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OFFICE OF THE
COUNTY COUNCIL

March 8, 2021

MEMO TO: PSLU - 14

F R O M: Michael J. Molina, Councilmember
Planning and Sustainable Land Use Committee



SUBJECT: **TRANSMITTAL OF INFORMATIONAL DOCUMENT RELATING TO
REVIEW, ASSESSMENT AND AUDIT OF THE DEPARTMENT OF
PLANNING** (PSLU - 14)

The attached informational document pertains to Item PSLU - 14 on the Committee's agenda.

Attachment

cc:

Aloha,

I am writing to offer my support for the proposed Planning Department Audit.

I have been honored to be able to call Maui my home and I feel that the money that we pay as taxpayers needs to be responsibly and accountably spent. As a Maui resident and Architect for 15 years I feel that an audit of the Planning Dept. is long overdue. The primary concerns I have are with regards to the following issues:

1. Review times for building permit applications are a big problem. The Planning Dept. policy is 1 month for a review, but it is extremely rare that reviews occur within that time frame. The Average time for a review is 2-4 months and I have had reviews that took 5-6 months for an initial review for a small project.
2. Employee's are often rude and unprofessional in their interactions with Architects, builders & the general public. It is common to receive no response to phone calls and e-mails sent to employees. There are a handful of employees that seem to be particularly rude and unprofessional and there doesn't seem to be any effort by the management and supervisors to hold them responsible.
3. When you submit plans, you never know how it's going to be interpreted. There are inconsistencies with the interpretation and execution of written and unwritten policies and procedures as they relate to the County Planning Code and permitting.
4. Management & supervisors have been unwilling or unable to assist with rectifying these issues, in a lot of cases. I have had no success contacting managers and supervisors to help with an issue, that I can recall. For several projects I went all the way to the deputy director and was able to get my issue's resolved for those projects only. But the issues outlined above continued for other projects.
5. I have concerns with how the Planning Dept. enforces Agricultural Compliance and the SMA Zone Assessments. The types of issues outlined above end up causing undue hardships for Maui Residents that own properties in the Agriculture & SMA zones. I have had the opportunity to work on projects in all of the counties in Hawaii and have found that Maui County has by far the most burdensome processes with regards to both Agricultural Compliance and the SMA Zone.

From my experience, these issues are longstanding, ingrained and pervasive within the Planning Dept. I have spoken with numerous other residents, architects, builders and permitting professionals with similar experiences. I have also tried to contact managers, supervisors, & directors to point out these issues with limited results beyond the specific projects I was working on. I have held out hope that change would occur internally within the Planning Dept. but so far I have not seen the types of changes that I feel are needed.

The important thing to note is that these issues aren't just a trivial inconvenience for me and the people I've talked to who have similar experiences, it's resulted in multiple delayed and

cancelled construction projects. The total amount of business that has been lost is millions and millions of dollars. That's money that hasn't been invested in Maui and people who haven't been hired and the actual cost to Maui County in lost jobs and lost tax revenue is staggering. It is my hope that an Independent Audit will help expose the root causes for these issues, so that our Maui County tax dollars can fund a Planning Dept. that is working efficiently and effectively for Maui's residents. I understand that these are challenging times that we now find ourselves in, but I also feel that this is a good investment in the future of Maui.

Mahalo,

Paul Areus, AIA
Areus Architecture, LLC
Mobile: 808-344-4799
E-Mail: Paul@AreusArchitecture.com

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Here is an e-mail to Rulan, showing 2 consecutive e-mails over 2 weeks with no response. I never received an e-mail regarding the final question. I needed to keep following up by calling and stopping in the office regularly so that the permit would be approved. It would be helpful if the Planning Dept. had a policy to respond to calls and e-mails within 24 hours like any responsible organization.

Begin forwarded message:

Reply

Forward

From: Paul Areus <paul@areusarchitecture.com>

Subject: Re: Farm Plan #2014/0019 Herbert

Date: April 29, 2014 at 8:51:01 AM HST

To: "Rulan Waikiki" <Rulan.Waikiki@co.maui.hi.us>

Hi Rulan,

I was checking the permit status for 2014/0019 and noticed that it is Pending additional info. I checked the mail yesterday and didn't receive any letters. Could you please let me know what you need and I will send it right away.

Mahalo,

Paul Areus, AIA
Areus Architecture, LLC
Mobile: 808-344-4799
E-Mail: Paul@AreusArchitecture.com

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On Apr 25, 2014, at 10:37 AM, Paul Areus wrote:

Hi Rulan,

Attached please find the Recorded Unilateral Agreement A520 605 55 for your records. Please let me know if you should need anything else for farm plan application #2014/0019 Herbert.

