

**(APPROVED: 07/14/10)**

**MOLOKAI PLANNING COMMISSION  
REGULAR MEETING  
APRIL 28, 2010**

*\*\* All documents, including written testimony, that was submitted for or at this meeting are filed in the minutes file and are available for public viewing at the Maui County Department of Planning, 250 S. High St., Wailuku, Maui, and at the Planning Commission Office at the Mitchell Pauole Center, Kaunakakai, Molokai. \*\**

**A. CALL TO ORDER**

The regular meeting of the Molokai Planning Commission was called to order by Clayton Yoshida, Planning Program Administrator, at 12:12 p.m., Wednesday, April 28, 2010, at the Mitchell Pauole Center Conference Room, Kaunakakai, Molokai.

A quorum of the Commission was present. (See Record of Attendance.)

Mr. Clayton Yoshida: Good afternoon. I'd like to call the meeting of the Molokai Planning Commission to order. I'm Clayton Yoshida, Administrator, Current Planning Division, Planning Department. So the first item of business is -- let the record show that we have a quorum today: Steve Chaikin, John Sprinzel, Nat Bacon, Napua Leong, and Mikiala Pescaia. With me here from the County we have your Deputy Corp. Counsel, Michael Hopper; your Secretary to Boards and Commissions, Suzie Esmeralda; the Molokai Planner, Mikal Torgerson; to appear later today in terms of Orientation Workshop, we have Staff Planner, Francis Cerizo; we have the Coastal Resources Planner, Jim Buika; we have Sea Grant Maui Agent, Tara Miller-Owens; and then the Long-Range Staff will be here later to talk about the Molokai Community Plan Update, that will be Nancy McPherson, David Yamashita, and Kathleen Kern.

**B. ELECTION OF CHAIRPERSON AND VICE-CHAIRPERSON FOR THE 2010-2011 COMMISSION YEAR (Commission deferred this item at the April 14, 2010 meeting.)**

The first item of business is the election of a chairperson and vice-chairperson for the 2010-2011 Commission year, and the Commission can either elect a chairperson and vice-chairperson today or, if it so chooses, as it did at the last meeting, elect a chairperson to chair today's meeting. So what is the wish of the Commission?

Mr. Steve Chaikin: Let me just fill-in some of the Commissioners that weren't here at the previous meeting, but we had discussed that, at that meeting, that since there was only five of us here that we would defer until there was more Commissioners present so everyone could have an opportunity to vote on that. But I can see today, again, we have only five Commissioners so, anyway, I throw that back to the rest of the Commission.

Mr. John Sprinzel: I think we should get on with it and appoint a chairman and vice-chairman because we very often only have five people or six people. Can I make a motion to elect a chairman and vice-chairman?

Mr. Yoshida: So again, your motion, John, was?

Mr. Sprinzel: To elect the chair and the vice-chair for the year.

Mr. Michael Hopper: You could just start with nominations if you want. If you want to just nominate someone for chair or -- just chair and vice-chair, you can go ahead.

Mr. Nat Bacon: I nominate Steve for chair.

Mr. Sprinzel: I second that.

Mr. Yoshida: Okay, any other nominations?

There being no further nominations, a vote was taken.

***It has been nominated by Mr. Bacon, seconded by Mr. Sprinzel, then unanimously***

***VOTED: that Commissioner Chaikin serve as Chairperson for 2010-2011 year.***

Mr. Yoshida: Okay, motion carried. Congratulations, Steve.

Mr. Chaikin: Okay, Commissioners, thank you. I guess this is the point where I take over. At this point, we have to nominate someone that's willing, ready, and able to be the vice-chair so, Commissioners, do we have nominations for that?

Mr. Bacon: I nominate John for the vice-chair.

Mr. Chaikin: Okay, we have a motion on the floor to nominate John Sprinzel as the vice-chair of this Commission. That was seconded by Commissioner Leong. Is there any discussion of this? Seeing none.

There being no discussion, the nomination was put to a vote.

***It has been moved by Mr. Bacon, seconded by Ms. Leong, then unanimously***

***VOTED: that Commissioner Sprinzel serve as Vice-Chairperson for the 2010-2011 year.***

Mr. Chaikin: Okay, that passes unanimously. So we do have a new chair and a new vice-chair, and I thank the Commissioners for their vote of confidence, and I think we'll just continue to do what we have been doing and, hopefully, make some minor but meaningful changes along the way. I guess my only concern, at this point, is that pretty consistently we barely make quorum. Today, we have five out of nine Commissioners present. Actually, there's only eight Commissioners. The ninth one is somewhere in the Mayor's office, which we don't know of. Clayton, can I ask you at this time if we have any information whether the Mayor is moving forward selecting a new Commissioner?

Mr. Yoshida: Mr. Chair, Members of the Commission, I'm not aware if the Mayor has sent a name to the Council but the Council would have to approve the Mayor's nomination and I guess right now the Council is pretty entrenched in their budget deliberations.

Mr. Chaikin: Alright, well, thank you, Clayton, for that. May I suggest that you inquire at the Mayor's office the status of a new nomination cause sometimes just -- just by inquiring, you can speed the process along? So is that something that you can do and report back at the next meeting?

Mr. Yoshida: Yes, I'll do that.

Mr. Chaikin: Alright, thank you, Clayton.

**C. PUBLIC TESTIMONY ON ANY PLANNING OR LAND USE ISSUE, except Contested Cases as defined in Hawaii Revised Statutes Section 91**

Alright, moving on on our agenda, the next item is public testimony on any planning or land use issue. So does anybody out here today that wants to provide testimony to this Commission on any issue that you think we should be aware of relating to planning or land use or whatever it is, you're welcome to come up at this time. Is there anybody that wants to speak at this time? Okay, DeGray, you can step up and state your name for the record.

Mr. DeGray Vanderbilt: Yeah, aloha, Chairman and Members of the Commission. My name is DeGray Vanderbilt, resident of Molokai. I just wanna bring something to your attention. I was over with the permitting people in Maui and I had asked a question and she was looking into the community plan, and she had a very nice green covered community plan, so I said, "Wow, that's a beautiful community plan. Where can I buy a copy of that?" So she said, "Well, we sell all the community plans right here. Let me look. Oh, there isn't any for sale here." "Oh gosh, you sell 'em all out?" "I don't know. Let me check on that." So she checked on it and they said, "Well, we don't have any for sale." And I said, "What do I do?" And they said, "We don't have any because you can get it online." Well, if you can't get it online and print out those colored maps and everything else, so I asked Nina, "Do you have any community plans over here for sale?" "No." So I don't know whether they're not printing

up any. Maybe Clayton would know or -- but, right now, the only way to get that community plan is to print it out online. And, unfortunately, the community plan is wrong because the Planning Department took the discretion of editing something that was already approved and without any approval of the Council. I know they might have had good intentions, but if somebody wanted to question that community plan, they sure could because of those unauthorized edits. And the other thing is the Countywide Policy Plan, which is now law since it was signed in, and it replaces our 1999 General Plan, so you all should have copies of that because decisions you make today have to be consistent with that document. And I asked for a copy of that and there's none available for sale as of yet anywhere in Maui County. So those are just two important things I think regarding the major planning documents that you base your decisions on and the public should have access to those two. Thank you.

Mr. Chaikin: Alright, thank you, DeGray. Is there any questions for the testifier? Just to briefly follow up on that, Clayton, can I just ask you, if somebody is interested in some County document, can they go to the County and pay a nominal fee to get a copy of those documents or document?

Mr. Yoshida: Yeah, generally, if we have them printed, then they can come into the County and pay what it cost for us to print it on a per booklet basis.

Mr. Chaikin: Okay, and if you don't have them printed, can somebody request that they be printed and pay the nominal fee?

Mr. Yoshida: That -- for those particular documents, I believe that'll be a function more for the land use -- I mean our Long Range Division and members will be here a little bit later to talk about the community plan update so --

Mr. Chaikin: Okay, but the Long Range is in Maui and we're specifically talking about here on Molokai. If somebody walks in to the County office over here, let's say they walk up to the Molokai Planning Commission window and wants a copy of the document and they don't have one, is there any mechanism which they can have access and get that document by paying a nominal fee?

Mr. Yoshida: If we have them printed, we could take an order and we could send it to them.

Mr. Chaikin: Okay, that sounds like a yes. Okay, thank you, Clayton. Is there anybody else that wants to add anything to that? Okay, is there anybody else out in the public that wants to provide testimony on any issue at this time? Alright, seeing none. We can move along with our agenda.

#### **D. ANNOUNCEMENTS**

**1. The Commission would welcome any testimony relating to proposed amendments to its existing rules for its Subcommittee on Rule Changes**

The next item is, let's see, Announcements. The Commission would welcome any testimony relating to proposed amendments to existing rules for the subcommittee on rule changes. What that means is that here, at this Commission, we have made a subcommittee of this Commission that's reviewing all of the rules that this Molokai Planning Commission follows. That's the SMA rules, that's the shoreline rules, it's the rules of the Molokai Planning Commission, and the rules for special uses in rural and agricultural districts. So there's four different documents. We're currently reviewing those documents for potential revisions. And so we're just making an announcement, if there's anybody in the public that wants to provide any input on potential changes to those rules, they're certainly welcome to do that here in person or they can submit it to any of the different ways that are listed on the back of the agenda in our contact information. Does anybody have any input at this time? Alright, seeing none, let's just move along here. Oh, I'm sorry. Somebody -- oh, do you wanna -- you can come up here and ask a question, and just state your name into the mike so we can get that on record.

Ms. Zaidarene Kalipi: My name is Zaidarene Kalipi. I'm from the East End side. The one I'm concerned about is the flood hazard district. Who determines that?

Mr. Chaikin: Okay, well, this is -- this is only a time that you can provide testimony. Later on, in this presentation, we're going to review -- that's on the agenda, so we're going to review that and there may be an opportunity, yeah, at that time for additional dialogue where we can get -- but for right now, it's just testimony where you just kind of say whatever you wanna say but's not a back and forth question and answer period.

Ms. Kalipi: Oh, okay. I'll wait.

Mr. Chaikin: Okay. Is there anybody else out there that would like to provide testimony? Alright, seeing none. We're going to go ahead and move on with our agenda.

**E. APPROVAL OF MINUTES OF THE MARCH 10, 2010 MEETING**

The next item is approval of the minutes from the March 10 meeting. So this comes back to the Commissioners. Commissioners, if you've had a chance to review those, do you have any comments, concerns, changes, anything that you'd like? If not, I would welcome a motion to approve the minutes.

Mr. Sprinzel: I propose a motion to approve the minutes of March the 10<sup>th</sup>.

Mr. Chaikin: Okay, we have a motion by Commissioner Sprinzel. Is there any second? Second by Commissioner Bacon. Any further discussion? Seeing none.

There being no discussion, the motion was put to a vote.

***It has been moved by Mr. Sprinzel, seconded by Mr. Bacon, then unanimously***

***VOTED: to approve the minutes of March 10, 2010.***

Mr. Chaikin: And I will vote in favor so that passes unanimously. Thank you, Commissioners.

Moving right along, Item F on the agenda is Communications and that's where the Planning Director is asking this Commission to concur with their findings to exempt a single-family dwelling that's planning to be built in Ualapue from the SMA rules. So we're going to turn this over to -- to Mikal and he can give us a presentation and I guess the details on that. First, let me ask you, how do yo pronounce your first name?

Mr. Mikal Torgerson: My -- the actual pronunciation is Mikal, but when I was young, I got tired of explaining that and so I pretty much go by whatever people call me.

Mr. Chaikin: What would you like to be called?

Mr. Torgerson: It doesn't matter to me. I'm not sensitive in the least.

Mr. Chaikin: Okay, we'll go with that. Alright, the floor is yours.

## **F. COMMUNICATIONS**

- 1. MR. JEFFREY S. HUNT, AICP, Planning Director, requesting concurrence from the Molokai Planning Commission pursuant to their Special Management Area Rules, as amended, that an Special Management Area (SMA) exemption can be issued for the following:**

**MR. DAVID ARCHINAL requesting a Special Management Area Assessment Determination for the construction of new post-on-pier single-family dwelling consisting of 1,125 square feet of living area and 792 square feet of deck and related improvements located in the Interim District at 7426 Kamehameha V Highway, TMK: 5-6-001: 033, Ualapue, Island of Molokai. (Valuation: \$200,000) (M. Torgerson)**

***The Commission may take action on this request to concur or not concur with the recommendation for SMA exemption.***

Mr. Torgerson: Alright. The item before is the Archinal residence down on the east end of the island. It's at 7426 Kamehameha and it is right up above the Ualapue Fishpond. Did I pronounce that correctly? I got close. The site is just makai of the Kamehameha Highway, a relatively small site, about a quarter acre. It's been grubbed and it's pretty much just got a couple trees on it. Most of the vegetation has been removed from the property, as you can see in these photos. There is one large tree that is going to remain as a part of the project.

The property -- the staff report that I gave you was erroneous in one respect and that is I had put in there that this was not in a flood zone and that a flood permit would not be required - that was erroneous. This is actually within the Flood Zone A and so a flood permit would be required. The house is designed such that it's up on stilts and it's clearly well above the base flood elevation but that would be verified by the zoning department at the time of building permit down the road. And in the distance, you can sort of see there's a existing residence that's also up on stilts.

The property drops off quite a bit from the Kamehameha Highway, about seven or eight feet, so what you're seeing here is the grade back up to the Kam V Highway. A -- at the request of the previous Molokai Planner, a neighborhood meeting was held on this item on February 12 of 2009 at the Kilohana Community Center, so the local residents were sort of brought up to the speed at to what was proposed. Again, this is a relatively small single-family dwelling. It's 1125 square feet. So our finding was that it was not anticipated that the project would have an adverse effect on the environment or the ecology given its design. DLNR was routed on the project and approved a archaeological monitoring plan for any ground disturbance and, given that, we felt that there was no irrevocable commitment or lost to any cultural resources, and you see that letter in your packet.

We found that the scope -- given the scope and the nature of the project, it didn't curtail with any range of beneficial uses of the environment. It did not conflict with the County or the State's long term environmental policies or goals. It didn't affect the social or economic welfare. And these are just the criteria that we go through on all SMA exemptions.

