

PURSUANT TO CHAPTERS 91 AND 92, PART I, HAWAII REVISED STATUTES, AS AMENDED; NOTICE IS HEREBY GIVEN OF A PUBLIC HEARING/MEETING OF THE MAUI COUNTY BOARD OF VARIANCES AND APPEALS (BVA)

Members: Howard S. K. Kihune (Chair), Raymond Sung (Vice-Chair), Chad Fukunaga, William Greig, Juanita Reyher-Colon, Max Kincaid Jr., Ralph Masuda, Jeffrey Borge, William Kamai

AGENDA

DATE: August 10, 2017

TIME: 1:30 p.m.

PLACE: Planning Department Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Hawaii

A. CALL TO ORDER

B. PUBLIC TESTIMONY - At the discretion of the Chair, public testimony may also be taken when each agenda item is discussed, except for contested cases under Chapter 91, HRS. Individuals who cannot be present when the agenda item is discussed may testify at the beginning of the meeting instead and will not be allowed to testify again when the agenda item is discussed unless new or additional information will be offered. Maximum time limits of at least three minutes may be established by the Board. More information on oral and written testimony can be found below.

C. PUBLIC HEARING

1. **BC RESTAURANT OPERATOR INC DBA MERRIMAN'S HAWAII**, is applying for a variance from Maui County Code (MCC) §19.36A.010 "Designated Number of Spaces" and 19.36A.190 "Loading Space" to delete the requirement of having to provide thirty-nine (39) additional parking stalls and one (1) additional loading space for the outdoor dining area of the Merriman's restaurant located at 1 Bay Club Place, Lahaina, Hawaii; TMK (2) 4-2-004:025 (BVAV 2017/0002)

a. LANCE D. COLLINS, attorney on behalf of ASSOCIATION OF APARTMENT OWNERS OF PUNA POINT, LLC (AAOPP), and PAUL ENGLER, its President submitting a Petition to Intervene dated July 31, 2017 on the above mentioned applications from BC RESTAURANT OPERATOR INC. DBA MERRIMAN'S HAWAII

- 1) Action on the Petition to Intervene
- 2) If the Board acts to grant the Petition to Intervene, then the Board may select a Hearing Body/Hearings Officer

b. If the Board denies the Petition to Intervene, then it may take action on the application.

D. ADOPTION OF FINDINGS OF FACT, CONCLUSIONS OF LAW, DECISION AND ORDER (D&O)

1. Having voted on March 24, 2016, to deny the variance for My-Khanh Thi Nguyen & Loc Phuc Truong (BVAV 2016/0004), the Board will consider and

may adopt the draft Findings of Fact, Conclusions of Law and Decision and Order.

2. Having voted on March 24, 2016, to approve the variance for WV Sub, LLC-Whalers Village, Leilani's on the Beach and Hula Grill Parking (BVAV 2016/0005), the Board will consider and may adopt the draft Findings of Fact, Conclusions of Law and Decision and Order.
- E. APPROVAL OF THE FEBRUARY 9, 2017, APRIL 13, 2017 AND JUNE 9, 2017 BVA MEETING MINUTES
- F. NEXT MEETING DATE: AUGUST 24, 2017
- G. ADJOURNMENT

AGENDA ITEMS ARE SUBJECT TO CANCELLATION.

AN EXECUTIVE SESSION MAY BE CALLED IN ORDER FOR THE BOARD TO CONSULT WITH ITS ATTORNEY ON QUESTIONS AND ISSUES PERTAINING TO THE BOARD'S POWERS, DUTIES, PRIVILEGES, IMMUNITIES AND LIABILITIES, PURSUANT TO SEC. 92-5 (a)(4), HRS.

DOCUMENTS ARE ON FILE WITH THE DEPARTMENT OF PLANNING. THE ADDRESS OF THE BOARD IS C/O DEPARTMENT OF PLANNING, ONE MAIN PLAZA, 2200 MAIN STREET, SUITE 315, WAILUKU, MAUI, HAWAII 96793.

ANY PETITION TO INTERVENE AS A FORMAL PARTY IN THE PROCEEDINGS BEFORE THE BOARD MUST CONFORM TO RULE 12-801-18, RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF VARIANCES AND APPEALS, AND BE FILED WITH THE BOARD AND SERVED UPON THE APPLICANT WITHIN A REASONABLE TIME BEFORE THE MEETING IN WHICH THE SUBJECT MATTER OF THE INTERVENTION IS TO BE HEARD. THE ADDRESS OF THE BOARD IS NOTED ABOVE.

ORAL OR WRITTEN TESTIMONY WILL BE RECEIVED ON ANY AGENDA ITEM SUBJECT TO THE PROVISIONS OF CHAPTER 92, HAWAII REVISED STATUTES AND THE BOARD'S RULES OF PRACTICE AND PROCEDURE, EXCEPT FOR CONTESTED CASES UNDER CHAPTER 91, HRS, AS NOTED ABOVE.

WRITTEN TESTIMONY AND FAXES SHOULD BE RECEIVED AT LEAST TWO (2) BUSINESS DAYS BEFORE THE MEETING TO ENSURE DISTRIBUTION TO THE BOARD. FIFTEEN (15) COPIES OF WRITTEN TESTIMONY ARE REQUESTED IF TESTIMONY IS PRESENTED IMMEDIATELY PRIOR TO OR AT THE MEETING.

THOSE PERSONS REQUESTING SPECIAL ACCOMMODATIONS DUE TO DISABILITIES, PLEASE CALL THE DEPARTMENT OF PLANNING AT 270-7735 (MAUI) OR 1-800-272-0117 (MOLOKAI) OR 1-800-272-0125 (LANAI) OR NOTIFY THE DEPARTMENT OF PLANNING IN WRITING AT ONE MAIN PLAZA, 2200 MAIN STREET, SUITE 315, WAILUKU, MAUI, HAWAII 96793 OR BY FAX NUMBER 270-7634 AT LEAST SIX (6) BUSINESS DAYS BEFORE THE SCHEDULED MEETING.

PLEASE NOTE: If any member of the Board is unable to attend the scheduled meeting, please contact the Department of Planning at least one day prior to the meeting date. Thank you for your cooperation.