Mahalo,

Paul Areus, AIA
Areus Architecture, LLC
Mobile: 808-344-4799
E-Mail: Paul@AreusArchitecture.com

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<Herbert Unilateral Agreement 14 0425(Recorded).pdf>

On Apr 15, 2014, at 9:00 AM, Paul Areus wrote:

Hi Rulan,

It was nice to meet with Kai last week during his farm inspection. If you have any questions for me, please don't hesitate to send me an e-mail or give me a call, my contact info is below.

As mentioned before the unilateral agreement was recorded on April 3rd its A520 605 55. I checked the mail again yesterday and the copy of the unilateral agreement still hasn't arrived yet. I do have the option to purchase it for download from their website, as it has been recorded. If you are ready to sign off, and are just waiting for a copy of the recorded unilateral agreement, I will download it and e-mail it to you right away.

Thanks,

Paul Areus, AIA
Areus Architecture, LLC
Mobile: 808-344-4799
E-Mail: Paul@AreusArchitecture.com

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On Apr 7, 2014, at 11:15 AM, Paul Areus wrote:

Ok, Thanks Again!

On Apr 7, 2014, at 11:09 AM, Rulan Waikiki wrote:

Paul,

You are more than welcome to scan and email the agreement to me...it's easier and quicker.

I will put in an inspection request today and an inspector should be contacting you tomorrow to schedule.

Thank you.

Rulan

*(Ms.) Rulan Waikiki
Land Use and Building Plans Examiner
Planning Department, County of Maui
Phone: (808)270-7507*

Fax: (808)270-7634>>> Paul Areus <paul@areusarchitecture.com> 4/7/2014
11:09 AM >>>
Hi Rulan,

Thanks, I appreciate it. Thanks also for your earlier feedback to help me get up to speed with the farm plans.

1. I spoke with the bureau of conveyances today and they confirmed recordation of the Unilateral Agreement on April 3rd, the reference # is A520 605 55. They said a copy of the Unilateral Agreement should be in the mail and I can scan and e-mail it to you as soon as I receive it for your records, or I can bring the copy to the office, if you would like.
2. We can schedule the site visit as soon as the inspector is able to. I am the best contact for arranging the site visit. My contact info is below, they can contact me directly.

Thanks,

Paul Areus, AIA
Areus Architecture, LLC
Mobile: 808-344-4799
E-Mail: Paul@AreusArchitecture.com

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On Apr 7, 2014, at 10:59 AM, Rulan Waikiki wrote:

Paul,

Nice site plan!

The only things holding up the approval of this farm plan are:

1. A copy of the recorded Unilateral Agreement
2. Site visit to verify implementation for the second dwelling (BT2014/0332)

If you have any questions, feel free to contact me.

Rulan

(Ms.) Rulan Waikiki

Land Use and Building Plans Examiner

Planning Department, County of Maui

Phone: (808)270-7507

Fax: (808)270-7634

Just in the last 2 weeks I had something come up that left me feeling that something isn't right.

The County STR Condo List/Minotoya List is incomplete, it took them many years to put it together and it's STILL not complete.

For example NO ONE WILL EVER give me an answer as to why Kaanapali Plantation is not on it. Which is a thriving vacation rental property. Not a Minatoya as its not zoned apartment but it falls under the same guidelines that allows Puamana a spot on the list which I believe is ORD 4063 from 2013. (which may have been updated also)

Recently a client bought at Koa Kai on 99 Walaka St. in Kihei Zoned A-2, Built in 1982. The Declarations and Bylaws allow nightly rentals. Property is currently paying \$4729 in property taxes at the SHORT TERM RENTAL RATE. Although many owners in there choose not to do STR. It still falls under the Minatoya rule. I have all the documents that say so. No one has ever produced a document saying it cannot be an STR.

Please see attached correspondence:

To Planning Dept.

>>> Christopher Barca <christopher.barca@gmail.com> 4/2/2020 1:58 PM >>>

Re: 99 Walaka St. Unit 15

I have reached out in the past about this with no response and I need some answers.

I know the world is a mess right now but I really believe this is a simple request.

In 2010 you issued a letter to Pacific Shores (2219 S. Kihei Road) a neighboring property stating that TVR is allowed because of the Minatoya Rule. I would like the same letter regarding 99 Walaka St. Kihei HI 96753 "KOA KAI"

Firstly, it is Apartment Zoned built in 1982 The Declarations and Bylaws and Amendments allow for nightly rentals. The subject property, Unit 15 is currently paying STR Property Tax Rates.

I really need some help on this for my client. I don't think it's fair that there is not a complete and accurate list verifying this property is a Minatoya Property.

If someone could please look at this for me.. I have attached my logical proof that should enable your department to issue me a letter similar to Pacific Shores letter right away.

Here is the response I got from Michele:

Reply
Forward

On Apr 3, 2020, at 10:44 AM, Michele McLean <Michele.McLean@co.maui.hi.us> wrote:

Aloha,

I apologize for not being able to give you an answer. Frankly, confirming the ability to add to Maui's vacation rental stock is not a priority for the Planning Department. We have several properties that we need to confirm one way or the other, and we simply have too much other higher priority work and have not been able to review these in a timely manner.