The property, as I mentioned, has been heavily grubbed and there was no rare, threatened, or endangered species that we're aware of on the property or nearby.

The development is in the State Plan urban, the community plan rural, and the zoning is interim, and it's consistent with all of those.

Because the water table is relatively high in the area of construction, the applicant is voluntarily proposing best management practices to help contain any construction effects and those are included as an exhibit in your packet.

The project's not adjacent to the shoreline and, as I mentioned before, the staff report is actually incorrect, it is in Flood Zone A and they will need a flood hazard permit.

So given that analysis, the Department respectfully request concurrence with our finding that the project is eligible for an SMA exemption, and I'm available for any questions that you might have.

Mr. Chaikin: Commissioners, any questions? Commissioner Bacon.

Mr. Bacon: Concerning the septic system, I'm not exactly sure where it goes. There's two different drawings that show it in two different places. Considering the property is 73% wetlands and the only thing that they have from the Army Corps of Engineers reflects the house itself and the pilings, what about the septic? I don't see any approval for that.

Mr. Torgerson: The septic -- we have a letter from the Corps of Engineers saying that they'll sign off on the septic at the time of building permit, and the County of Maui Health Department has signed off on and approved the IWS, and I have -- I have that documentation here.

Mr. Bacon: So the County is now approving septic systems in wetlands. Is that what you're saying?

Mr. Torgerson: Well, the septic system has been approved. It's an aerobic system so it's designed for highwater table conditions.

Mr. Bacon: What is the highwater conditions? And I put one of those systems in and I know it doesn't work the way they have it setup.

Mr. Torgerson: Okay. I'm not sure. I'm not a expert in that area. I'm not sure if I could comment.

Mr. Bacon: Can you at least comment where the septic system is going?

Mr. Torgerson: Yes. It should be shown on their site plan there. Yeah, I believe that's Exhibit 4.

Mr. Bacon: Okay, Exhibit 4 shows it in one place, which is up mauka of the house. And then you've got another drawing in your engineering drawings that show it makai of the house.

Mr. Torgerson: Okay. I didn't --

Mr. Bacon: So which might it be?

Mr. Torgerson: I think that'll be a question better given to the applicants. Luigi Manera is here. I believe he's the applicant.

Mr. Luigi Manera: Hi, Mr. Chairperson and Members of the Commission, Luigi Manera. Yes, the septic is located in-between the house and the road, mauka side.

Mr. Bacon: Do we have engineering approval for that? I don't see that here.

Mr. Manera: Yes, we do. Actually, you know, we -- this is the actual septic tank location.

Mr. Bacon: And what are we doing for leaching?

Mr. Chaikin: Excuse me, Luigi, can you please speak in the mike? Thank you.

Mr. Manera: This is a special tank made for, basically, underwater. It's self-contained - the whole system.

Mr. Bacon: So that's not the -- that's not the drawings and the system that we have here that's presented.

Mr. Manera: There must be some -- some mix up on this thing. We applied for this back in 2007. By the way, the County never approved this. The State approved this. The County they don't approve septic - only the State. Any septic.

Mr. Bacon: So the State then is approving this.

Mr. Manera: The State has approved this. I think there was one done prior to that and then --

Mr. Bacon: Okay, I'd like to see -- I mean if I'm going to approve anything here, I'd like to see the system that was approved by the State with the appropriate drawings.

Mr. Manera: You have the letter of approval.

Mr. Bacon: He said it was from the County.

Mr. Manera: No ...(inaudible)...

Mr. Chaikin: Excuse me, Mikal, can you speak into the mike? Thank you.

Mr. Torgerson: What I was just presenting to Commissioner Bacon is a print out from the computer -- the County computer system showing the individual wastewater system that's been approved. It was -- it says the Health Department. I guess I mis-spoke. It's the State Health Department, not the County.

Mr. Bacon: My question is I would like to see what they approved. How do I know that this letter covers the drawings that we have here when in fact here we have two different sets of drawings showing two different things. The engineer, which I assume has submitted this to the State for approval, shows a system which is not what was just presented, which is not the three circles mauka of the house.

Mr. Manera: Okay, they both -- okay, despite of what you just see now, both of those tank, they all approved to be underwater. Both of them. It doesn't matter if it's one or the other. The difference in those two is one is made by concrete and one is made by fiberglass. That's the only difference. Now, whether you show it mauka or makai, it doesn't make any -- it doesn't a difference because they're both approved for that particular situation.

Mr. Bacon: Okay, right now, I will vote against this, I'll tell you that. So we don't have to continue because we don't have enough people.

Mr. Manera: ...(inaudible)... okay, well --

Mr. Bacon: So we might as well stop the conversation now until we have --

Mr. Manera: Are you an engineer? You know about this tank? You know about those?

Mr. Bacon: I know quite about --

Mr. Manera: Really?

Mr. Bacon: Yes.

Mr. Manera: If you know about those tank, they're approved to be underwater, I just say it to you. Whether it's right or left, who cares?

Mr. Bacon: It makes a great deal of difference --

Mr. Manera: To who?

Mr. Bacon: Because it's near the wetlands. If you're in the wetlands, you have to have one kind of a system. If you're mauka of the house, which is not considered wetlands, up in there, you can have a different kind of system.

Mr. Manera: No, we have to use those no matter what.

Mr. Chaikin: Excuse me, Commissioner Bacon?

Mr. Manera: Unbelievable.

Mr. Chaikin: Can you be specific as far as what additional information you would like to request in order to get the information you need?

Mr. Bacon: I would like to see an approved drawing by the State that shows exactly where this system is going and what the system is. This is not a drawing.

Mr. Manera: That's the approval.

Mr. Bacon: The approval of what? What does this approve? Show me what this approves.

Mr. Manera: The septic.

Mr. Bacon: Which one? Show me the septic that this letter approves. That's what I'm asking.

Mr. Manera: I mean, what, it makes a difference or something?

Mr. Bacon: It does make a difference.

Mr. Manera: To who?

Mr. Bacon: To me.

Mr. Chaikin: Commissioner Bacon?

Mr. Bacon: It makes a difference to a lot of other interested party as far as what we're doing to protect the wetlands, which is what we're supposed to be here doing.

Mr. Manera: We have the approval from the wetland people. We went through a long study about that with the Corps, Army, of Engineers for two years and they gave us the approval.

Mr. Chaikin: Okay, Commissioner Bacon has requested additional information. It's a drawing of the location and the specifics of the septic system. Typically, we have that in our packet. I don't know. I've looked through this. There's a lot of information on the

septic in there. If it's exactly the information that he needs, I don't know, but is there -- when we look through this packet, there's a drawing where it's located. You're looking for a more specific architectural drawing as far as the depth and the width and the -- okay, so what you're looking for is specific information and clarifying what's in here. Would that be an accurate assessment of what you're looking for?

Mr. Bacon: Yes, I am looking for the drawings, the engineering drawings, engineered stamp drawings, that show what system they are planning on putting here that also the State has approved of.

Mr. Chaikin: Okay, is that something that's currently not in our packet?

Mr. Torgerson: I think that what he's brought to light is that there's -- that information is there but it's conflicting in one instance, and I didn't catch that. I apologize. It seems that the site plan just needs to show definitively where the septic system is going to go and then you want the stamped drawings that the State has approved. Is that correct?

Mr. Bacon: Basically, that's right.

Mr. Torgerson: Okay. I can certainly provide that but not at this meeting. It sounds like there's some -- perhaps a need for a continuance. Once again, I apologize. Within the engineering report, I was looking at the design of the system and didn't catch the fact that it's conflicting with the site plan in terms of where it goes.

Mr. Chaikin: Okay, what I would suggest, at this point, is that, notwithstanding that we have one Commissioner that potentially could not concur at this time and we wouldn't have enough votes to concur with the Director, but I would still like for us to continue with this hearing because if there's additional information that might be lacking, we can identify those at this time so that, at the next meeting, we'll be in a position to move forward with this request. So with that said, is there any other questions that any other Commissioners have on this proposed exemption?

Mr. Bacon: The other question I have is with the septic system also. Has engineering been done to show that indeed this septic system is not the straw that breaks the camel's back as far as polluting the Ualapue Pond, which we have seen deteriorate over the years as more and more houses have been built mauka of it? And before I was here, people used to come up to the Commission and ask about what are we doing to protect that pond, and I would like to be sure that, at least on my watch, that everything's being done possible to make sure that that runoff, that leaching field does not leach nutrients into the pond.

Mr. Chaikin: Okay, well, you know, I looked through the documents they provided and I really hadn't seen a system like that before. I don't know if you have any information on

that. It had things like - what was that? Aerobic box and then that went into a chlorinator, which went into a leach field. Now I'm unfamiliar with this type of a system. That aerobic box, I noted on the side it had a compressor, which seems like it takes electricity. Do you have any information about these types of systems?

Mr. Torgerson: No. I'm not -- it was new to me as well, and I'm certainly not an expert in the field of individual wastewater systems, which is why I wanted to ensure that it was in fact approved prior to bringing it to the Commission.

Mr. Chaikin: Yeah, and then I also had questions about the chlorinator. Typically, chlorine is something that's toxic and so I guess wanted further clarification of how this chlorinator works and how, you know, the toxicity of the chlorine somehow dissipates so it doesn't adversely affect the environment. Is that something that you could maybe research before the next meeting so at least we have a better understanding of these types of systems?

Mr. Torgerson: I can certainly look into it further. Perhaps the applicant could answer some of those questions, but I'd be happy to look into those specifically as well.

Mr. Chaikin: Okay, Luigi, do you have some information on that?

Mr. Manera: Yeah, first, this type of aerobic unit, they're being installed in this island for many years and they use most of it alongside the shoreline when the depth of the water table is only three feet or four feet from the surface. There is, at the wharf, they all use that. At Pukoo, there's at least four or five I did. They all working properly. As far as the compressor go, there is a small compressor attached to it. They inject air to the tank. It create a movement. It create oxygen. And the water, when come out from the tank, is about 98% clear. After that, it's going through a chlorinator, and the chlorinator pitch it up a little bit more to 99%. After that it's going through the leach line and going to the ground. And that's that work. So far, I never hear of any problem in 20 years I did the first one. I never have any call from the Health Department. They all approved. Or even the wastewater guy, they never went and pumped any of those. I mean they install it every day. I don't know what is the problem.

Mr. Chaikin: Okay, I just think we're looking for a little bit more information. So in the event that this particular thing doesn't get passed today, could you check into that chlorine situation and just let us know exactly that chlorinator, does it inject chlorine into the thing, or what happens to that chlorine?

Mr. Manera: Well, it's not injecting chlorine. It's the same tablet they use for the swimming pool. That's what that is.

Mr. Chaikin: Right, and that's something that you're not allowed to put out into the land.

Mr. Manera: Yes.

Mr. Chaikin: So that's what we wanna figure out.

Mr. Manera: Cause this is approved by the Health Department, by the State of Hawaii. I don't know what else to -- it's them actually they want me to use that. It's not like because I decide to use that. It's the Health Department they ask to have a chlorinator.

Mr. Chaikin: Okay. Yeah, I'm not -- I'm not debating that. I'm just trying to get additional information --

Mr. Manera: Sure.

Mr. Chaikin: And figuring out how this chlorine gets dissipated prior to entering the environment because it is a toxic substance. So maybe if you can do additional findings on that, that would be helpful. Is there any other questions or comments?

Mr. Sprinzel: In view of the fact we're not going to pass this today, is there a chance, when you come back next time, the contractor who is responsible for putting this particular system in could answer some questions --

Mr. Manera: Sure.

Mr. Sprinzel: And as well as the drawings?

Mr. Manera: Sure.

Mr. Sprinzel: Thank you.

Mr. Chaikin: Commissioner Bacon.

Mr. Bacon: I was present at that meeting out at Kilohana and one of the things that we brought up at that meeting, which I don't see on these drawings, is basically you have two structures here, and it was brought up at the meeting and I thought it was resolved that we're not allowed to build pod houses here and that that master bedroom pod or whatever it is should be connected to the either house with walls and a roof, and I see that as just an open space now, and I was wondering if -- if the codes have changed or the building permit usage has changed or why is this not closed in?

Mr. Manera: The code never change. This is the old drawing that was submitted at the meeting. You was there. It was the same drawing submitted for the SMA. The building department actually they make us do what you just say, connect to the roof with a

breezeway and that's already approved. Unfortunately, those drawings they were done by hand by the owner and I not be able to put it on the computer. That's -- I can bring you the drawing approved by the building department. That's fine.

Mr. Bacon: Okay, that brings up another thing that we've had in general, and that is we've had a number of packets that we've been receiving up here that have conflicting information and/or incomplete information, and by all rights, we should be able to just simply say, "I don't have all the information," and reject it each time that happens but we like to try and speed things up because we know it would take another probably two more meetings before somebody could come up with their revised drawings or at least postpone it, you know, two weeks and the process is already very long so --

Mr. Manera: Well this is already three years.

Mr. Bacon: So it would behoove us to -- I'm just saying it would behoove us to make sure that, when we do get our packets, that people submitting these packets to the Planning Department have them complete and up to date so that these kinds of questions don't hold things up.

Mr. Chaikin: Just to followup on Commissioner Bacon's comments. I think he was commenting that there's several rooms and they're disconnected but they're connected by a breezeway, and although this may be more of a zoning issue than an SMA issue, can you speak to this, Clayton, the rules and, you know, what they have to do? I mean that's not two separate houses, right, if they're connect the thing via breezeway? Do you have information on that?

Mr. Yoshida: Thank you, Mr. Chairman. I believe you can connect the sections via breezeway to be one house but, again, the building plans are reviewed more by our Zoning Division and I guess we have Francis here. He'll be doing a presentation later on the flood hazard districts.

Mr. Chaikin: Alright, well, maybe when he's here, that's something that we, as a Commission, can bring up and ask him and just get clarification even though it might not affect the SMA, it's important that we understand what the rules are. So with that, is there any other Commissioners? Commissioner Pescaia.

