wide need and not just a Kihei need. So there's that to take into account. There's also questions of like what Commissioner Thompson brought up in that, you know, us being the final decision maker, there's great value in actually hearing from the people firsthand as we are about to decide one way or the other on the project, rather than having a summary provided from a different body for us to sort through.

Dr. Deakos: Okay. So we could --. Um, so it would just be the venue. That's really the only difference because it wouldn't be through the Maui Planning Commission venue, it would be through the --.

Ms. Thayer: Yeah, and --

Dr. Deakos: That's pretty much the only difference.

Ms. Thayer: Process wise, though, it would add another step for the applicant because they would have to prepare their presentation for the South Maui Advisory Committee, go through that meeting and then wait for the whole noticing. For this meeting, they'd have to prepare for this meeting before us. So it would add time, effort, and resources to the process.

Dr. Deakos: Okay. And we could still get a recommend from the Kihei Community Association even if it was come, you know, hosted directly with us?

Ms. Thayer: If it was hosted by us, we would not get a --. There would, there would be no --. Um, nothing would occur before the South Maui Advisory Committee. But certainly they would be able to, you know, weigh in on the meeting that we hold here.

Dr. Deakos: Okay, thank you, Chair. I appreciate it.

Ms. Thayer: Commissioner Lindsey?

Ms. Lindsey: Um, they, the they you're referring to is they as a body or they as individuals?

Ms. Thayer: Ah, as individuals, I would believe, it has to be.

Ms. Lindsey: Thank you. I think this is --. I want to say I agree with Commissioner Thayer that light industrial is a county wide need. But, I also, I also feel strongly why was the South Maui Advisory Committee made if they're not doing anything? You know, if we're not sending them anything? So, like this is, I don't know if I'm just missing it or if it's like politics or what is going on, but it would be nice to hear the request the, at minimum, Chair of that Committee to come and say something about it. You know, maybe they can recommend to us or something, just as a committee. I'm not sure, but this process is very confusing.

Ms. Thayer: Commissioner Thompson?

Mr. Thompson: Sure. And in part, the Kihei Community Association, headed by Mike Moran, is much more established than the Advisory Committee. And he regularly does come in here and I'm sure he would be happy. And so and they have a broader base support from the community than the Advisory Committee. And that was mostly a political move; you're right.

Ms. Thayer: Commissioner Deakos?

Dr. Deakos: Thanks, Chair, and since more of these might come. So basically, if a community association is in the process of doing their community plan, that's when they sometimes find a project that they want to -- that's how this whole thing happened, right? It's because South Maui is currently doing their Community Plan and this came up as an agenda item or was coming up, and they requested that it get put through their committee?

Ms. Thayer: No, the Community Plan Advisory Committee is completely separate.

Dr. Deakos: Okay.

Ms. Thayer: So this South Maui Advisory Committee that we're talking about is advisory committee to the Planning Commission. Similar or, you know, the same as the Hana Advisory Committee to the Planning Commission, there was created a South Maui Advisory Committee. And I want to say, yeah, there's also a Paia-Haiku Advisory Committee. Yeah, I see you Tara.

Dr. Deakos: So those are active all the time. So it was this committee just felt this particular project should have special . . . (inaudible) . . .

Ms. Thayer: No. So this is a case where this project is occurring in South Maui. And so by virtue of that, we have the option of having the South Maui Advisory Committee conduct the public hearing.

Dr. Deakos: Okay. Sorry, for clarification. So, any project that comes before us that has an advisory committee, we will be making these decisions on.

Ms. Thayer: Yes.

Dr. Deakos: Whether --. Okay. So nobody flagged this as particularly sensitive?

Ms. Thayer: No. It's solely because it is occurring in South Maui. And so yeah, these have -- we've, we've, you know, we've had to make this decision before. And I want to say there was a vacation rental or a B&B that came up in the last year or so that I think we decided to send to them because that is, you know, so local and you really want the very close knowledge of the area. But there's been other projects where, you know, the impact or benefit of the project has more an island wide reach. And in our decision on those, that's where we base our decision to conduct a public hearing before this body, you know, thinking about what part of our community would be affected by the project. But if I may, I see Planner Furukawa had her hand up.

Ms. Furukawa: Also if it was time sensitive, like an affordable housing project or something like that, then you guys chose to waive review and review it yourself.

Ms. Thayer: Yeah, thank you. Thank you for that context.

