

# Government Relations, Ethics, and Transparency Committee on 2022-05-24 9:00 AM

Meeting Time: 05-24-22 09:00

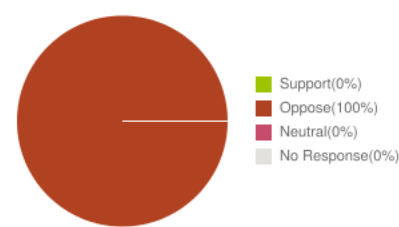
## eComments Report

Meetings	Meeting Time	Agenda Items	Comments	Support	Oppose	Neutral
Government Relations, Ethics, and Transparency Committee on 2022-05-24 9:00 AM	05-24-22 09:00	6	4	0	4	0

### Sentiments for All Meetings

The following graphs display sentiments for comments that have location data. Only locations of users who have commented will be shown.

#### Overall Sentiment



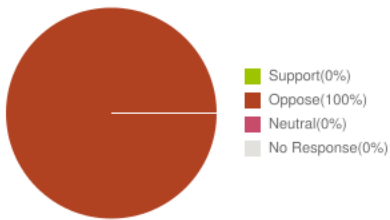
**Government Relations, Ethics, and Transparency Committee on 2022-05-24 9:00 AM**  
05-24-22 09:00

Agenda Name	Comments	Support	Oppose	Neutral
GREAT-36 CC 21-242 CONSTRUCTION ON LOWER HONOAPIILANI ROAD (NAPILI) (GREAT-36)	4	0	4	0

### Sentiments for All Agenda Items

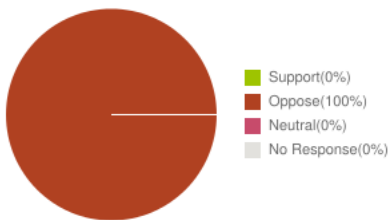
The following graphs display sentiments for comments that have location data. Only locations of users who have commented will be shown.

#### Overall Sentiment



#### Agenda Item: eComments for GREAT-36 CC 21-242 CONSTRUCTION ON LOWER HONOAPIILANI ROAD (NAPILI) (GREAT-36)

#### Overall Sentiment



### Guest User

Location:

Submitted At: 8:54am 05-24-22

Hopefully the County Council will honor its duty to launch an official investigation into the many irregularities and violations of codes and our community's rights which surround this project.

Just how dysfunctional and corrupt Maui's Corporation Counsel, Public Works, and Planning Department leaders and process are is detailed in a scathing report released just last week by the County Auditor. Access the Audit [here](#) or read excerpts below:

GREAT Committee Chair Mike Molina has not yet put that report on the committee's agenda but since the Auditor specifically references Greg Brown's and Michelle McLean's abuse of process in his report it's fair game to bring the report into Tuesday's testimony to justify the Council launching an official investigation.

On page 5 and elsewhere, the Auditor clearly calls to the County Council to investigate and rewrite Title 19 to stop the abuse of process and favoritism that Greg Brown's Napili project so clearly demonstrates:

"...we also found that consistency in ZAED is an issue because the County, the Department, and ZAED do not have robust and clear laws, policies, procedures, and other standards to ensure consistency. To review applications in its jurisdiction, ZAED must comply with numerous County and State laws and regulations. As guidance, it relies heavily on numerous Departmental memoranda. The memoranda are not easy to find or readily available to the public. A prior audit of the County's planning code, MCC Title 19 ("Title 19"), surmised that the need for the numerous internal memoranda is "...undoubtedly attributable to the fact that Title 19 as it is currently written is outdated and difficult to apply without a lot of interpretation and additional explanation."

Planning Director Mclean has stated that the public was correct in identifying Brown's multiple violations and misrepresentations. The most basic of these is that Brown is building using Hotel design standards and therefore never qualified for an SMA Permit Exemption which can only be awarded to a single-family home.

Brown's original SMA permit exemption was improperly secured and is therefore invalid.

Before he was pressured into leaving his job for faithfully doing his job, DSA Supervising Inspector Derek Hyland issued Stop Work Orders to Greg Brown. In collaboration with Corporation Counsel and Mayor Victorino, Planning Director McLean recently resurrected Brown's invalid building permits through an administrative process that the Auditor clearly identifies as faulty and unprofessional.

Neither the Planning Department nor the developer has actually cured any of the underlying invalidity of the permits and plans. As such, our community demands that Brown's Stop Work Orders be reinstated immediately.

One of the Stop Work Orders resulted from massive terraced stone walls and grading quantities that were not included on the plans submitted to obtain an SMA Permit exemption for the project. The structures were built with no permit on backfilled soil without performing the compaction tests that their own licensed civil engineer determined were required when they stamped the C-1 grading plans.

Without these required compaction tests, how can anyone assure the community that the unregulated and unstudied grading and retaining walls are not likely to catastrophically fail from heavy rains or earth movement and bring this massive structure, roof pool, and all, sliding down the hillside into the homes below?

Planning Director Mclean has now issued a separate after-the-fact SMA Minor Permit for the walls and grading as a subversive maneuver to attempt to falsely cure the violations and misrepresentations by Brown Development on the original SMA Permit and building permit applications.