Ms. Mikiala Pescaia: Just a clarification question. So this picture that we're looking at, am I to understand that there's actually a roof that's going to go over? Okay, so that's where the problem is is that we're getting packets that aren't true reflections of the project and if this is the picture that we approve, and later on someone is passing by and then they see this -- you know, this is a matter of record and that's the same thing with where the septic is going. On paper, on record, you know, if you did -- you just flip to this one picture, it's

on the makai side, and when you're passing the project -- the computer project will show it on the mauka side. Later on, when this parcel could possibly be sold to someone else or people are doing -- you know, a new owner is digging the road and they look and go, oh, the septic's -- on this picture, the septic's on that side and they start digging over there and, you know. I mean little things like that that's why all of these pieces of paper, being consistent, because they're a matter of record and I think that's all it is. I don't doubt that he got the right plans approved. I don't doubt -- I mean I don't doubt the information or the validity of the information, it's just that, in this packet, there's two different pictures. Throw out the one that's no longer applicable. Same with this site drawing. Put the things where they're supposed to be, you know, include the picture that has roof, the current -- because what this is saying is this might have been approved two years ago or this plan might have been approved and -- but now, we're seeing another picture and we just wanna make sure that we're being consistent and that what we're seeing indeed has been approved by the other departments before we put our stamp on it and that we're just all on the same page.

Mr. Chaikin: Thank you, Commissioner Pescaia. Let me just followup on that. When we said they have to be connected by a breezeway, was that a covered breezeway?

Mr. Torgerson: I'm not familiar with that requirement actually, and this is the first I've heard that the drawings that I was given weren't actually what --

Mr. Chaikin: Okay, maybe we can have the applicant, one more time, just for clarification, thank you.

Mr. Manera: Yeah, in the -- in the whole County of Maui, you cannot have like a bedroom, another bedroom, and a living room not connected. They have to be connected, but not only by a roof, they have to be connected actually by a wall, a roof. It has to be a solid connection. So he did those drawing on his own, based in California or whatever, and was the only drawing that we have be able to put on computer for Mikal, it's not his fault, but we already revised that because the first -- when we applied in 2007, the building department, they sent a letter we cannot approve, so that's automatic, that's -- and this is not only for Molokai or the particular zone, it's actually for the whole County of Maui.

Mr. Chaikin: Alright, thank you, Luigi. So for clarification, when -- if in fact this doesn't get passed today, when you come back, can you get us drawings that accurately reflect --

Mr. Manera: Yes.

Mr. Chaikin: On like Exhibit 6 with the roof connected or wall connected?

Mr. Manera: Yeah.

Mr. Chaikin: Yeah, thank you. Any other Commissioners?

Mr. Bacon: The other thing I would like to see is, on the plot plan, is a delineation of where the wetlands are so that we know if in fact this septic system, mauka or makai or wherever it is, if that's in the wetlands because according this Army Corps of Engineers report that we have, they approved the pilings for the house, but they made a point of saying that nothing else, soil disturbance or anything else within their jurisdiction, which is the wetland, can be done without a separate permit, and so we ought to see where that -- where the wetlands extend to be sure that they're not within any other areas that would require disturbing.

Mr. Chaikin: I think we can refer that. Is that something -- a document that we could come up with?

Mr. Manera: Okay, that's the reason why the septic tank, they moved the septic tank in-between the road and house. That's the reason. Because the wetland, it's only a portion of the lot, like more than half of the lot that's toward the fishpond. That's -- that's the reason why we did it that way.

Mr. Chaikin: Okay, I think but what he was specifically asking for is the map that shows where the wetland is. Is that something that you have access to?

Mr. Manera: I think so because we did an intense study on that. I know they approved it with some -- I think there are some map of the --

Mr. Chaikin: Well, I mean in the event that there's another meeting, is that something that you can see if you can access that document. Anything else, Commissioners? Commissioner Sprinzel.

Mr. Sprinzel: Yes, Mikiala is right. We have had so many cases over the year where this package hasn't been complete. There have been details missing. And I would just refer you to the Urban Design Review Board system where there was a printed sheet of everything that had to be -- for instance, there's no landscape photographs here, which we really ought to see. I know you showed them on the screen, but perhaps we could discuss this at the -- when we review the regulations because I think it's important that every packet should be correct, I know it's Molokai and -- but we've had some really terrible ones in the past. Thank you.

Mr. Chaikin: Okay, does any other Commissioners have any other questions at this time? Alright, let me just -- Luigi, while you're up there, just for the record, Archinal is building this house, do you know the reason that they're building this house? Is this going to be their primary residence or second residence or vacation rental? What are they planning for this?

Mr. Manera: He's planning to retire on Molokai. I don't think -- he made that clear even at the meeting at Kilohana, it's not his intent to rent the house at all. It's only for him and his family.

Mr. Chaikin: Just another question. I think they passed a law - didn't the State pass the law that you have to use solar water heating?

Mr. Manera: Yeah.

Mr. Chaikin: Is that correct? Is that going to happen on this house?

Mr. Manera: Okay, when we applied, it was 2007. That law wasn't in effect. But knowing him, he will. He's a -- by the way, he's a building inspector in California so --

Mr. Chaikin: Can I ask you how long you've been working on this application and what were the major impediments of getting to this point today?

Mr. Manera: Well, it was the Army Corps of Engineers first, and there was a long delay in the Planning Department because of the SMA and -- well, you know.

Mr. Chaikin: So, specifically, when did you start this process?

Mr. Manera: 2007.

Mr. Chaikin: Okay, and then I think another concern is you drive down to the East End, you see that they're building a whole lot of rock walls along the road, you may have noticed that, especially there's a lot of new rock walls, and that's great for the person who has the rock wall, but he's neighbors, as all the water comes running down the mountain and hits those rock walls, and all gets diverted into his neighbor's yard, is he planning to build any of these rock walls that you're aware of?

Mr. Manera: Not that I know. I know his neighbors did. Everybody.

Mr. Chaikin: Alright, so why don't we just switch gears right now and throw this out to the public and see if the public has any comments or anybody wanna provide testimony on this particular application, now would be the time to do that.

Ms. Zaidarene Kalipi: My name is Zaidarene Kalipi again. The only thing I'm concerned about this is that it is wetland and it's close to the fishpond, which people grow seaweed inside, yeah, and I know these people, they're good church going people, and it's just that my heart is sore what's going on over there because that used to be all taro patches. It's all taro patch from up by the church, before the church, all the way down, that's all wetland.

People used to go -- I had pictures of it, showing from way back, the taro patches, and it just makes me feel bad. And they are growing limu ele`ele in there and I used -- you see, I thought this was supposed to be passed by the Board of Health also because I had to call Kathleen when I grow limu ogo in front of Wavecrest and somehow Wavecrest, I think they went let their water go on the lawn to water the grass, but in the water has chlorine, and it seeped through the pipe, and went into the water, and killed by limu, my ogo, and because there was discoloration on it, and I felt bad because some people they don't think about things like that. How it's going to hurt other people. And that's their resources, yeah. So I'm sorry, Mr. and Mrs. Archinal, but it's just the way I feel. Thank you.

Mr. Chaikin: Thank you. Is there any questions for the testifier? Seeing none. Is there anybody else here today that wants to provide public testimony on this issue at this time? Okay, we have DeGray. Step up to the mike, please.

Mr. Vanderbilt: Aloha again, Mr. Chairman and Members of the Commission. My name's DeGray Vanderbilt and I think the Commission is right in asking these hard questions because there's going to be more and more development along the shoreline and some things that came up today I would hope would also get followed up on. You can build a house, I think there's one here on the island, that's just a lot of fingers coming out of a main building. You could build a base home and then you could run spikes off the corners with three bedrooms out there on each spike, and you can just go on and build multiple buildings like that, I believe, but I think that should get clarified what you're allowed. I know that right now the Maui shoreline is getting really impacted by large homes and that's the other thing that this Commission has wrestled with in the past and that's coming up with some square foot limit on houses that are right on the shoreline, similar to what the State does in the conservation district. And I guess, just looking at this application, maybe Corp. Counsel could explain, but on Page 5 of the application it talks about potential environmental and ecological effects. And on H, it says, "It's contrary to the State Plan, the County's General Plan, appropriate community plans," which would be the Molokai, "zoning and subdivision ordinances." Now, the response to that is that the proposed development is in compliance with the State Plan, and that's just zoning in the State Plan, it's consistent with the community plan designation, which is rural, and it's -- it's in the County interim zone, and it's compliant with the subdivision ordinances. So they're just talking about the zoning, but what about the policies and objectives in the General Plan or the community plan? Don't they have to be contrary -- I mean consistent with those also? If not, why do you have all these policies and plans? And I just say that because you -- you know, I'm not for or against this project, but this key thing here needs to be filled out as fully as possible because if somebody -- just say you didn't grant an exemption and they had to go for a full SMA permit, all they're required to do is give a little additional information and then submit this. And further down, it just talks about effects in environmentally sensitive areas, such as a flood plain, shoreline, tsunami zone, erosion prone zone. And then the response is, "The project is outside the shoreline setback per the shoreline setback rules." But it doesn't

say anything about what its effect is and it's in a flood plain. And there's things in our community plan and whether just because it might be contrary to one or two, that might be okay, but I mean we have, in the community plan that was just handed to me, it says, "protect and manage coastal water quality through best management land treatment practices, and I think that was one of the things that came up, "discourage any additional development of buildings which will impact the integrity of the shoreline." So there's a lot of these things in our community plan and I would wonder from Corp. Counsel do -- should those be at least mentioned as potential impacts or -- cause up here it says that they wanna know is it contrary to anything in the State Plan or the community plan or the General Plan, and I didn't even look at the General Plan, but I just think all you guys wanna get is the total picture so you can make an informed decision, and so that's just a few comments I had just on the process. Thank you.

Mr. Chaikin: Well, thank you, DeGray, and today we do have that orientation workshop that goes over some of these issues that you brought up so we'll be able to get further clarification at that time. Commissioners, do you have anything, any questions for DeGray? Commissioner Leong.

Ms. Napua Leong: I just had a comment. DeGray, I do share some of your concerns and I feel like, in our recommendations, sometimes the responses are a little bit boilerplate, you know, it's just will not have any adverse effects, but, again, this is a matter of record so sometimes, you know, there is some more detail that is required and particularly when we're dealing with environmental impacts and, you know, this is a fishpond, for example in this case, so -- and we have made decisions that go against the community plan and nowhere is that really explored, it's just kind of like a blanket, no, this does not affect, and sometimes I would like to see a little bit more details so I think that brings up a really good point. Thank you for bringing that up.

Mr. Chaikin: Anybody else? Any comments or questions? Okay, is there anybody else out there in the community that would like to provide further input on this application? Alright, seeing none. At this time, we're going to close down the -- excuse me, Clayton, did you wanna add something?

Mr. Yoshida: I believe we have Francis Cerizo here that can answer your question regarding breezeways.

Mr. Chaikin: Okay, Francis, earlier the question came up about the layout of the house and it had different sections, bedroom over here and then further on, and they were only connected by what looked like a walkway in the drawings that we have, and then I think Luigi came up and said that, well, that's not correct, but can you tell us what actually needs to be there for the thing to legally get a building permit?

Mr. Francis Cerizo: As far as a dwelling, a dwelling defined as a, basically, a group of rooms that's for dwelling purposes, and it has to be connected. So in this case here, the connection is really the point. What kind of connection do you need? Do you just need one two-by-four or do you need a walkway? In the past, we've been -- the minimum that we require is that they have a roof connection so that, you know, you can walk from one side of the -- one side of the house to another side of the house without like getting out the house. So you need to have, right now, you have a walkway and it hasn't gone through a building permit review yet, but during the permit process, that's one of the things that we will review on and ensure that it has some kind of connection that will meet the code.

Mr. Chaikin: Okay, so I think what you're saying is that, at this point in time, what you guys are requiring is just a roof. As long as its got a covered walkway with -- without sides being necessary, we're going to consider that a house or part of the house?

Mr. Cerizo: That's correct. We need a minimum of a roof connection between -- between the elements of the house.

Mr. Chaikin: Commissioner Bacon.

Mr. Bacon: My question is: When did that rule change?

Mr. Cerizo: That was our interpretation as far as -- it hasn't really changed. I mean the code says what it says that it has to be connected so that is our interpretation of the code.

Mr. Bacon: So each administration or each new person that comes in can change their interpretation, is that right?

Mr. Cerizo: Well, interpretations can change. That's correct.

Mr. Bacon: Because in 2005, we were told that that was not the case. It had to have walls.

Mr. Cerizo: Yeah, I think that came from the building code, you know, they had -- okay, from our perspective, you know, there's two different codes we have to go with. As far as zoning, it's very -- it just says "connected." Now, as far as the housing code, they kinda say the same thing too but they had -- but Public Works created a -- a rule that kinda expanded on that. Now, I'm not sure if they're still -- that's something that Public Works -- you would have to ask Public Works if that's something that they're -- they are, you know, going to maintain. But, you know, in any case, if Public Works says it has to be enclosed, then, you know, they won't sign off on the permit and it would be enclosed, yeah.

Mr. Chaikin: Okay, Commissioners, do you have any other further questions for Cerizo. Let me just one more time ask if there's anybody else out in the public that wants to provide

input? Alright, seeing none. It kinda comes back to the Commission then. I think we need to move into the period where we need to make some sort of a decision. Did you want to say something, Mikal?

Mr. Torgerson: I was just going to say, in light of the fact that I'm now finding out that the drawings I was given aren't accurate, an accurate representation of what they plan to do, I would withdraw my recommendation for approval and suggest a continuance until I have drawings that represent what's really being proposed.

Mr. Chaikin: Okay, so we have, basically, the Planning Department saying they're withdrawing their request for a concurrence at this time. So that being the case, I would entertain a motion from the rest of the Commission that we go ahead and defer this item. Oh, we have a comment here?

Mr. Hopper: Just a note, your rules have a 30-day time period for making a decision on an exemption. We looked. There's two more meetings in that 30-day time period - two May meetings. Within that time, you need to make a decision on whether it's exempt or not. If you decide it's not exempt, then you can make them get an SMA permit. If you decide that it's exempt, then it's exempted. So, you know, those are your options. You have to do that within that 30-day time period per your rules. So I'd recommend being as thorough as possible to make sure the next meeting you get everything you need in order to decide one way or the other is it exempt or would it not be exempt.

Mr. Chaikin: Alright, thank you, Michael. Commissioners? Commissioner Bacon.