Dr. Deakos: Thank you. Thank you, Chair. I'm learning. Appreciate it.

Ms. Thayer: Sure. Sure. So I guess anybody you want to make a motion?

Mr. Thompson: Sure. I make a motion that we, that we deny the South Maui Advisory Committee to examine this or they should examine it and please bring all the comments to us. So anyway, for this report, though we will not pass that to them, if that makes sense.

Ms. Thayer: So your motion would be to conduct a public hearing, have the Maui Planning Commission conduct a public hearing.

Mr. Thompson: Absolutely.

Ms. Thayer: Okay. Thank you for the motion. Is there a second? Commissioner Hipolito.

Mr. Hipolito, Jr.: Ditto. No comment.

Ms. Thayer: Was that a second?

Mr. Hipolito, Jr.: Yes, that was a second, Chair.

Ms. Thayer: Okay. Okay. Thank you.

Mr. Hipolito, Jr.: Yes. It was second, but no comment, and no discussion.

Ms. Thayer: Okay. Discussion from the -- Commissioner Thompson? No? Okay. Any discussion from anybody else? Seeing none. Okay, Director, roll call vote, please?

Ms. Aoki: Commissioner Thompson?

Mr. Thompson: Aye.

Ms. Aoki: Commissioner Hipolito?

Mr. Hipolito, Jr.: Aye.

Ms. Aoki: Commissioner Lindsey?

Ms. Lindsey: Aye.

Ms. Aoki: Commissioner Deakos?

Dr. Deakos: Aye.

Ms. Aoki: Commissioner Apo?

Mr. Apo: Aye.

Ms. Aoki: And Vice-Chair Thayer?

Ms. Thayer: Aye.

It was moved by Mr. Thompson, seconded by Mr. Hipolito, then unanimously

**VOTED: For the Maui Planning Commission to Conduct the Public Hearing and Not Refer the Matter to the South Maui Advisory Committee.
(Assenting – D. Thompson, M. Hipolito, A. Lindsey, M. Deakos,
B. Apo, K. Thayer)
(Excused – K. Pall)**

Ms. Aoki: Vice-Chair, that motion passes.

Ms. Thayer: Thank you, Director. You can continue along with our Director's Report. Thank you, Planner Furukawa.

2. SMA Minor Permit Report

This is for notification and review purposes. No action is anticipated.

3. SMA Exemptions Report

This is for notification and review purposes. No action is anticipated.

Ms. Thayer: So, let's see, we have the SMA Minor Report and the SMA Exemptions Report. Commissioners, these are attached to our agenda. Do you have any questions on these for the Director? If not, we can move on. I don't see any questions.

4. Discussion of Future Maui Planning Commission Agendas

a. May 9, 2023 agenda items

Ms. Thayer: Future Planning Commission agenda for May 9th.

Ms. Aoki: Thank you Chair or Vice-Chair. For the May 9th meeting, we actually do not have any scheduled agenda items, so the meeting will be canceled.

Ms. Thayer: Oh, okay. No problem.

Director Aoki stated there being no items scheduled for the May 9th agenda, the meeting will be canceled. Next regularly scheduled meeting is May 23, 2023.

D. NEXT REGULAR MEETING DATE: May 9, 2023 - Canceled. Next meeting date is May 23, 2023.

E. ADJOURNMENT

Ms. Thayer: Okay. Well, that's all of our agenda today, everybody. We have a nice quick meeting, so thank you all for your time and effort. Oh, Commissioner Lindsey, were you raising your hand? Oh, okay. All right, meeting adjourned. Yay!

The meeting was adjourned at 10:10 a.m.

Respectfully Submitted by,

LEILANI A. RAMORAN-QUEMADO
Secretary to Boards and Commissions II
For **CAROLYN TAKAYAMA-CORDEN**
Secretary to Boards and Commissions II

RECORD OF ATTENDANCE

Present

Dale Thompson – in person
Mel Hipolito, Jr – via BlueJeans
Ashley Lindsey – via BlueJeans
Kim Thayer – Vice-Chairperson – in person
Mark Deakos – via BlueJeans
Blaine Apo – via BlueJeans

Excused

Kellie Pali, Chairperson

Others

Kathleen Ross Aoki, Director, Dept. of Planning – in person
Michael Hopper, Deputy Corporation Counsel, Dept. of the Corporation Counsel – in person