If you need an answer today, it has to be that short-term rental is not allowed. Once we have a chance to review this property, that answer may change. In the meantime, long-term occupancy is and will be allowed.

Mahalo,
Michele.

I really found this disturbing and here are my reasons below:

1. "Frankly, confirming the ability to add to Maui's vacation rental stock is not a priority for the Planning Department."

I find that statement to be very inappropriate. Why does my client pay \$4729 in property taxes (Short Term Rental Rate) to the County of Maui and then is being told this isn't a priority?

Why can't a local family benefit from THE ONLY VIABLE economy on Maui which is Tourism. Why is the planning dept. so against STR? Why do they think attacking STR will solve the affordable housing crisis on Maui? Its completely insane. Long Term rentals are just being snatched up by transplants anyway!

Local Families don't want to be in small condos. They want a home!

2. How long does it take to confirm? I have a logical proof with my documentation that only took me an hour to compile that proves Koa Kai allows STR.

A-2 Zoning Built Prior to 1989

Bylaws and Declaration and Condos docs which are public record state that "may lease on any long term or short term basis (including daily)

Property Taxes are assessed at Short Term Rental Rate

3. Why do certain properties like Pacific Shores get a nice letter from the planning dept. saying it is allowed? Why cant I get a letter? Its insanity!

4. Planning to say "If you need an answer today, it has to be that short-term rental is not allowed." What is that statement based on?

Anyway, I would be happy to try and refine any statements into a more concise complaint.

Thanks for taking this on!

Christopher Barca
REALTOR® (Broker) Lic.# 20936
Broker-In-Charge (Maui Branch)
Hawaii Homes International
www.MauiPropertyForSale.com
☎ +1.808.269.1053 Direct
📧 @ChristopherBarca.Realtor

Maui Vacation Properties <cathy@mauivacationproperties.com>
Thu 4/16/2020 2:47 PM

Aloha,

It's interesting that MVRA asked for this today, as I've been watching the budget meetings and decided that the Planning Department could save a substantial amount of their budget if they didn't think of everybody as the bad guy, and learned to process applications and renewals efficiently.

Here's an example of a permit RENEWAL for a B&B permit:

- 1) the owner dropped off the completed renewal permit paperwork on October 18
- 2) it's been sitting around the planning department from then until today
- 3) today the planner did a site inspection (no idea why they need to do that)
- 4) he also said that the owner would most likely get the renewal letter in July – let's get real, does it take 3 months to prepare a form letter?
- 5) 9 months for a B&B permit renewal

So.... How much tracking, work etc needs to happen to renew a B&B permit? Since these are all local owners, it would seem that you should be able to make an appointment, take your paperwork in, the planner (or a clerk) could look up complaints and police reports. If none, issue the renewal on the spot. Then nobody is tracking this for 9 months, and owners aren't agonizing about getting their renewal letter so late.

Why doesn't it work like this? Most likely because they are trying to find some reason to deny the renewal. Perhaps there are a few owners renting an extra bedroom? But here's the thing. Is it really worth the extra work/time/hassle and equally important cost to find the owner that is renting an extra bedroom? At some point, the County should realize that there are only ever going to be x of these properties, and let's just make it quick/easy to renew the permits. This would be a huge cost savings. The Department seems to have a vendetta against them, and the cost to carry that out is excessive. Instead let the planners focus on true PLANNING, instead of this clerical work.

OK, that's enough of my complaining for today.

Cathy
Maui Vacation Properties
Address P.O. Box 1359, Haiku, HI 96708
Email cathy@mauivacationproperties.com
Local or cell phone calls: 808.575.9228

From: Michelle Cockett <michelle.visions@gmail.com>

Sent: Tuesday, April 21, 2020 12:27 PM

Subject: planning dept audit

Hi,

i'm in full support of the audit. I have worked for the County & i have worked with the County processing permits for over 16 years. Each year the review process becomes more micro-managed. In an effort to curb deliberate non-compliance, the entire community is put thru a very detailed evaluation per project which is almost punitive.

- 1- there are many reviewers/planners who are very professional & diligent, providing options & willingness to assist in approvals
- 2- there are specific reviewers/planners who are not
- 3- processing time~ the public understands the volume of work being done, however, each project should have a specific time frame to determine:
 - a- initial review~ to make sure there is notification of required permits (SMA/SSA/FDP) (w/i 30 days) - this is being done at ZAED currently (by most reviewers)
 - b- determination~ if additional review is required by Current, SHPD or historic (should be within 30 days) & route accordingly - some reviewers are doing this...
 - c- Current Division review ~ based on the scope of work, allow discretion regarding administrative approval (ie: SHPD review only if there is a specific overage of cubic yardage being proposed~ this can address IWS installations, grease interceptor & sewer manhole installations). Other agency requirements should be taken into account to determine if the property has been previously (logically) impacted or if the property has a SM1 major in place (ie:repair/replace parking lot) ~
- 4- allow some measure of electronic review of plans
- 5- for the time being while MAPPS is being ramped up, input status of the permit(s) in KIVA~ right now there is no method to track the permit process ~ do this per permit
- 6- provide some sort of incentive to insure reviews are done in a timely matter (so some who don't have a work ethic or negative attitude can feel a measure of compensation)
- 7- provide a reward system for consistent positive performance