Mr. Bacon: Yeah, I would -- I would suggest, you know, looking at this thing and the septic is the big issue. This type of system does require maintenance. It has a pump that sometimes goes out. It has an alarm system that often doesn't function because it gets corroded. And I know of two systems on the West End, that Luigi probably doesn't know about, but I know of two systems that do not work. And the State doesn't come and checkup on it. The County doesn't come up and check on it. The only thing that would make anybody do anything about it is when they start overflowing and then the owners would do something about it. And I would suggest that they go for a SMA minor so that we can put a stipulation on that, as it says in the directions in the engineer's plans, that there should be an annual or bi-annual check and that we should be or the County should be notified that in fact the system does work and is working consistently. Otherwise, we get in the position where we give them carte blanche. They can go off and if they don't -- if they put in the system and somebody unplugs it, and it's not working and we're polluting the pond, we've given permission to have them do that. And so I think we ought to have some sort of stipulation on there that there is feedback that in fact that system does work, which is also, you know, one of the questions you asked about is it going to be a permanent residence or a part-time and that sort of thing, if it's part-time and this system goes out, and

then they come back and they start using the system, then it's not working properly, you know, it could be polluting the pond and the wetlands and that's what we wanna prevent.

Mr. Chaikin: Alright, well, thank you, Commissioner Bacon. At this time, we have a couple different possibilities. We do have agendaed today for this item that the Planning Department was requesting our concurrence. The Planning Department has subsequently come and withdrawn that. So it's really up to us. I mean we can override them and go ahead and concur with them. Or we could go ahead and make whatever motion any of you feel appropriate at this time. So I'd entertain whatever motion anyone would like to make at this time. If the Commissioners are not sure, we could defer and let them come back with additional information and make a decision when we have that additional information in our possession. So it's really up to you, Commissioners, so whatever you'd like to do.

Mr. Bacon: If the Planner withdrew it, don't we just say we accept his withdrawal?

Mr. Chaikin: Yes.

Mr. Bacon: I mean this is withdrawn, right, as opposed to if we say that we're deferring it, then we have to do it within the 30 days? If he withdraws it, it could come back in six months and there is no -- I mean there won't be any time limit. So it's actually to their advantage if we let them withdraw it.

Mr. Chaikin: That's probably a good point.

Mr. Bacon: So I move that we allow them to withdraw.

Mr. Chaikin: Okay, let's have Corp. Counsel give an input.

Mr. Hopper: I think the Planning Staff said that he would withdraw his recommendation of approval now to change that deferral. Your rules say, "All proposed action within the SMA recommended exempt shall be placed on the agenda for review and file a determination at the next Commission meeting." And then it states, "The Commission shall make a determination and notify the applicant in writing in 30 calendar days after the application is reviewed by the Commission that the proposed action is either" -- and, typically, you take the 30 days from the day you first reviewed the application. I think that if you don't, in that 30 days, get enough information, you could say this might have an adverse environmental or ecological effect because we haven't been given enough information here and require an SMA permit perhaps. Or, you know, without that, I think the applicant could voluntarily withdraw and say, you know, we'll resubmit the information and agree to start a new 30-day time period. I don't think the Planning Department can say, oh, we're withdrawing on behalf of the application to restart the 30 days. So I wouldn't do that. I would say if you wanna defer for more information, you absolutely have the right to do that at this point and you

have two meetings within the 30 days. So I'd recommend that that's what you do if you're headed that way. If the applicant wants to withdraw voluntarily, that's up to them, and then you can talk about changing the 30-day period. But if you wanna defer, that's -- I would just do it by motion and rather than accepting a withdrawal because I think the Department is saying we're withdrawing our recommendation for approval at this meeting is how I would look at that because once it appears on your agenda, it looks like your rules say that that's when the clock starts, looking at a relatively strict interpretation of the rules.

Mr. Chaikin: Alright, thank you, Mike. And I think there's -- you know, it is a little bit subject to interpretation cause I think it does say reviewed with an "ed" on the end. When the Planning Commission has reviewed, which means we have completed our review, then we have 30 days. We don't even have all the requested documents at this time so we haven't reviewed it. We're not completed with our review. So, to me, it doesn't start ticking until we're finish -- finished reviewing the application. So, you know, hopefully, we don't even get there or get to the point where we have to, you know, look at all these kinds of technicalities but so I throw it back to -- to you guys to do whatever you feel is appropriate or make that motion.

Mr. Bacon: Okay, I misunderstood that and, in fact, I change mine to I move that we defer it.

Mr. Sprinzel: Second.

Mr. Chaikin: Okay, so we have a motion, it's been seconded, now we move to discussion, and what's really important at this point is we be very specific about what particular information we would like them to come back with. What I recall hearing is that we want detailed drawings of the septic system as far as the plot plan, where they are on the property, and then specific engineering drawings on how that specific septic system is laid out. I think we're also asking for a map that shows the wetland delineation just so that we can be assured that this structure is not going to be within that area. And then I think the layout or we wanted drawings that accurately reflect the roof line that's supposed to be connecting these different parts of the house. Is there anything else that we're requesting at this time?

Mr. Sprinzel: Yes, I would request that the engineer who's going to install this will be here for us to question because there's some problems in a wet area where these things can lift and want to be sure they made provisions for that.

Mr. Chaikin: Okay, so that was the fourth general area. Is there something else additionally?

Mr. Bacon: Along with that septic, along with the drawings, I'd like to see a letter from the State that refers specifically to those drawings. I mean this letter says that we accept this system but it doesn't tell which system it is. So they should all go hand-in-hand and be easily tied together.

Mr. Chaikin: Okay, Mikal, did you duly note that comment?

Mr. Torgerson: I did.

Mr. Chaikin: Okay, thank you. Is there any further discussion by the Commission at this time? Okay, comment by Corporation Counsel.

Mr. Hopper: Just to be clear, Mikal, it sounds like they need kind of a revised application all together with no conflicting information in it. I mean, you know, that's something that, you know, from the beginning should be given to the Commission obviously, you know. We know you didn't know that it was inaccurate but if there's an argument that if you're not giving that to begin with, then the review period shouldn't begin. And again, we'd rather not get into that, but I think the Commission needs a revised application that's 100% accurate, obviously, cause they're going to rely on that in making their decision, so as long as everyone's clear on that's what they need, then I think that that's okay as far as a deferral request and an information revision request.

Mr. Chaikin: Alright, thank you for that, Michael. Further discussion? Commissioner Bacon.

Mr. Bacon: One other thing is that we didn't touch on, I just wanna be sure that there is going to be no more -- no other grading or fill brought into the property, like the neighbors. So there is going to be no -- no grading other than what's there naturally - is that true?

Mr. Manera: ...(inaudible)...

Mr. Bacon: So we won't see any fill being brought in or anything? Okay.

Mr. Chaikin: Okay, could you make sure that's accurate articulated within the staff report what is going to happen with the grading?

Mr. Torgerson: I will.

Mr. Chaikin: Okay, thank you. Alright, is there any further discussion by the Commissioners? So we have a motion on the floor. It's been seconded. If there's no further discussion, I'll call for a vote at this time.

There being no further discussion, the motion was put to a vote.

***It has been moved by Mr. Bacon, seconded by Mr. Sprinzel, then unanimously***

***VOTED: to defer.***

Mr. Chaikin: Okay, it passes unanimously. Thank you, Commissioners, and I'd like to thank the public for their patience with this and we'll bring this up again at a future meeting. So at this time, the next thing on our agenda is a Orientation Workshop so at this time, I'd like to suggest that we all just take a break for five minutes or so and we'll give the County an opportunity to set this workshop up, so thank you.

*(A recess was called at 1:26 p.m., and the meeting was reconvened at 1:37 p.m.)*

Mr. Chaikin: Alright, Commissioners, if we can go ahead and move in the direction of starting to get going again, we can move through this and get to the point where we can all go home and do something more fun. So with that, I'd like to reconvene this meeting and the first item that we're going to be taking a look at in our Orientation Workshop is our special management area rules, and I think they were brought up in this last application that we had, there were some questions about that so -- so we can get some further clarification. So at this time, I'm going to go ahead and turn this over to James, is that correct?

## **G. ORIENTATION WORKSHOP NO. 2**

- 1. Special Management Area Rules**
- 2. Shoreline Area Rules**

Mr. Jim Buika: Yes. Thank you. Good afternoon, Mr. Chair, Molokai Planning Commissioners, public. My name is Jim Buika. I'm the Shoreline Planner, Coastal Resource Planner for the County of Maui, and I'll put my presentation up right now. Give me one sec. Sorry for the slow start here.

Okay, again, my name is Jim Buika, and I've been with the County for three years, and I'm replacing Thorne Abbott as the Coastal Resource Planner, if some of you have met Thorne. This is actually my first trip to Molokai, and it's a beautiful day here, and I've seen just a small bit of the coastline and Molokai.

So I'll present three topics here: The Coastal Zone Management Act, and I'll talk about the Molokai Planning Commission roles under the Special Management Area Rules for the

Molokai Planning Commission, and the Shoreline Rules for the Molokai Planning Commission. And I'll -- I have one or two slides with concluding remarks.

First, the Coastal Zone Management Act. It is the statute enacted and codified as HRS, Hawaii Revised Statutes 205A in 1977, and approved in 1978, and it acts as the State's resource management policy umbrella. And the CZM law, which I'll refer to it as manages all the Hawaiian Islands and it authorizes the counties, under home rule, to establish your own special management area permit system and a shoreline setback variance system.

Under the planning framework here, you had some of the training last time, the coastal zone management falls under the State Constitution and again, it authorizes Molokai to have special management area rules and shoreline setback rules, which becomes the SMA permit system - you review the exemptions and also shoreline setback variances.

So the special management area is a special subset of the coastal zone delineated by the county authority and again, the CZM Act authorizes the counties to develop and administer both SMA rules and the shoreline rules, which all of you, as experience planners or as experienced Commissioners have been doing for the past several years. So the purpose and goal of the SMA rules, and I'll just read this here: "As a management tool, the SMA rules' purpose is to set special controls through a permitting process to assure that the allowable development are designed and carried out in a manner consistent with the coastal zone management objectives and policies," and I'll mention these objectives and policies, "as well as special management area guidelines." And I'll mention these guidelines also. "The goal of the SMA rules is to further the policy as a State through the CZM program to preserve, protect, and where possible, restore the natural resources of the coastal zone." And demonstrated very nicely by all of you this morning. I think we were looking at that last project from this perspective.

Quickly just listing the objectives that are in, again, in the State law and your special management area rules for Molokai adopt all of these objectives as part of your rules here, there are ten of them. We want to preserve and protect recreational areas, historic and cultural areas, scenic and open space, coastal eco systems, economic uses, coastal hazards, we want to manage development in an efficient and streamlined permit process manner, it encourages public participation, beach protection and access, and marine resources. So this is pretty much our County environmental law that is authorized through the Coastal Zone Management Act.

So specific to the SMA Rules for the Molokai Planning Commission, Chapter 12-302, the rules provide the authority both to the Commission and the Director of the Planning Department, kind of in this order. Any proposed action -- any proposed action in the SMA requires an assessment by the authority. So anything that is done needs to apply for an SMA permit. The Commission is the authority for the major use permits, which you have

seen, minor permits, and also SMA exemptions. The Director is the authority for SMA emergency permits.

And as far as your role in the SMA permitting process, the first step, through Mikal, our Planner here, we assess whether a proposed activity is included in the definition of development under HRS 205-22, those are where all the definitions are, and that comes from the Coastal Zone Management Act. And pretty much, if you look at those definitions, just about anything we do, when we put a shovel to the ground or we put a hammer to a two-by-four, it is development. Well, we can't manage everything because that would be too onerous. So what we do once we determine that it's development is that we assess whether or not the activity or the proposed action is exempted from the definition of development. And there are 16 exempted categories that are not -- that are considered not development regardless of their project value, so it can be a multi-million dollar project but it potentially could be in an exempted category from the definition of the development. So once we determine whether it's development or not, we go through an "if then" process here. If the process is deemed a development and the valuation is greater than \$125,000, then the Molokai Planning Commission authorizes this through a public hearing process. If the project is deemed a development and the valuation is less than \$125,000, the Molokai Planning Commission authorizes with no public hearing but it is part of the regularly scheduled agenda. So those are the two major permits. And there evaluation criteria, and I think you were looking through them this morning. They're in your SMA rules. We have 12 criteria for whether or not we evaluate a project in terms of its impacts on the environment, and I'll go over those 12 criteria.

So whenever we develop anything, there is some sort of adverse impacts to the environment. There usually is. But our whole point here and I think your -- your role, your mandate is to minimize the adverse impacts to the environment. In light of the compelling public interest, such as public health and safety, number one, but also in terms of economic development. We do need the development, but we need to do in harmony with the environment. I think that's what our rules are telling us. And every proposed activity must be consistent with the SMA guidelines that -- that the -- that your rules have adopted from -- from the Coastal Zone Management Act, from the State Act, so there are guidelines, and I'll go through these very quickly.

These guidelines, under 205A-26, they ensure these things, again, and I -- you can see the words I underline here: Adequate access to the publicly owned beaches, recreational areas, wildlife and natural reserves. Second is adequate and properly located recreation areas. Third are adequately control, manage, and minimize impacts from pollution and runoff. Minimize adverse effects for water resources, scenic resources, and recreational amenities. Minimize risk to proposed structures from coastal hazard. And then there's a second set of SMA guidelines here that we -- now we're seeking to minimize some additional things. So through your rules, where reasonable, we wanna minimize dredging;

filling; altering of coastal areas; reduction in any beach size; impediments to public beach access and coastal recreation; lost of coastal view plains; adverse effects to water quality, fisheries, wildlife, and habitat; lost of existing and potential agricultural uses.

And the bottom line, and this is really my conclusion at the very end, I repeat this, the Coastal Zone Management Act, the State law, through your SMA guidelines or through the State SMA guidelines that you've adopted, and our Molokai Planning Commission SMA rules, we seek to minimize, where reasonable, adverse impacts to the environment.