We dispute this decision by Planning Director Mclean on multiple grounds along with the DSA's failure to perform their duties to ensure the SMA Minor Permit was issued in compliance with the Maui County Code, as follows;

1) The Project valuation listed on the SMA Permit application for terraced walls is \$15,000.00. In response to a UIPA request, Planning Director Mclean has confirmed there is no construction cost estimate stamped by a professional engineer or architect to support this fabricated SMA Minor Permit valuation. In Council Testimony on March 22, 2022, it was widely acknowledged that the Developer's valuation was a gross misrepresentation.

We assert that DSA has a duty to confirm this valuation is falsified, immediately revoke the grading permit to Brown Development, and resurrect the Stop Work Order. Planning Director Mclean cannot allow Brown Development to fix this gross misrepresentation. Under the rules and stated language in the application, the SMA Minor Permit must be revoked and the appropriate fines must be issued.

2. Through a UIPA request, Planning Director Mclean also confirmed there is no site survey presented by a licensed land surveyor to support the representation that the property line retaining wall is less than 36". Based on field measurements performed by the adjacent neighbor who is a licensed contractor, we dispute this representation and along with the allegation that building permits were not required for the retaining wall structures.

DSA plans examiner Lance Nakamura, PE, is accepting an after-the-fact representation by Brown Development without sufficient professional surveyor documentation. At the same time, Mr. Nakamura is disregarding the

stamped condition on the original grading plans which requires soil compaction tests. This developer-friendly decision is unacceptable.

3. As represented on the approved construction drawings, the Building plans were designed and stamped by the licensed Architect under Hotel District standards of the Maui County Code. (19.14.050) In accordance with Chapter 19, Section 19.14.050, Hotel H-1 standards, swimming pools, and drainage structures are not permitted in the building setbacks.

Mr. Nakamura is negligent in this duties to ensure the grading plans are in conformance with Title 19 of the Maui County Code.

As Brown's C-1 grading plan is incorporated into his building plans, We believe that there is just cause to reinstate the Stop Work Orders on grading permit (#2019/0075) and building permit. (B2020/0448)

### **Guest User**

Location:

Submitted At: 8:47am 05-24-22

SMA rules are designed to protect our precious resources by ensuring the public has warning of and input into pending construction, especially for hotel and commercial structures.

Not so much for single-family homes which are generally considered so low impact that there's an SMA permit exemption you can apply for if you are building a single-family home under 7500 sq ft.

In Napili Bay, Greg Brown development applied for and was granted an SMA Permit exemption for a single-family home under 7500 sq ft.

Somehow, however, The building plans that Greg Brown submitted and got approval for use design standards that are only allowed for a Hotel. Only a hotel can be 35 ft tall with another 10 ft allowed for elevator shafts. Nowhere in any County Code is it allowed that a single family can be more than 30 ft regardless of what district they are in.

And it is not just a height issue. Brown's building plans also show setback standard that are only allowed for a hotel and not for a single-family home.

Director McLean herself has acknowledged that Chris Salem was correct from the beginning, that Brown's square footage as submitted in his exemption application totaled more than 7500 sq ft.

Regardless of Director McLean's baseless fantasy now that Brown has somehow reduced the square footage of his structure after the framing was in place, the fact remains that the plan he submitted to get his SMA exemption was in violation of code from the beginning. Brown's SMA exemption is therefore invalid and he must reapply from square one. This time without fraud and plan examiners who are reputedly paid off.

Finding out how Brown was able to have his misrepresentation ignored is worthy of a criminal investigation, especially in light of the Audit report just released last week that reveals enormous bias in the County's administration of the highly flawed Title 19 that allows corruption and favoritism to run rampant.

Because Brown was wrongfully awarded his SMA exemption, the public was never notified or had a chance to question the appropriateness of a structure that towers over the entire community in violation of the Napili Bay District Plan whose primary purpose is to maintain consistency among all structures built in Napili Bay.

The community is not going to stop pursuing this matter and just as with Kahoma Villages, where our rights were similarly violated, we will eventually prevail in the courts. The difference here is that the misrepresentations that Greg Brown made to get his SMA exemption have been exposed before his construction is complete.

Anyone concerned over the cost to the county for shutting Brown down so late in the process should Read Title 16 "Validity of Permit", which was written in response to the Palama Drive debacle. Validity of Permit puts all the financial responsibility on Brown because of the misrepresentations he made to get his exemption, regardless of when the misrepresentations were discovered, even after plan approval by the county.

**Sam Small**

Location:

Submitted At: 8:30am 05-24-22

Brown Development's Naplili Bay SMA Permit Exemption was fraudulently secured and must be invalidated. Title 16's "Validity of Permit" protects the County from Brown's costs, it's all on him.

**Sarah Hofstadter**

Location:

Submitted At: 2:09pm 05-23-22

The Council's attention to this controversy is badly needed and long overdue. It appears that the Planning Department has been negligent at best, and possibly corrupt, in approving the deeply flawed permit applications for this monstrosity of a hotel disguised as a single family residence. SMA permits or exemptions for single family residences should be granted ONLY to full-time residents who will occupy the entire property themselves. Maui needs housing for residents, not multiple-unit vacation rentals in residential neighborhoods!