Morale has always been a challenge as there are so issues related to a review & the attitude is sometimes patronizing ~ i have had 2 of my clients reach out to reviewers & got treated so poorly, they leave crying ~ this should NOT be happening...

people should not have BEG to have their projects reviewed/approved, including myself... if the Committee would like to have a conversation with me~ i would be more than happy to...please let me know...

michelle cockett

vcs - project & permit facilitation

808-357-5821

Rosalind Nelson <partnersusa@me.com>
Sat 4/25/2020 2:05 PM

I have been attempting to get a B&B permit since my arrival in 2011. What I am most disappointed in is that prior to buying the home in 2005 (when Ram Dass was renting it full time) I went to Planning, Building and Safety, Water department, Sanitation department, and spoke with all about the current state of the home permits, my planned future use as a B&B and a secondary use that was apparently very much needed - all all personnel gave it a clear bill of health. I went ahead and had the Farm Plan approved in 2006.

After the lady Mayor came in and changed the interpretation of the regulations re owners must reside on the property prior to submitting an app, we moved here in 2011 and submitted early 2012.

FYI. I had been a California real estate broker since 1980 specializing in permitting, Parcel Maps, subdivision, residential home permits and build out as well as commercial permits and build out, therefore was very well versed in the processes involved. I have worked closely with the California Coastal Commission and have never had a project turned down for almost 40 years. May I also state that I have never been sued wherein it ended up in court, and, I have never sued anyone or any entity.

I applied in 2012 and County came out to inspect - they then told me that the pool cabana had been bootlegged - the main home, pool and Ohana were all permitted. I immediately contacted the original developer (who had also assured me that everything was signed off fully prior to my purchase) to determine who had done the original work.

I contracted to have a drafts lady draw up the plans and get all tradespersons to sign off - the County finally signed off on the cabana in 2017. I immediately reapplied for the B&B permit - at that time they said I should get the Farm Plan re-approved - this was completed in 2017.

Then I was told to wait - I did. Meanwhile, the \$500,000 that I had on hand upon arrival was fast dwindling away because of debt servicing, property taxes and insurance, property up keep etc..

My biggest complaint, now that I am about to lose the home in foreclosure and my \$2 mm investment has basically been stolen from me, is that at no time was I ever given a list of what the County required for the property to be fully licensed until the end of Summer 2019, when a second planner was assigned to me - and he then went through those things that the County was now stating needed to be completed.

My husband and I are both in our 80's and I find this whole situation to be most untenable let alone totally unfair. We have been treated like third class citizens and all our assets have basically been stolen by the County's slow walking and obviously intentional stalling.

I have never applied for any kind of assistance from any entity in my life - but now, it seems I am going to have to. And this will start with the county having to step up to the plate to give us assisted living quarters. I would much have preferred to continue working, making money, paying taxes, earning my own keep - and, incidentally, helping others less fortunate.

As an aside, I am currently giving free accommodation to a lady who assists children who have been abused with a child residing with her with us. and. My housekeeper, widowed in October last year and left with four children under 14, is isolating with us in my ohana as her second son got a bad case of the virus about almost three weeks ago, and last tuesday she tested positive and appears to be having a bad case too. Fortunately some of her cousins are RNs and they are assisting in taking care of them. They are staying here for free too. Naturally my house keeping has been put aside for the time being.

I am available for any discussion or further information you might require of me.

The below footer is something I had prepared for when we were licensed.

Thank you,

Ros

Maui BnB and Vacation Rentals

Rosalind and Barrie Nelson

83 Kapuaimilia Place
Haiku, Hawaii 96708

310 457 5877
808 214 5334

Michael <baskindesign@gmail.com>

Wed 4/22/2020 9:13 AM

Please Audit the Planning Department
Please reconsider some Funding At this time.

Testimony in Favor of funding for an Audit of the Planning Department

I am a long time resident of Paia for over 40 years. I am a Seabury Hall graduate, and have a degree in Architecture and a Masters Degree in Business from Pepperdine University. I have been an Architectural Designer/Builder and licensed Contractor for over 25 years. My designs and homes have sold on Maui to celebrities like Owen Wilson and others. I have received numerous design awards on Maui and served as the past Vice-Chair of the Paia Main Street Board for over 8 years. I am currently one of the largest property owners in Paia and own the Paia Inn, Vana Sushi Bar, Surfclub Tacos and an architectural design firm. We employ over 150 valuable local people on the Northshore that depend on us to provide for their families. We recently were awarded best new restaurant (VANA) on Maui by the Maui News. This year we will hire another 150 local people as part of our planned expansion to be over 300 people.