And here are your rules. I guess you have all these in front of you. I'll kinda whip through these quickly. They're very important. But these are not rules. Or under your rules, you have -- there are assessment criteria. And in every application, we have these 12 criteria, and they're kind of designed to -- they're designed to look at, from a negative point of view, if we're -- irrevocable loss of natural or cultural resources; significantly curtails the beneficial use of the environment; conflicts with long term environmental policies at the State and local level; economic welfare; affecting the economic welfare, social welfare of the community; secondary impacts; cumulative impacts; any rare, threatened or endangered species or habitat; contrary to consistency of the State Plan, county's plan, community plan, zoning; air quality; water quality; ambient noise; environmentally sensitive areas; substantially altering the land forms; and then the catchall is No. 12, contrary to the objectives and policies of the Coastal Zone Management Act. So that kicks us back up to the State law. So these are all your criteria that are in every application that you see that the applicant must address. And then it also includes this No. 12, which is the objectives and policies of the Coastal Zone Management Act. So those are our criteria for evaluating the various permits, the SMA permits that come before you.

Again, I think you're all familiar with the major permit, SM1. Anything over \$125,000 requires a public hearing. It is a development. And all owners within 500 feet are notified by certified mail. And you can place conditions to avoid, minimize, and mitigate impacts. And you are the authority on major permits. You're also the authority on minor permits. Same thing except it's less than \$125,000 and there's no public hearing; however, you can place conditions on a development less than \$125,000. The emergency permit is still controlled by the Planning Director, and we can actually come to a site on Molokai very quickly -- with expert resources, and if there is -- if we deem it is -- life is threatened or structure is threatened, usually from a coastal hazard, we can give a verbal authorization to protect that structure, protect human life, and then the applicant has ten days to submit an application and it would come before you later on, but the Director has that authority in your rules. And there are two other actions on permit applications under the SMA rules. Again, the exemptions, which you are reviewing, are defined as not a development, such as a single-family home, but they're only exempted, as you know, after an SMA assessment is completed and the proposed action is determined to have no adverse impacts or minimized adverse impacts on drainage, view plains, archaeology, historic and

natural resources, coastal resources, including cumulative impacts and according to those criteria that are listed a few pages earlier there. And again, you are the authority on accepting or denying the exemptions. And then there's the category of deny that would probably either be you or the Director, either one has the authority on that for talking about inconsistency with a community plan, the State Plan, zoning, etcetera.

So as far as reporting process to all of you, all minor permits, emergency permits, and exemptions are listed and reported to the Commission at the next regularly scheduled meeting. Those are at the end of your agenda, you'll see the one item list of those. And also, any of those -- that's a way of notifying the public and so the public has - or anybody - can -- any of these decisions can be contested by either the applicant for the decision by you or the Director, or other parties by filing an appeal with the Commission within ten business days after the Director's decision, and we have those every once in a while.

So an exemption versus a permit, just real quickly, an SMA exemption cannot have conditions because it is exempted from the SMA permit application process. So you either accept it or not. But as I went through at the beginning, the -- a lot of times these permits or applications come to planners and we work with applicants over here because I'm sure Mikal, as he gets to know all of you, your concerns, he'll make sure that all of your concerns are mitigated on these projects prior to coming to you to authorize the exemption. So we do an assessment and we make sure it is environmentally sound. So there are 16 categories of exemptions, I won't go through them right yet, but I'll show you some of the more common ones in the few slides. And a proposed action may be exempted if it includes measures to avoid, mitigate, or minimize adverse impacts. So it fits the definition of not development, under one of the exemption categories, and it has mitigation in the package that you receive, as you were debating this morning. In contrast, an SMA use permit may contain formal conditions to avoid, mitigate, or minimize adverse impacts on coastal resources, and there are usually standard conditions and project specific conditions there.

Some of the common exemptions, again, this exemption list comes from the Coastal Zone Management Act that's been adopted by your rules: single-family residence not part of a larger action -- I think I had six or seven, I'll just go through these quickly -- structural and nonstructural improvements to a single-family residence; repair and maintenance of roads and highways within common right-of-ways; routine dredging of streams as maintenance; repair and maintenance of underground utilities; repair and maintenance of existing structures; and demolition of some structures that are not in historic landmark sites. So those are some of the common -- and those are common things that are often exempted.

Again, this map of the island of Molokai, the -- I don't know what color it is. I'm very color blind - magenta, pink, red, whatever it is there, is the outline of the SMA. You can see the SMA boundary on the northern -- northern coast. It's substantial. It takes in some of the

major watersheds there, but then you can see on the southeast side, the SMA boundary becomes very, very narrow between the highway and the shoreline. The eastside has some, and also the west coast has very limited, but one area of SMA, special management area.

So looking again, the second category, looking at your shoreline rules, again they are -- they're defined by the -- as part of the Coastal Zone Management Act but we're specifically looking at the shoreline. We're looking to minimize adverse impacts and protect coastal eco systems, reduce risk to new structures that are located in coastal hazard zones, and enhance public safety, and we always want to protect beaches and access to beaches and to enhance those and to minimize any site hardening, such as seawalls in front of homes. So those are kind of a subset that we're addressing with the shoreline rules.

And the goal of the shoreline rules is to regulate development so that shorelines are protected, beach resources are conserved, visual and physical access preserved, and landowners do not incur unnecessary risk or shoreline hardening expenses. Part of that process, through the Coastal Zone Management Act, is to get a State certified shoreline survey for any development that is on a parcel that abuts the shoreline, and it also authorizes shoreline setback variances in a shoreline setback area where we can develop and build and only minor type of activities and minor structures. So the objectives of the shoreline setback area, which I'll define as a certain setback from the ocean, are first to move out of harm's way, with sea level rise, we need to be conscience of that more and more; we also want to plan the obsolescence of structures in the shoreline setback, old nonconforming homes and different structures that are becoming endangered by coastal hazards. Our rules have it so that if there's over 50% -- if it's destroyed by coastal -- or if it's destroyed by coastal hazards, it should not be replaced. It should be moved back mauka of the shoreline setback area. So these are ones that are close to the shoreline. We want to ensure shoreline access. And we want to limit the types of structures and activities in the shoreline area. And your shoreline rules do limit these type of activities.

So under the shoreline rules, we have the Planning Director does do initial shoreline setback determinations for the Commission and they are -- they usually -- normally require a State certified shoreline, they're valid for one year, and they give us a calculated setback by one methodology that we use here. And we can approve that shoreline setback area with certain -- with certain conditions to mitigate adverse impacts, and these are for some minor structures that are allowed under your rules, and again, the Planning Director has the authority there. However, if any applicant wants to come in and do something besides these minor structures within the shoreline setback area, they are required to come before you with a shoreline setback variance, which requires and environmental assessment, and there are various criteria in the next couple slides that talk about -- that they have the burden of proof that there's hardship, that there's no way they can set back their structure outside of the setback area, so that is -- that's your authority to approve or deny anything

developed or anything beyond \$125,000 in the setback area. And again, there can be denials that can be done either by you or the Planning Director.

So there are two categories of permissible -- well, there's permissible structures and permissible activities within -- under your shoreline rules within the setback area. These are minor structures and activities, which are less than \$125,000, and are deemed by the Planning Director to not adversely affect beach processes, does not artificially fix the shoreline, does not interfere with public access, and does not block public views. And any new structures that do go into the shoreline setback area must be elevated one foot above the base flood elevation on pilings or columns, the County is held harmless with no liability, and that new structure cannot harden the shoreline in any way.

So your role in approving shoreline setback variances, and they're explicitly in your rules, a variance may be granted for structures necessary or ancillary to this short list here: drainage improvements/maintenance; publicly owned boating and water sports facilities; public facility repairs and improvement or utilities, so these are public facilities; some private facilities; and improvements that are clearly in the public interest; protect of legally habitable structure or public infrastructure; and then private facilities or improvements, which again do not adversely affect the beach process, do not artificially fix the shoreline, and would result in hardship if not approved. So a private applicant has that burden of proof that there is hardship on their side. And there are mandatory variance conditions that we maintain safe lateral access to the public along the shoreline; we minimize risk of adverse impacts to beach processes; minimize risk to those structures; comply with flood hazard rules; and minimize adverse impacts along public views to, from and along the shoreline.

And also, I'll just talk very quick about your shoreline rules in terms of determination of the shoreline setback area. Your shoreline rules were adopted in 1991, and they're a little different than Maui's, but both of them do regulate the use and activities of land within the shoreline setback area to protect the health, safety, and welfare of the public. They provide minimum protection from coastal hazards. Ensure that the public use and enjoyment of the shoreline resources are preserved and protected for future generation. And there are two methods to determine the shoreline setback, however, you only have on of those two methods here on Molokai, and it's the second one - the average lot depth methodology. And again, these are done by the Planning Department on your behalf.

And just very quickly, the average lot depth is a fairly simple area schematic calculation. If you look at the -- this was a plot of land here, the curve line would be the ocean, and you have -- so that would be your parcel. You take the lot depth 250 feet, 225 feet on either side of the lot, and you take a transect down the middle, add them up, divide by three, and you according this -- these three rules up here, you can come up with an average lot depth. And from the average lot depth, in this case, 705 divided by 3 is 235 feet, that's the

average lot dept of the entire lot, average across the lot, and so anything over 160 feet deep lot, we take one-quarter of that, and that becomes our setback. So in this case, it is -- I think it's a hundred and -- oh, okay. What is it? 457. I said it's simple arithmetic in here. I can't do it but -- okay. Anyway. So if a lot is a small lot, less than a 100 feet deep, the setback is 25 feet. One of the quirks in the rules right now is if it's 101 feet deep, the setback goes to 40 feet, and then up to -- we can have a setback all the way up to 150 feet for some of the larger ag lots or, like on Maui, we have the major hotel lots so we make sure everything is set back 150 feet.

So just in conclusion, some of the accomplishments of the coastal zone management program, we do have Federal performance standards on a yearly basis; we've created a website on the Maui County website with maps, the SMA shoreline permitting process and application, and we're updating our SMA permit applications, as we speak, online, and we're making -- we're trying to make the process clearer and to be more of a catchall for every -- everything that we've encountered over the last several years so that it becomes more complete and it becomes more transparent both to the Commission review, to the Planning Department review, and also to the applicant's review. So that's underway. And we also have various publications that Tara Miller, our University of Hawaii Sea Grant Agent, will speak in one moment to you about. We've developed a multi agency team led by our Sea Grant Extension Program to assist ocean front properties respond to erosional crisis. I think most of these have been on the island of Maui at this point. We're funding some beach restoration projects and two shoreline restoration projects where hardening has been removed. So we're making incremental progress. And we've been able to access additional Federal funds for special management and restoration of coastal public resources.

And then my concluding remarks, Maui's coastline, the County, including Molokai, our shoreline provides tourism economy, recreation, fishing and food, cultural practices, and our quality of life. Our shoreline is threatened with coastal erosion that is accelerating. Our shoreline and coastal erosion processes are a system that needs to be studied and fully understood to make sound scientifically based planning decisions, not just one parcel at a time by any means. And again, I had this earlier, but I'll conclude with this comment that the -- through the Coastal Zone Management Act and through the SMA guidelines, which are part of that act and then adopted in your rules, and through your rules, the Commission seeks to minimize, where reasonable, adverse impacts to the environment. So that's, I think, from the SMA perspective, that's the message that I bring to you from the Planning Department's interpretation of your rules and the Coastal Zone Management Act is to, you know, it's to minimize impacts to the environment, where reasonable. It's always a balancing act, as you know. And the final slide, just my contact information, [james.buika@mauicounty.gov](mailto:james.buika@mauicounty.gov) Mahalo. If there are any questions, I can answer those.

Mr. Chaikin: Alright, thank you, James. We would like to keep this informal so if there's also anybody from the public here that wants to ask any questions, we'll give them the opportunity to do that. Commissioners, do you have any questions you'd like clarification on? Commissioner Bacon.

Mr. Bacon: I got a whole bunch. The lost of the coastal view plain. How do we define that?

Mr. Buika: The coastal view plain, from the Coastal Zone Management Act, is defined for losing coastal views from the closest State highway to the shoreline is how it is technically defined. So from any State highway down. Also, it's not only a view of the shoreline, but it's the view of the ocean, right, out, out in the that direction, so it's an interpretive -- it is an interpretive judgement on your call but it is, technically, from - you can look at the language in the Coastal Zone Management Act, that's what it says from the nearest State highway. I don't know which -- if all the roads are State highways or where all those are here for Molokai, but we want to minimize those coastal views and scenic views and maintain those scenic views.

Mr. Bacon: Okay, because we have a number of instances here where if you build a wall that's less than four feet, you don't need a building permit for it, and people have been building them along the highway here and if you're driving along in a sedan, you can't see over the walls to the ocean.

Mr. Buika: Right.

Mr. Bacon: And also that water has been mentioned before that those walls will deflect water into your neighbor's yard if you have flooding and that sort of thing, but who's -- who is supposed to enforce that they don't put those walls up? We complain about it, but nobody seems to do anything. Who's job ...(inaudible)...

Mr. Buika: Zoning. Zoning, I believe, allows six-foot walls. I know some of the community plans, like when you do review your community plan, address that right now. I know like in the Kihei-Makena Community Plan, any shoreline property is only allowed to have a four-foot wall, like you're saying. It cannot be a six-foot wall. So that might be something, as you address the community plan, where you can limit that because the trump card is the community plan in terms of some of these interpretations of zoning, so you can change some of those types of things.

Mr. Bacon: Okay, the other one is you mentioned there that you have the SMA and CZM boundary maps on the computer, are those updated cause the only ones that we've seen here on the island are very limited, the scale isn't necessarily right, and they haven't been

updated since 1970 or something like that? Are the ones that you've mentioned that are on the computer updated?

Mr. Buika: We do have -- yes, we do have updated ones. We have our Long Range Division, another division from mine, has them in GIS some -- like you're saying, yes, in 1970, those, the SMA boundaries were penciled in on maps, from what I understand, and they have been interpreted via GIS, so kind of how we look at it is - and I know through Papohaku Dunes Subdivision there the SMA boundary is fickle, it goes right through various parcels, it doesn't make sense in, you know, from a planning perspective, and so what we do is we refer to the GIS maps; if it's controversial, then we do have access to the original maps. So -- but the GIS is fairly accurate but it is interpretive, as you stated. So have we have I guess the best set of data on that in the Planning Department so if there ever happens to be anything where there is a decision whether something is in or out of the SMA boundary, we can help you with that. I could help you with that.

Mr. Bacon: Okay, I guess the other thing is cumulative impacts.

Mr. Buika: Yes.

Mr. Bacon: We were just -- I mentioned that as far as the, you know, the straw that broke the camel's back. If this is the one septic system that's really going to kill that pond --

Mr. Buika: Right.

Mr. Bacon: How -- how do we determine that and how do we tell the last person that, no, you can't build a house?

Mr. Buika: That's the tough decisions that the Commission must make. I believe I would say that falls into your lap. I mean we do -- the Planning Department will analyze that from the environmental information we have and we will put forth a recommendation to you as Commissioners, and, you know, prior to that, the Planning Department's responsibility is to attempt to minimize all of those impacts and then it's, I guess, our decision and our recommendation to you whether or not we ask for your approval of the project, and it's up to you to debate that and to determine that and to look at all of the evidence and information. Cumulative impact, again, is the -- is the hardest thing to quantify. You know, how do you do that? It's -- a lot of time it's an emotional type of thing or it's just a subjective type of thing and that's why one of the, just in my last slide there, we need to look at the coastline from a scientifically based perspective, looking at the environment, and it shouldn't be an emotional or, you know, capricious decision. It should be -- you know, we need to, in this next decade, get to a scientifically based answer to some of these things. Cumulative is, obviously, is difficult. And then all of a sudden, we've had cumulative impact, we know we're there, such as say with traffic, something like that is an easy one,

and then it's -- then it's too late and then we have major infrastructure challenges, obviously. So it's something, as Molokai develops into the future, to be aware of and to use in your decision-making process for sure.

Mr. Bacon: Okay, one last question. The shoreline setbacks. We have a problem here on Molokai because we have a lot of fishponds.

Mr. Buika: Yes.

Mr. Bacon: And if you're on the inside of a fishpond, your shoreline setback, in some cases, not all cases apparently that I've either been here for, you know, participated in the audience, some people who have property on the inside of a fishpond, they don't have to worry about setbacks because the wall is where that setback is determined from. And if the pond is owned and down as a TMK as a separate piece of property, then the people behind don't even --

Mr. Buika: Right.

Mr. Bacon: Somehow the shoreline and water and everything else doesn't pertain to them. How -- do we get around that with our community plan or is that something that the Planning Department does, or how do we get around that so that the people who are there, they're affected by the tides, they're affected by all those things that are outside the pond, just because they're inside, they get away with it? How do we do that?

Mr. Buika: You know, I hate to speculate at an answer just off the cuff up here without really understanding the situation. I think that's something that we really need to -- maybe Mikal and I and a few other folks in the Planning Department, along with you, should really study, investigate, and come up with a, you know, a definitive answer for you. And if you have a case study or two - I'm sure you do - it would be, I think, very instructive. I just don't have enough experience myself over here with those issue, but it's a very, very, very valid issue where you -- how do you certify the shoreline, where's the shoreline, and those cases, and I guess you struggle with that. I would put that in the category of the conundrum, but we should have some sort of a policy or possibly at the community plan level would be good. I don't know if our Corporation Counsel has any thoughts on that or Clayton or anyone, but I would be willing to -- to investigate it. I think --

Unidentified Speaker: ...(inaudible)...

Mr. Buika: The question is was are they exempted from the setback. I guess you are saying they are.

Mr. Bacon: Yeah, basically, they are because if a piece of property -- if the pond itself has a TMK and it's identified as a piece of property, they're not touching the ocean, they're behind, even though the water comes right up to them and they're affected by the tides and everything else. Maybe Mikal has some thoughts?

Mr. Torgerson: If I can share some thoughts. I know of some of the examples that you're thinking of.

Mr. Chaikin: Mikal, can you just state your name just for the record?

Mr. Torgerson: Yeah. Mikal Torgerson.

Mr. Chaikin: Okay, thank you.

Mr. Torgerson: Maui County Planning Department. I would take that setback to be from the certified shoreline independent of what the TMK is in and around the parcel were and so I think the -- that has happened on occasion, perhaps as an oversight, but I wouldn't exempt someone from a shoreline setback just because there's a TMK in front of them. If the certified shoreline is there, it's there - just as a matter of practice.

Mr. Buika: Yeah, just to add to that comment. Any parcel that -- kind of our practice, I don't believe it's in the rules, but any parcel that within 600 feet of the shoreline would be subjected to a setback determination because 600 feet, if you take -- if the lot depth is 600 feet, like when I gave you the average lot depth, 600 feet, if you take one-quarter of that, that gives you a setback of 150 feet, so that's our maximum setback so anything within that -- anything -- even though it doesn't -- we, you know, on Maui Island we have a lot of beach reserve parcels that are beaches and then you have the first kind of condo or a private parcel, private home on a parcel, but there's nothing in front of them but beach, and they're a TMK one back, just like you're talking about, so we still do make them do a shoreline setback approval. So I mean that's a good comment that we do use as practice, anything within 600 feet, we would require that as part of the application, the SMA application, and consider that abutting -- well, no, it's not abutting the shoreline, but we would require that as part of the application so --

Mr. Chaikin: And if I may just interject, we are currently in the process of reviewing and potentially revising the Shoreline Rules for the Molokai Planning Commission and that's something that we should take a pretty close look at at that time so --

Mr. Buika: Sure, and I'd be interested in helping out in any way that I can.

Mr. Chaikin: You know, I was going to specifically ask you, we're going to review all of our different rules, so, you know, as being really the authority on the special management area,

if you could review our rules and then give us feedback of anything that you think we should be changing, we'd certainly wanna be taking a look at that so --

Mr. Buika: Okay.

Mr. Chaikin: If that's something you could provide to us.

Mr. Buika: I have some -- I have some pet peeves I know myself that I can at least raise to your attention anyway so --

Mr. Chaikin: Sure.

Mr. Buika: I would love to. Thank you.

Mr. Chaikin: Thank you. Commissioner Sprinzel.

Mr. Sprinzel: Jim, did you or your department review or was it referred to you the Planning application we had today?

Mr. Buika: Pardon? Did I --

Mr. Sprinzel: The application we had today, which could break the camel's back as it were, was that referred to you for consideration at all?

Mr. Buika: No. No, it was not. I know Mikal is new. He's been reviewing a bunch of them. We are -- I'm working with Tara and Mikal on another Molokai project, but this one did not come to me but, again, I think what you're -- what I'm inferring from what you're saying is probably it should be more of a collaborative process within the Planning Department and --

Mr. Sprinzel: You feel it should have been?

Mr. Buika: Yes. Yes, I think --

Mr. Sprinzel: Because we're so confused about a lot of these things because we just don't know what the official view is. I mean the Director recommends an exemption and -- but do you get involved when it's the actual permit?

Mr. Buika: Yes, I do, and Mikal, you know, I know Mikal has a lot on his plate right now and I'm certainly willing to review some, and he's asked me to review a couple others so I have several others also to review.

Mr. Sprinzel: So you'd kind of be a backstop when the actual permit --

Mr. Buika: Yes.

Mr. Sprinzel: Application came in?

Mr. Buika: Yes.

Mr. Sprinzel: Thank you.

Mr. Buika: This one, I think, got through the safety net a little early, but I -- you know, I think you are, you know, you're the ultimate safety net obviously on something like this so --

Mr. Chaikin: Commissioner Bacon.

Mr. Bacon: I just wanted to add one thing on that is, you know, in these permits, one of the reasons that we came back and we have our own Commission here is that a lot of these decisions are being made on Maui and Maui was not familiar with our circumstances here. So in a case like this where the drawings of the house, for instance, or -- yeah, the house, didn't have that roof in there, which it should have had, and in fact Luigi said that he sent one that was modified with that roof in it to the Planning --

Mr. Buika: Building department, yeah.

Mr. Bacon: Yeah, or something, you know, no, I think he sent it to the Planning Department over there and yet he emailed Mikal a different one, you know, that didn't have it on there, so a lot of things get passed and get by us, you know, we talked about like, well, the State, Luigi said, well, the State approved that septic system, and it could be because the only information that they're getting is what we give them and so, like you say, we're here to sort of catch those things but a lot of times we don't, like the State -- if that drawing showed the septic system in what was actually the pond and it was presented to them as being on dry land, they wouldn't know that.

Mr. Buika: Right. Right, it's just a paper.

Mr. Bacon: So -- yeah, it's a piece of paper, that's what I was aiming at here is that, you know, I wanna see a piece of paper that says, yes, I understand what this is because they just say approval. Anyway, that's just -- well, it's a matter of what given to you to work with is important and that's why we're ...(inaudible)...

Mr. Buika: I do believe our new SMA application we're picking up -- we have like red, not red flags, but just check boxes for like if it's in any sensitive area, if there's a wetland involved, it's a check box. You know, it's to alert the applicant that something needs to be done or, you know, it's brought up to attention if there are any cemeteries on site or any,

you know, or in the area, any known burial sites or burial grounds. So we're trying to pickup some of these things that have been issues over the last few years that are sensitive to the -- to the SMA, so we're, you know, we're trying to do something like that is do dual purpose to raise that -- raise the attention of the applicant and to raise the attention of the planners and the commissioners all at once so --

Mr. Chaikin: Alright, thank you.

Mr. Buika: Thank you.

Mr. Chaikin: Is there any other Commissioners that have any other questions?  
Commissioner Leong.

Ms. Leong: I have a question on the slide that talks about other actions on permit applications under SMA rules. It says, "All minor and emergency permits as well as exemptions are reported to the commission at its next regular meeting." Next bullet is, "can be contested by the applicant or other parties by filing appeal with the commission within ten business days after the Director's decision." We had a case or, you know, an appeal earlier this year and that at its heart was kind of the procedural process and, you know, where was the correct place to file the appeal, who was making the decision, so I'm just wondering if you can clarify is this accurate what's stated, what I just read to you, and if not, could you clarify the appeal process?

Mr. Buika: Can -- can business days? Maybe our Corporation Counsel can call up the rules and --

Mr. Hopper: Could you bring up -- which page was that on again? You have Maui's ...(inaudible)...

Mr. Buika: There's a table -- do I have Maui's?

Mr. Hopper: You were -- no, this was based, when you wrote it ...(inaudible)...

Mr. Buika: It was based on Maui's but I double-checked with -- with my boss to make sure it was ...(inaudible)...

Mr. Hopper: Obviously --

Mr. Buika: Is it ten days or not?

Mr. Hopper: Obviously, the rules -- you don't have a report given to you of exemptions that the Director issues because you decide on the exemptions. So if it deals with an exemption or if you deal with a SMA minor permit, which on Maui the Director decides --

Mr. Buika: Right.

Mr. Hopper: And then that's forwarded to the Commission. That's how that happens because the Director makes the final decision on the exemption.

Mr. Buika: Right.

Mr. Hopper: And the final decision on the SMA minor permits. Correct?

Mr. Buika: Right.

Mr. Hopper: Here, on Molokai, okay --

Mr. Buika: They review all of those. Yes.

Mr. Hopper: The Commission is the final authority on exemptions --

Mr. Buika: Okay.

Mr. Hopper: And the final authority on SMA minor permits as well as use permits. Correct?

Mr. Buika: Yes. I stand corrected. As long as everyone else is clear on that. I guess we should strike that line. Is that what you're saying, Mike? I understand what you're saying and I think everyone -- and I think that's the reason for the question.

Mr. Hopper: Well, on Maui, it's -- you've got the Planning Director making the decisions on minor permits and exemptions, right?

Mr. Buika: Yes.

Mr. Hopper: And as a matter of practice on Maui, when the Director makes that decision, now normally, the Director would just make that decision and no one would know how that decision's made. Correct?

Mr. Buika: Right. So the information is to the Commission through that report?

Mr. Hopper: Right. Okay, and here we have a list of permits and exemptions and things but aside from emergency permits, which the Director decides on, minor, exemptions, and

major permits are all decided on by the Commission. So the Commission doesn't report to itself, I don't think, the decisions it makes. I know the decisions it makes, I think.

Mr. Buika: Okay.

Mr. Hopper: So, yeah, so that and you might wanna check on that for Lanai as well, if you already did there's, but they look at their own exemptions as well now.

Mr. Buika: Okay.

Mr. Hopper: Their rules have changed and they look at their exemptions, not minor permits though.

Mr. Buika: Okay.

Mr. Hopper: So that's important to change with each Commission and I know you were at your contested case yesterday all day so I understand.

Mr. Buika: I apologize for that error in there, but thank you for bringing that up.

Mr. Chaikin: Does any other Commissioners that have any questions or comments? Let me ask public if they've got any questions they'd like to ask the planner at this time. You're good? Oh, here, just use my mike here.

Mr. Vanderbilt: Aloha, James. Thanks for the presentation. Is this available online? I see the Commissioners got it. Is it available online?

Mr. Buika: I have a hard copy here for you if you'd like a copy on the table. It is not yet online. We can't put it online. We probably should put it online so --

Mr. Vanderbilt: Yeah, that would be helpful. You say that a single family home is not a development and it's exempted, right, as being a development?

Mr. Buika: Yes, sir, but you can require that it not be exempted.

Mr. Vanderbilt: Any exempted item can still be required to get a permit if there's some thought that it might impact the shoreline in some way. Is that true?

Mr. Buika: Yes, exactly, any environmental impact, yes. It has to meet those two criteria that it's -- that they're -- that it's an exempted from the as not the not development category and that there is no substantial environmental impact.

Mr. Vanderbilt: And with regard to the camel that broke the straw's -- or the straw that broke the camel's back, that last one, like if in some areas there's a beach and there's a subdivision along that beach and it's getting to the point where there's no beach access and the last guy comes along to build, is it -- you say it's up to this decision -- this group to make a gut decision on that or whether it'll be one too many septic tanks, but they can't just make a decision. Corp. Counsel says you gotta back it up with facts and nobody has any baseline data as to what is the quality of the water when the first house went in and how -- so how do you determine the cumulative impact if the County hasn't done any baseline studies?