We were forced to pay one of the largest Settlements in the history of Maui County by the Planning Department, in order to keep our family run business alive. This was very damaging to our reputation but we finally prevailed. We have filed numerous appeals against the Maui County Planning Department for their failure to make proper fair decisions and their targeted treatment toward us. I would consider myself a professional with vast experience in dealing with the County Planning Department.

I can think of no more important budget item right now than to Audit the current County Planning Department. Please reconsider the Funding requested by Mike Molina at this time. This is a great opportunity to get an outside professional Audit on the performance of the Planning Department, how long permits are taking, fairness, and most importantly customer service. In most cases when you do need a response it takes the Planning Department a year to get a permit or longer.

An example of what needs to be reviewed by Audit is the current complaint driven system (RFS) which allows neighbors and competitors to make unfair complaints. This allows the Planning Department to be arbitrary and capricious in their enforcement. The Planning Department has a bad reputation of selecting who is grandfathered, and who are not based on their personal relationships. There is a lot of rampant corruption. If you want the Public to be treated fairly an Audit is necessary to point to the changes that are needed. We have seen first hand how the Planning department has threatened SMA violations for \$100,000 and daily fines of \$10,000 per day for things like painting our building white. We have also recently purchased a Parking lot in Paia for added Parking

for the public and been refused to allow it to be used for that purpose, simply for failure to do the right thing by the Planning Department. Yet, the Planning Department can waive Violations by other owners simply because they are a friend of the Planning Director. I am very confident an Audit will bring forward the needed changes that are necessary which will greatly improve the relationships between the Public and the County of Maui.

If \$250,000 is not available maybe provide a Budget of around \$125,000 or something similar to the previous Audit. Please provide a positive service to the community by providing this budget item at this time not in the future.

Mahalo,

Michael Baskin

Architectural Designs

808.870.1800 - Direct

Thomas Cook <cooksynergy@gmail.com>
Sun 4/26/2020 6:24 PM
To: Mike J. Molina

Aloha Mike,

I know this is later for your hearing but am glad you are looking into the plan review, building permit, Flood zone, SMA permitting issue process by County of Maui. My view / opinion has been since the PPR process was implemented by Mayor Arakawa and Keith Regan some years ago. Administration oversight of the departments is needed. The departments are all in their own silos. MAPPS was / is a needed modification in how the COM various departments manage submittals, reviews, communication with Architects, Engineers, Contractors and owners.

Thank you for addressing this important matter under consideration.

If I can be of further assistance please let me know.

Tom Cook
CookSynergy
870-2205

This is from a Professional friend of mine who works daily with the departments and has reached out to the Construction Industry of Maui to bring up issues so we can all work together to improve the current system.

Tom apologies for the delay. Home schooling and working remotely are not as easy as I hoped they would be.

Here is a brief response to your questions. I hope it is not too rambling. I almost do not know where to start... Zoning department is where it should start frankly. Fix that department and you are good to go.

Planning department:

Bullet points:

- First and foremost bad attitudes and customer service in the Zoning department (current planning etc. are professional and helpful)
- Untimely review: 3 months until an application is looked at and then comments or issues addressed and now more months of waiting for re-review.
- Only finding problems and not interested in solutions.
- When asked for the specific rules in ch.19 so that we can educate ourselves we get no response. If we push back we go to the bottom of the pile and are ghosted...
- When asked why something takes so long they say they are overworked and understaffed but I understand that the staffing is at full capacity and recently fees have gone up.

- Certain individuals with bad attitudes and poor customer service have too much power and ability to interpret the rules to suit their preference and "loose projects" and or not communicate with applicants.
- Not communicating with other departments in the county as well as the building industry as to changes in rules or processes.
- Not communicating what is possible only what is not: I.E. "you can not have a Lanai that large". But how large can it be? As we drew it based on the what seemed like accurate interpretation of the rules.
- Not providing back up of rules or codes that illustrate or back up the comments on inadequacies or non- conforming items in a project.

The Zoning department changed procedures and forms with out notification to the design community. Thus after applying for a permit we are informed that we need to re-do work entirely, raising costs and delaying projects. The constantly changing interpretations and attitude of enforcement and fining are stifling projects. The zoning department is not responsive and not helpful to find solutions rather only to find problems and road blocks. Many projects languish and die in the bureaucratic maze of bureaucratic hurdles and dead ends. I.e. punitive fines for properties in the SMA area that perform construction of building permit exempt structures such as fences, and sheds or agriculture buildings yet an SMA assessment install required to be prepared by a professional submitted and wait 3-6 months to build a 50 sq ft shed or face a fine of up to \$100k initially and \$10k everyday after... Punishing owners for things that were done by prior owners and which were not informed properly by their Realtor is unfortunate and counter productive. Making it harder to get permits means less people will get permits. Are permits meant to improve public health and safety or rather to be punitive and raise money for the county?