Mr. Buika: As far as is this -- I think we were talking about beach access --

Mr. Vanderbilt: Well, just say that --

Mr. Buika: Like beach access and the septic system? Well, that's a I guess a judgement call from the information that the -- environmental information that the planners have, public input, as well as the Commission's input.

Mr. Vanderbilt: One other thing. On the SMA rules, it says, "No application will" -- they won't even start the process until it's a completed application. Now several applications that have come to this Commission have not been complete. So who makes the decision that an application's complete?

Mr. Buika: The Planning Department does. They should --

Mr. Vanderbilt: Who in the Planning Department?

Mr. Buika: Each individual planner is authorized by the Planning Director.

Mr. Vanderbilt: So if somebody has not -- in our rules, it lists what constitutes a completed application.

Mr. Buika: Yes.

Mr. Vanderbilt: If all those things aren't there, then they shouldn't start the processing of the application, right?

Mr. Buika: Yes, sir. For the -- for the analysis, the assessment. And believe me, most of our time, in the Planning Department, is going back and forth with the applicants to get the information we need. Sometimes it takes years.

Mr. Vanderbilt: Well, I guess -- I don't have my book here. Can I come back and just -- let me get my book.

Mr. Buika: And just to comment on that, also to expand on that, that is one reason why we're attempting to -- to expand on the SMA assessment application is so that completeness is transparent and also our assessment process is transparent as much as possible because that's part of the - I hate to say it - but it's part of the inherent inefficiency in people getting SMA applications through is because the application is not -- it's not self-guiding, it's not -- it hasn't been perfect, and it may not be permit, but we're striving in that direction.

Mr. Vanderbilt: Well, you mentioned about minimizing impacts on the shoreline.

Mr. Buika: Yes, sir.

Mr. Vanderbilt: But unless somebody has to get an SMA permit, you really can't minimize them can you? This Commission, if they have some concerns, they can't put conditions on an exemption, right?

Mr. Buika: Yes, that's true. However, they have the authority to -- if there are environmental impacts, they can change it either -- or request it to either be a minor permit or a major permit where they can put conditions on that. Yeah, I'm dealing with one right now on Maui where it's just a single -- well, it's a proposed project that has -- we think, the Planning Department thinks it needs conditions, it should not be exempted, and it requires conditions and so we want to elevate it to that level.

Mr. Vanderbilt: I understand that Maui has greater setback distances from the shoreline than Molokai. Is that correct?

Mr. Buika: Well, we have the same -- no, we have the same setbacks. We just have one additional way of calculating it with known erosion rates for some of the coastlines. I mean you do have erosion here but, as I understand it, some of it is different on the north shore, the pali, it's that unique situation, and many of fishponds, it's some different coastal erosion issues here. There's some similar and also some unique ones here. But they are the same setback rules.

Mr. Vanderbilt: When you're looking at these 12 or so items, you know, like detrimentally affects air and water quality and all those --

Mr. Buika: Yes, sir.

Mr. Vanderbilt: Those really need to be filled out pretty thoroughly where possible by the applicant, right? You're not supposed to just say we don't think it applies?

Mr. Buika: Does not apply. Does not apply. Does not apply. Yes.

Mr. Vanderbilt: And I think that's stated very clearly in the office -- State Office of Environmental Quality Control rules. And just one other thing is that what's the time difference do you think in getting everything prepared for an exemption and just starting right off and filing for an SMA permit? I mean --

Mr. Buika: A major permit.

Mr. Vanderbilt: A major permit. Major or minor. Because in our rules --

Mr. Buika: They actually are, you know, the SMA assessment permit, it's actually one in the same and then -- but once the application is complete, the first decision, determination by the Director or the Planning Department is whether it is in an exempted category, a minor category, or a major category. So that's our first decision that we have to make. So you can start out with one application and -- but some projects, obviously, bigger projects, we know they're going to be major SMAs.

Mr. Vanderbilt: The assessment process can be waived if the applicant just goes right ahead and does an SMA permit, right?

Mr. Buika: No, it's the same -- it's the same assessment process.

Mr. Vanderbilt: Well, I thought our rules stated that the Director can waive the assessment process if the applicant goes for a -- maybe Michael can clear that up but -- he says I'm right, for once. Yeah. So -- but all I'm saying is, in our rules --

Mr. Buika: I'll defer -- I'll defer --

Mr. Vanderbilt: In our rules it also says that if you go for an assessment and it's denied by this Commission and they want you to get a permit, actually, you don't have to do much more documentation. What you put in for the assessment satisfies for the major impact -- major SMA permit. There's not a whole lot of additional documentation. So --

Mr. Buika: No, I think that's true and -- but the -- what the Commission can do is they can set conditions for that project through a major permit.

Mr. Vanderbilt: No, we know that, but I just -- it just seems what's happened here is everybody goes through all this work, and the applicant goes and works for a half-a-year

with the County planners, and then they fudge up an application that's half complete, and then they try for an exemption, and it just takes so much time when they could have just done a full-blown SMA permit with the same information, and done it right, and it would have saved everybody a lot of headaches, and I think that's where we hope everything will start going, especially if you've got a project that's in a flood zone or right on the shoreline or right on a fishpond or whatever else, it would sure make everybody's life easier, I think, if people just said this is going to have an impact so let's go for a permit cause --

Mr. Buika: Yes, I agree. I agree.

Mr. Vanderbilt: Thank you.

Mr. Buika: Thank you for your comments.

Mr. Chaikin: Alright, thank you. Is there anybody else that has any further questions for James? I've just got a couple quick things. Most of the -- the applications that we look at in the SMA are for single-family homes, and we understand that they're normally exempted unless they're part of a larger development. Do you have examples so we can better understand what being part of a larger development is?

Mr. Buika: Sure. If somebody has a lot, and they're -- a large lot and they're dividing it into six parcels, and they're -- or large lot and they wanna put six homes on it, you know, but zoning can authorize that, so we would not allow that -- we would not allow that to happen. I think something like four is the limit or -- yeah, that would be one example. I don't know. Francis, can you think of any other examples that has crossed your desk in -- the question was, like a single-family home, an exemption for a single-family is an exemption if it's not part of a larger development. Or, Clayton? Clayton is our historian from the Planning Department so he has all these weird cases that he can refer to.

Mr. Yoshida: Well, I think an example would be if you, say, have a large lot, you have one single-family -- let's say you have a one-acre lot, you have one single-family home on it, and you wanna build, let's say your zoning is R-3, 10,000 square-foot minimum lot size, and you wanna build two more single-family homes on it, or another single-family home, so that would be, you know, cumulatively you have two single-family homes, same dwellings on one lot, so that second main dwelling would -- would be considered, you know, part of a larger development.

Mr. Chaikin: So that's different than what we normally do here with the ohana unit? I mean normally a house comes and they can build their main house and they got the ohana unit, is that something that's considered to be part of a larger development?

Mr. Yoshida: Well, I guess that's part of the single-family -- I guess that's allowed by the code. I'm talking about if you have a large lot but you still maintain the density of the zoning and you wanna build a second main dwelling, not an accessory dwelling, but a main dwelling on the lot, then that would be considered part of a larger development.

Mr. Chaikin: Yeah, two big houses?

Mr. Yoshida: Yeah. Right.

Mr. Chaikin: Yeah, which couldn't be considered an ohana unit, one of them?

Mr. Yoshida: Yes.

Mr. Chaikin: Okay, I understand that. I have another question for James. How long have you been working for the County of Maui Planning Department?

Mr. Buika: Three years.

Mr. Chaikin: Three years. During that time, have you seen any SMA permits denied?

Mr. Buika: Yes, I have.

Mr. Chaikin: Could you explain the circumstances for the denial just so we can get kind of a -- kind of a framework?

Mr. Buika: Well most of them I think were transient vacation rentals along the shoreline. We had a series of those on Maui. Again, most of my work has been on Maui. Those denials. Again, our historian, Clayton Yoshida, should be -- any denials.

Mr. Chaikin: Yeah, I'm thinking more of the SMA permits rather than a conditional permit. Anything that's like a environmental impact that was so high that the permit actually got denied. Are you aware of any of those?

Mr. Buika: I'll have to -- I haven't had those directly. Some seawalls or -- you know, what normally happens, and we have had some denials in front of the Maui Planning Commission, again, I think they were all transient vacation rentals, but what tends to happen is, usually, the Maui Planning Commission does not see denials, and the reason for that is because the Planning Department tells the applicant, you know what? We cannot support this because of various environmental reasons and we are not -- we are going to the Maui Planning Commission or we're going to the Molokai Planning Commission and we -- our recommendation is denial, and you can go forward and, you know, the applicant can go forward, but usually the applicant says, no, we choose not to

go forward. I have -- I have one right now that I am not supporting along the coastline and nothing has happened with it in six months because the County is not supporting it, that action. So, usually, and that's been a question, the same question we've had at our Maui Planning Commission is why don't we see more denials? And the reason is because those denials get weeded out through the Planning Department back and forth application process prior to ever getting to the commission. And believe me, there's a lot of like, you know, you query some of the planners, how long has this application been in the process? One year. Two years. It's because there's a lot of give and take on a lot of these projects. No, you're not mitigating enough for us in this area. We want you to change your project this way. Okay, we will. We want you to change it in this way. No, we're not going to. Okay, well then the Planning Department cannot support your application because there is -- we feel there is cumulative environmental impact, and it'll never reach the Commission, and we can take it on their behalf and recommend denial, and we have on some of these transient vacation rentals lately, but -- like I have -- like I'm saying, I have one example that I know right now in Kuau Bay that we're not supporting and it hasn't gone forward yet. So I don't know if Clayton has any examples of environmental denials. Usually, you know, I mean if it's private property, if it's a coastal plot, it's difficult to deny a homeowner, say a single-family home, from not building a home because there's cumulative impact. What we try to do is we try, again, that balancing act. We try to minimize. We try to mitigate in every way possible. What's the other option? The other option is for the County to buy that. You know, it's difficult to deny them developing something on their property. We try to minimize it. The other option is, you know, I guess a legal -- a legal battle with them.

Mr. Chaikin: Okay, Commissioner Sprinzel?

Mr. Sprinzel: I can remember at least three cases where the Urban Design Review Board refused the application and recommended to the Planning that this be denied, and they were withdrawn purely on the reasons you just stated.

Mr. Buika: Yes, thank you very much.

Mr. Chaikin: Okay, I just have one last question is that, you know, the single-family residence that come before us for an SMA minor or major permit, we can put conditions on. An example of a condition might be that they have to use drought resistant landscaping. So they go ahead and do that and then, subsequently, they sell the property to a new owner. How does that new owner become aware of the conditions on that property?

Mr. Buika: If it is a major permit, some of those conditions can run with the land. I don't know if Mike has some comments on this. But we can -- we can condition some -- some -- or you can't condition a condition, but we can make sure some of those conditions do run with the land so that it's not independent of the homeowner.

Mr. Chaikin: Okay, specifically, when you mean run with the land, does that mean you record it onto the deed?

Mr. Buika: Yes, it would be recorded on the deed.

Mr. Chaikin: Okay, so you record that on the deed --

Mr. Buika: There would be a lateral agreement and --

Mr. Chaikin: But are you aware of the County normally or ever doing that?

Mr. Buika: Oh yes. Yes, we do if there are dunes in front of properties to protect the dunes.

Mr. Chaikin: Okay, so we, as a Commission, is that something that if we felt strongly about a particular condition, it's something that we, as a Commission, should be requesting that a certain condition be recorded? Is that how that -- I'm just wondering how we go about doing that.

Mr. Buika: From my experience, I don't know, Mike, if you know technically, I mean you probably run through some of those conditions and unilateral agreements. Yes, but I think we -- you can do that.

Mr. Chaikin: Okay, that's good to know. Alright, is there any other questions before we move on here? Okay. Okay, I have to say that I need to take a short break but before we break, on behalf of the Commission, it was brought to my attention that I'd like to send our best wishes to Kathleen Aoki as the new Planning Director for the County of Maui. So we'll take a five-minute break and then we'll reconvene.

Mr. Buika: Thank you.

*(A recess was called at 2:52 p.m., and the meeting reconvened at 2:55 p.m.)*

Mr. Chaikin: Alright, Commissioners, at this time, I would like to reconvene this meeting and the next item on our agenda is Sea Level Rise and I guess we Tara Miller here. Is that correct?

Ms. Tara Miller: I'm in the process of changing my name so I'm confusing everybody. Tara Owens but Tara Miller is fine too.

### **3. Sea Level Rise**

Mr. Chaikin: Okay, anyway, I'm going to turn it over to you and you can do your presentation for us. Thank you.

Ms. Owens: Good afternoon you guys. Everybody hanging in there? There are extra copies of this presentation on the table if any of you in the audience would like to follow along. Okay, so my name is Tara Owens and I am a Coastal Hazards Specialist with the University of Hawaii Sea Grant Program, and so I am not a planner. I am situated on Maui and I do work with the Maui County Planners in the Planning Department, in the Current Division, and some of you may have known my predecessor, it was Zoe Norcross-Nu'u. I don't know if she ever interacted with this group or not. And my relevance mostly apply to the shoreline, so I work most closely with the shoreline planner, like Jim, and there are a few other, or any other of the planners that might have permits that are impacted by processes that are happening in the shoreline.

I was asked today to give a presentation about sea level rise or planning for sea level rise, so this isn't so much about rules, but sort of a conceptual framework to think about as you do permits moving into the future. So I thank the Planning Department for inviting me and including me and you, the Commissioners, as well.

So I'm just going to talk a little bit about the Sea Grant Program so that you kind of understand the context of why I'm here and how I work in partnership with the Planning Department. And then I'll go into some climate trends pretty briefly, and then move into how those climate trends are impacting sea level rise in Hawaii, and I'll try -- I have a few specific examples for Molokai and some that are relevant to Molokai.

Okay, so the Sea Grant Program is actually a Federal program administered by the National Oceanic and Atmospheric Administration, and it works through the nation's university network, so there's 32 different college programs around the nation, and you can see the little orange dots on the map, and so those are all the university based programs. So our program here in Hawaii is administered through UH, the School of Ocean and Arts Science and Technology, and we have affiliate faculty, we have researchers, and then we have extension agents, those are people like myself, and we serve the different communities throughout the islands. And my particular area of interest is coastal hazards, but there are extension agents who work in other fields and they fall into these four focus areas: sustainable safe seafood supply, sustainable coastal development, healthy coastal ecosystems, and hazard resilience. And that's where -- that's where most apply in the hazard resilience realm. And you can sort of tell that all of these topic areas are influenced by the new climate adaptation initiatives that are happening at the Federal level.