I recently had a planner tell me that their supervisor was pushing finding property owners too fine in the SMA and Shoreline areas as a source of revenue for the department and county. On top of that the supervisor was happy about the amount of revenue that has been generated. I believe the county would generate more revenue from having a healthy relationship with its citizens and find solutions and provide concise relevant information that would produce more affordable housing thus jobs and revenue from taxes rather than fines. We in the building industry are not an adversary of the planning department we actually make more money due to how difficult the process is to navigate and how many more permits are required

Recently we submitted a flood development permit and SMA in November of last year. In February this year the planners got back to use and informed us that the form we used for the FDP was old, and as of Jan. 1st this year there is a new form. Also the new form has increased requirements in terms of the real property data that is given to the county. Instead of 7 years for the cumulative cost of improvements we would have to provide 10 years or cost. Also the information that we had provided was not current and Real Property had updated the property values recently and thus we would need to completely redo all the work previously conducted. There are several issues with this:

1. We were not informed of new forms.
2. We applied in the previous year with relevant

forms and information. 3. We can only use the information that is available to us at present time not in the future. This effects us in several ways. If we need to completely redo something that takes 100% more effort we have exceeded our profit margin by 80%, now we are losing money. Considering the loss in revenue and the potential on future projects we increase or fees to remain profitable and thus increase the cost of of housing.

In general the departments tasked with reviewing building permit applications do not coordinate with each other and many times contradict one another. I.E. the requirement of a sewer clean out in the SMA area to be installed before WWD signing off on permit application approval means that owners need to install one which requires an SMA assessment to be preformed and approved as well as a grading permit thus increasing the amount of time cost. The individual departments do not understand the overall process of permitting only their individual departments. The county DSA and planning departments needs to communicate with industry organizations such as CIM and the AIA. For example when new forms or rules are enacted a simple email to the professional organizations that can then disseminate the information broadly to members in a timely manner. Often we find out about changes after we have submitted.

As an urban planner myself I believe in urban planning and the positive influences of good design on a community I am not a full on capitalist at all cost and know that there has to be a balance between the two. The planning Department are supposed to be there to help the community not hinder or choose winners and losers.

The political points scored by advocating for more affordable housing is in direct contrast with the increased cost of the permitting process due to inefficient and vindictive bureaucracies. Time is money and the longer it takes the more it costs. Over development is a real issue that has potential to take away from our communities character and beauty. However the way for planning department to deal with this is strong urban growth boundaries that protect wild spaces and outreach and education to the community on processes and clear concise rules that are interpreted ubiquitously regardless of the individual.

I hope this helps. Please know this is the worst department in the county that we deal with period. The zoning department needs new leadership as we see when new people are hired they quickly transfer out to other departments I can not say for certain why but an assumption it is not a healthy place to work and the dynamics of the individuals that have control and leadership are stifling talented and dedicated civil servants from making improvements.

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EDB Committee

From: Mark Hyde <HYDEM001@hawaii.rr.com>
Sent: Monday, April 27, 2020 12:42 PM
To: EDB Committee
Subject: Planning Department Audit

Performance audits can be useful to assess and improve operations. I support funding an audit of the Planning Department even in this time of shrinking fiscal resources because there are obvious signs of need for improvement, a few being community plan updates that are 10 years overdue; inability to implement plans on record; lack of performance indicators and routine measurement/reporting; potential technology gaps creating inefficiencies and impacting departmental performance; lack of customer support processes, procedures and software; and lack of alignment with best practices in the planning industry.

It's likely a comprehensive audit cannot be performed given budget restraints. However, an audit could focus on one or two elements, such as technology and best practices. Frankly, this initiative should be coming from the Administration. Failing that, it is up to the council to provide leadership to improve operations and efficiency.

Mark Hyde
4320 E. Waiola Loop
Kihei, Hawaii 96753
(808) 874-3839

EDB Committee

From: Maui Vacation Rental Association <jenrusso@mauivacationrentalassociation.org>
Sent: Monday, April 27, 2020 4:30 PM
To: EDB Committee
Subject: Support for the Audit of the Maui Planning Department

Maui Vacation Rental Association SUPPORTS of an Audit of the Maui Planning Department.

Many of our Members have expressed concern regarding testifying in the Council and at the Planning Commission for fear of retribution by the Planning Department.

We represent the MVRA as a whole and It is our belief that there could be great improvements in processing permits in a timely manner, customer service, Planner responsiveness, and consistency. We support conducting an audit of the Maui Planning Department to better understand where improvements may be made.

We hear frequently from our Members that the Planning Department is arbitrary in its determinations. There have been countless stories of favoritism as the Planning Department assists and approves people with whom they have personal relationships while others receive denials.

Furthermore, the Planning Commission shares a unique relationship with the Planning Department. An audit of the Planning Commission could help determine greater efficiency and consistency there as well.

We are justifiably concerned about the Vacation Rentals and Bed and Breakfast permits not being renewed in a timely manner due to a stated desire from Planning Department leaders to phase out vacation rental permits.

Another area to audit may be the standard procedure of putting the burden of permitting proof on the property owner, even in cases where structures were built prior to recorded permits. This requirement produces arbitrary and avoidable determinations based not on fact, but rather on staff decisions no property owner can predict or plan around.

Please approve some amount of funding for an audit. It is in the best interest of our community to ensure the Planning Department and Planning Commission have every advantage to run efficiently, consistently, and transparently.

Mahalo,

Maui Vacation Rental Association

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Best,



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May 13th 2020

Councilman Mike Molina
Kalana O Maui Building
200 S. High St.
Eighth Floor
Wailuku, Hawaii 96793

Re: Industry Response to Planning Department Issues

Aloha Councilman Molina,

The Construction Industry of Maui ("CIM") is the voice of our building community representing over 100 companies. We are pleased you have reached out the community in the effort provide best services of the Planning Department and understand that constructive feedback is essential. Many of the individuals and companies in our community would like to express feelings through the CIM. While your intent is to examine the Planning Department, we see benefit in providing feedback of other departments as well. We offer this insight and suggestions especially in light of the economic impact of Covid-19 as we see alleviating newly adopted procedures may prove fruitful for our economic recovery.

Planning Department: The Zoning Department changed procedures and forms without notification to the design community. Thus, in the process of application, Designers are informed they need to re-perform work, raising costs and delaying projects. The constantly changing interpretations, attitude of enforcement and fines are stifling projects. The Zoning Department is not responsive nor helpful to find solutions. Typically, this department only finds problems and creates road blocks rather than assisting with solutions. Many projects languish and die in the bureaucratic maze of hurdles and dead ends. For example, punitive fines for properties in the SMA area that perform construction of building permit exempt structures such as fences, sheds or agriculture buildings; To construct these structures is exempt from a building permit, but an SMA assessment prepared by a professional is required. This submittal adds 3-6 months and significant costs to build a 50 sq. ft shed. The alternate is facing fine of \$100k initially and \$10k everyday thereafter. Making it harder to get permits means less people will get permits and creates a hostile enforcement situation of unrealistic fines. Are permits meant to improve public health and safety or rather to be punitive? **Solution:** If an activity within the SMA is exempt from a building permit, exempt it from SMA.

Below are sample stories our organization has received.



CONSTRUCTION INDUSTRY OF MAUI
"A Maui Chamber of Commerce Trade Council"

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Sample Situation #1

Flood Development Permits in Planning have created long delays in obtaining a building permit. The delay for obtaining a building permit for a simple Tennant Improvement project was in fact persisting for months in 2019 and still causes hardship for the project Owner. Along with this project, there were several other projects in the same mall that were not receiving permits to perform Tenant Improvement work. First, it was hard to determine what exactly was holding up the review as the permit application had been submitted over 8 months prior. It was finally determined that the Flood Development Permit review was being delayed for unknown reasons. It was later determined that the one person designated with reviewing all Flood Development Permits was not showing up to work. We were informed it was some two months before the department realized that that person was missing altogether and probably wasn't coming back to work. Therefore, all Flood Development Permit reviews had to be re-assigned within the department to others not necessarily trained properly. Another two months went by before permits were issued causing hardships and instability to several local contractors and the project Owner.

Sample Situation #2

Planning Department requiring LPAP drawings/reports for specific projects: This is an ongoing matter. Eight months have expired in waiting for the Planning dept to review and approve an LPAP Plan. They have "held hostage" a store owner who is trying to rebuild an existing outlet within their own allotted space in a mall. The Planning Department has put the onus on the store owner to provide an LPAP for the WHOLE mall even though the store owner is not responsible in any way for the whole property. According to the Planning Department, no permit would be issued until this plan was submitted and approved. The ensuing review process has been going on for many months holding up construction unnecessarily. This could have been expedited by awarding the permit so that construction could begin with the caveat that no C of O would be given until such plan was approved. This is bureaucracy at its worst when our community is in need of increasing employment. Overall, the county's permit review process is having a crippling effect on the very community that it is supposed to be serving and who at the same time are paying their wages.

Sample Situation #3

A property was required by the Planning Department to obtain a Flood Development Permit to change three sliding doors at an existing property. It took seven months to issue a Flood Development Permit.

Waste Water Department: Last year the Waste Water Department started to review all residential building permit applications and are requiring a sewer clean-out installed on all properties if one is not evident or in existence regardless of the age of the residence. In older homes, clean outs were not a requirement at the time. What this does is requires Owners to



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install a sewer clean out within 2' of the property line to allow the county to clean out the sanitary line from the property to the sewer line located in the street. These can cost up to \$10,000 depending on circumstances. For example, if the project is an addition of a carport, the clean out could cost more than the project itself.

On the same subject, commercial properties are required to do the same but with a man hole which is a significant cost and require an SMA if within the SMA zone. Additionally, as part of the Wastewater Department's review of all permits, applicants are required to provide verification of condensate discharge even if the permit's work scope does not include plumbing or mechanical work. Besides the economic hurdles that this places on the Owner, Waste Water review is currently overwhelmed. They are reviewing building permit applications from last year and have not gotten to 2020 applications. **Solution:** suspend requirements such as the sewer clean out during this crisis. Move the installation and cost of sewer clean outs on older properties to the county since it is for the county not the homeowner. Provide a property tax break incentive for commercial property owners to offset the cost of installing a sewer manhole which can run upwards of \$30,000.00

Water Department: Back Flow preventers are now required for all new swimming pools that are being installed regardless if the pool is filled by auto fill device or a water hose. This can also cost \$5,000 to install depending on circumstances. Again, placing more economic hurdles on the permitting process thus delaying at best or killing potential jobs. Swimming pools are great projects as they are primarily on previously developed residential lots and employee multiple trades in the process.

Health Department: The Department of Health, in similar fashion to Waste Water, is now also reviewing all permits even if the permit scope has no work associated with Health Department concerns. Again, in an already overburdened County system; why are we self-inducing burden with no real cause or reason?

Plans Review: There has been a significant increase of plan documentation requirements when compared to 2 or 3 years ago. Thus, the cost of plans preparation increases to the property owner driving up the cost of housing. The departments tasked with reviewing building permit applications lack cross department coordination and often contradict one another. The individual departments do not understand the overall process only those of their individual department. An example of coordinative breakdown is the requirement of a sewer clean out in the SMA area to be installed before WWD signing off on permit application approval. This means that Owners need to install a sewer clean out as required by the County, but are not allowed to do so without an SMA. SMA assessment to be performed and approved as well as a grading permit thus increasing the amount of time cost. If the county is requiring the clean out, then the county should exempt the work from requiring an SMA. The county



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DSA and Planning Departments should actively communicate with industry organizations such as CIM and The AIA when new forms or rules are enacted so that we avoid timely and costly resubmissions. A simple email to the professional organizations that can then disseminate the information broadly to members in a timely manner would be most appreciative.

An example of new processes is the new Permit "Energy Code Box" added to all permits. This box requires the Architect's signature certifying that the "Project's design substantially conforms to the Energy Code". The permit will not be processed without this certification, even if the permits work scope has nothing to do with the energy code, the building interior, or the building envelope.

Finally, we are again inquiring on the status of the MAPPS program which is intended to streamline the permitting process and eliminate cross department contradictions by providing real-time review comments under concurrent agency reviews. We have been provided several roll-out dates without delivery. Significant public monies have been spent on a project without accountability to deliver, please seek accountability. We strongly encourage the County to review the cohesiveness of reviewing agencies as part of the economic response to Covid 19.

With Aloha,

The Construction Industry of Maui

Judit Wolfe <mauilucyfan@gmail.com>
Sun 8/23/2020 5:04 PM

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Aloha Councilmember Molina,

You may not recognize this email address as being associated with me, no surprise. My issue with the Planning Department does not concern the stop sign or sidewalk issues in Haiku Town that we have been discussing.

The experience that I would like to share with you has been, and continues to be, what I am now describing as "permit harassment". It has to do with two model vacation rental permit holders, my wife and I, who have become targets of punitive zoning inspection edicts. We are threatened with massive costs and the possible loss of our livelihood from the legal, Maui County sanctioned, vacation rental business. Not good.

For 20 years we have been the best of neighbors at 44 Kahope Place in Haiku. Since June of 2105, when we obtained our first permit, and through June of 2018, when we renewed the permit for another 5 years, we have passed all Planning Department application requirements and inspections. We have never had a complaint about our property or rental activities from any neighbor or guest. With the notable exception of Colin Bond, the bi-polar Canadian who lives next door that resents the fact that we got a permit and he didn't.

In February of 2020, we were plunged into a morass of out of control actions that were initiated by an RFS that Mr. Bond submitted. The subsequent events would best be discussed in a conversation, because they are many and varied and full of detail. They involve many actions taken by the Planning Department that speak to a lack of proper professional management, poor internal communication, lousy procedures, and sketchy sharing of information with other agencies like the Building Code Inspectors of the Public Works Department.

I am in the process of putting together a Variance Application for the Board of Variances and Appeals. I would welcome a discussion with you about this matter. I will be glad to share our experience with any appropriate person or agency without the cloak of anonymity. I look forward to hearing from you.

Mahalo,

Tim

Tim & Judit Wolfe
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08.575.7474