And then there are some different themes within our -- within our Hawaii program, but they fall in line with the Federal theme, and this structure really doesn't matter to you other than you might be hearing about some of these groups, in particular the ICAP group, island

climate adaptation and policy, and most of my work is most relevant to that. And this group or this theme was created to facilitate sustainable climate conscious future for Hawaii and it's a partnership between the Law School at UH, the Urban and Regional Planning Department, Hawaiian Studies, as well as SOAS.

And slide's falling off the screen but, hopefully, you can read the words close enough. Within this hazards program that I belong, there are others just like myself that are partnered up with the other counties and Maui or, in some cases, the State, so some of you may have interacted with Dolan Eversole and Chris Conger before. They work -- they're partnered up on Oahu with the Department of Land and Natural Resources, OCCL, whereas, I'm partnered with the Maui County Planning Department, and then Andy and our former agent on Kauai, Jim, are also partnered up with the respective counties there.

And like I said, there are 31 other programs like this around the nation but the Hawaii program is pretty well respected around the nation just -- just because of the technical ability of the people and the impact to the communities that they get involved with. And the Maui position, actually, was established 13 years ago and it was really the first of its kind here in the islands and the others have followed in suit, and our role is bring science to planning and, hopefully, to help expedite the permitting process for the planners by providing consultations or technical guidance or site visits - whatever the case may be, and relating to the topics that are listed here: hazard mitigation, coastal processes, erosion control, beach management, beach nourishment, shoreline change, erosion based setbacks, EIS and permit reviews, coastal construction, and a lot of public outreach as well.

So aside from working with the planners, we also interact with the public. We interact, I, in particular, interact with the State; hopefully, make that connection for the planners between what's happening between the State and County because, as you guys know, at the shoreline, there are two regulatory authorities here, the State and the County, and that's really unique to Hawaii. It's not like that other places in the nation. It's usually a state jurisdictional area all together. So we get involved with the public; sometimes help them put their permit applications together or conceptualize projects, such as dune restorations before they even come to the Planning Department. We also try to apply for grants and bring in money to the County where it's applicable.

Jim mentioned earlier that this partnership has produced some publications and these are some of the examples. Some of these you might have seen. *The Purchasing Coastal Real Estate Guide in Hawaii* is a really popular one and it's -- it's a pretty easy read, kind of a question and answer format, and it's just meant to help educate the public, homeowners, maybe real estate agents about coastal hazards before they even get into the process of buying coastal property. The newest publication is *Hawaii's Changing Climate*. That was written by Chip Fletcher at the University of Hawaii and it's a -- it's something like a three-page briefing just on some of the impacts that we might be seeing in Hawaii related to

climate change. And most of these, if not all of them, are available online through the UH Sea Grant website or we can provide hard copies if you make a request to me if you're interested.

Okay, so we'll start talking about the climate change trends we're seeing in Hawaii, and I'll try to stay at a pretty broad level, and I like to talk about things that we know and less about the things that are still speculative at this point. But I'll start with this cartoon. In case you can't see the words, the little man is walking down the street, and there's snow and ice, and it says, "Tonight's lecture: The dangers of global warming postponed." And this is just sort of kind of a funny reminder especially after the extensive winter weather we had across the nation this year, but weather and climate are not the same thing. You know, weather is what's happening today or this week. What's the temperature? How's the wind? And climate is longer term trends of those things. So just because there's a lot of snow, it doesn't mean that we're not seeing some events of climate change.

In Hawaii, here's some of the trends we're starting to observe: air temperature is rising, sea level is rising, and I'll talk a little bit more about those two items in detail, rainfall and stream flow are declining, rain intensity is up, sea surface temperature is rising, and the ocean is becoming more acidic. And this is going to probably cause some changes to the ecosystem balance over time, and the diversity of plant and animal species will be impacted because in order for species to stay in their climate zones, they have to migrate, so we'll start to see changes. Some of the impacts that you might think about around here, taro patches. If we're seeing a lower stream flow and we're seeing an encroachment of salt water from sea level rise, then those areas might be impacted. The fishponds. The fishponds you guys mentioned earlier, they may start to drown as sea level rise. Flash floods; mud slides; things that we have happening already will become more frequent events, and declining coral reefs.

Okay, so some of the facts. We've seen that global temperature is rising. This graph shows the long term trend in surface temperature since 1880, so the red line is a five-year running average of that trend, and what's interesting is you see a drop in 2008, and that was actually the coolest year of decade, ironically, and we attribute that to cooling of the tropical Pacific Ocean. But then in 2009, we saw -- we saw a return, an increase again up to near record global temperatures. And then in Hawaii, we're seeing the same thing. Temperatures are rising, especially in the last 30 years there's an acceleration, and even more so at higher elevations. So this might start impacting the spread of disease, impact water resources in the future. And we also know that tides are rising so there are tide stations all over the world. You can see all the little red dots on the map and we monitor those. And if you look at the global trend, there's definitely been an acceleration over the last couple of decades. And so the 20<sup>th</sup> century, it was approximately 6 inches, and then now we're seeing a rate of 12 to 14 inches per hundred years. And in Kahului, which is the

closest tide gaugers, there's not one available on Molokai, we're seeing that same rise and it looks to be about a rate of 9 inches in a hundred years so far.

So with increasing temperatures, we're going to start seeing increased sea level rise, and that happens through two processes: thermal expansion of the ocean water and addition of water to the system from melting glaciers and ice sheets. Probably most of you have seen evidence of this and seen images like this, but so what you see is there's -- there's been an acceleration in thermal expansion over the last 50 years and there's now -- we're now observing an increase in that rate over the last couple of decades. Also, in Antarctica and Greenland we're seeing more ice melting. The three regions of Antarctica are warming, and we've observed a 75% loss in the last decade, and similar in Greenland. The loss in Greenland, in 2007, this is statistics, or 2008 was three times the last that we observed in 2007.

So then the million dollar question that everybody wants to know is: How much sea level rise do we actually expect to see and how long will it take? It's now well agreed by scientists that a one meter rise by 2100, one meter being right around a little over three feet. That's almost certain - one meter. And in the past year, there's been a lot of debate over whether it will be much higher than that - two, three, four, or five meters, and the discussions continue, and the range of predictions are getting narrower, but the latest research seems to indicate that it's still maybe too early to have a confidence -- have confidence in a two meter rise. So while we say one meter is almost certain, we're not sure we can go all the way up to two meters, maybe somewhere in between there. And that's all based on modeling. So there are definitely some uncertainties associated with that. In the literature, there are kind of two approaches now to predicting how much sea level rise we're going to see. There are the physical climate models and these are the complicated models that try to figure out what's happening, how the ocean and atmosphere are interacting and modeling that, and problem is that we're tempting to account for a lot of complex processes but when we do that, there are still a lot of variables, such as the extent of melting of the glaciers and how fast that's going to happen and whether we're going to continue to see acceleration. And then there are semi-empirical models, and these are "models that actually look trends," so we're looking at the trends between an increase in temperature and an increase in sea level rise that we can observe. The down side to that is that we're assuming that relationship that we're observing is going to continue and we know that that's probably not the case.

But regardless, we know it is happening. We observe it at the tide gauges. And we know it has happened. So this is the Waimanalo ...(inaudible)... formation and you can see evidence of a -- of a fossilized coral head there, and just based on evidence like this, at this location, we know that sea level rise or sea level was, at one time, probably four to six meters higher than it is today. So we can look at estimates of the past, and you can't really see it very well on this graphic, it's getting faded out, you can't see any of the data

here, but anyway, we can look at estimates of the past and we can see what's been happening in this century, and now we're seeing an acceleration, and then we can make predictions for the future. And like I said, we're pretty confident in probably three feet over the next century and likely more.

So this is just another example of how one meter is probably a pretty reasonable planning target. So the very lefthand bar was the IPCC study, that's the International Panel on Climate Change, predictions that came out in 2007, and those have been widely circulated but we also know that they did not account for a lot of variables, such as some of the ice melting. And so some of the more recent studies, which are the other bars you see there, and this is sea level rise level on the lefthand side in centimeters and different studies, and they're predictions for what sea level rise might be. So the one meter planning target is right down the center. It seems pretty reasonable. And then, you know, there's definitely some higher estimates.

So then the next step is what should we do with this kind of information. We can try to plan for the future based on what we do know. In some states, this is an example in California, are actually requiring their state agencies to use a mandated level of sea level rise to start to use in their planning processes so in California, they have a mandate to plan up to 1.4 meters of sea level rise, and they've created these maps so they know what's in that inundation area, and then they're intersecting that with all kinds of data - population, vulnerable populations, critical facilities, schools, environmental hazards - and then they have that quantified and they can start to make better decisions about what do with all those issues. And in order to be able to do this, the first step is to have the entire resolution maps available, which is something that we're really just starting to do in Hawaii. Chip Fletcher's group at UH is -- has been mostly responsible for creating the maps, and they've done a really good job on Oahu, and the mapping process is just beginning to reach Maui and, hopefully, will include Molokai. This is a really crude map for Maui Island with a sea level rise of one meter in the areas in red, very low resolution, and based on low resolution elevation data. This is a more closeup version for Kaunakakai but still based on low resolution elevation data. So what is really need is high resolution elevation data that's collected through Lidar, which is a laser that's used to collect topography of the land, and then you can create better map products from that. But what you can see from this graphic is that there are definitely areas that will be flooded under a one meter sea level rise scenario, including the -- one of the main roads through Molokai, and this is what we're working towards. So this is a better high resolution product that was done for Oahu. So, hopefully, we'll have products similar to this available for Maui County in the next year or so.

So the impacts sort of dictate what sort of questions we might be asking ourselves. We know coastal erosion is going to increase. We know the water table is going to rise and that might create saltwater contamination in the aquifer. And new wetlands will form.

Some coastal lands will become submerged. Storm drains will start to backup. And the drainage infrastructure might stop working in really low lying areas. It will create an increase vulnerability to tsunamis and in some places, infrastructure failure. So as planners, we have to start thinking about how we wanna deal with all these issues. Should we be relocating our major infrastructure? Should we consider sea level rise when siting and doing engineering for coastal development? What are we going to do about ground water resources? What about runoff? All those are kind of questions that are going to be coming up.

On the shoreline retreat issue, just as an example, you know, we know sea level's been rising, there's evidence in this case, in Paia on Maui, there's a 1912 -- evidence of the 1912 shoreline offshore, so this is what -- this is kind of the trend we'll be looking at as sea levels continue to rise. And we have to decide how we're going to handle some of those things, and again, the picture's not that great on this projector, but the point here is it may be appropriate in some areas to take adaptation measures, like hardening the shoreline, but we have to be thinking about the impacts of that. If you stabilize the shoreline, you lose the beach. If you don't stabilize the shoreline, you lose the land. And we might, you know, I'm not going to advocate one thing over the other, but it's something to think about and it might dictate where we setup priority preserve areas. You know, we might have really strong cultural ties or recreational ties of certain areas that we can go ahead and set aside and say we're not going to allow these things to happen in those areas especially those that are still pristine. We'll probably start to see drainage failures. This is actually a coastal road in Kihei but I know you have your own examples around here, Kam Highway being one of them, so just think of this as a continuum. You know, you have places like New Orleans and Venice where they have to pump the roads and pump the low-lying areas on a regular basis, and Venice, Italy, they have to raise the sidewalks and raise the buildings. So these are things that we might start seeing in the Hawaiian Islands as well.

One of the big impacts for Molokai, I think, might be reef stress, so with an increase in water level, you're going to have an increase in wave energy, and with an increase in wave energy, you'll see an increase in turbidity, and then that impacts the life of the corals and their photo synthetic processes. And this idea of sediment reef suspension and how it might impact the coral reef hasn't really been that well studied, but there's actually a brand new study that's in review right now and it was done for the Kaunakakai Friends and Reef, it's title is *Predictions of Turbidity Due to Enhanced Sediment Reef Suspension Resulting from Sea Level Rise on a Fringing Coral Reefs Evidence from Molokai*, and this is a study that's just coming out from the USGS, the US Geological Survey, and I mean this is a great place to start because Molokai has one of the largest continuous fringing reefs, the largest in the islands, and maybe one of the largest in the nation, and essentially, you know, like I said, when sea level rises, the signs -- silty sediments are going to start to be mobilized on the reefs and we'll start to see some of these impacts. And I think the USGS study is predicting that with a 20 centimeter sea level rise, which is pretty conservative, you're going

to see double the amount of sediment suspension over the reefs and for longer periods of time.

Another impact, critical infrastructure. This is again on Maui, the Kahului Wastewater Treatment Facility and the power plant, all in the sea level rise inundation area as well as the tsunami inundation area, and I mean this can be somewhat of a sore point on Maui, and I don't bring it up to be a sore point, but it's just something that we have to start thinking about because we're going to have to start taking mitigative measures; in the case of the wastewater treatment facility, the Department of Environmental Management is getting ready to apply for a new revetment, and that's something that the Planning Department will have to deal with, and we have to start thinking of cumulative impacts that you guys have mentioned many times today.

There are some larger Federal initiatives that are going on. There's a NOAA/USGS partnership that's trying to explore adaptation measures so they can provide some guidance to communities, hopefully, at the local level, like you deal with, and, you know, they're saying, well, we have to start defining the problem and exploring these issues with the community through such avenues like this, you know, it starts with everybody being educated and ...(inaudible)... and deciding that they wanna deal with it. They recommend forming committees of stakeholders; gathering data, information, and tools, well, I'm entering the maps, that's a really important first step, and one that we're taking here in Hawaii. And then after you have the data and you have the information and you have the political will, start figuring out what your strategies are going to be and then, hopefully, sustain that, just support whatever in the long term.

So just to sort of summarize what we should be doing or what we can be doing, it looks like we should be planning for a three to four foot sea level rise, and acquiring the data and maps; doing risk based land use planning, so maybe start requiring a sea level assessment in environmental assessments and environmental impact statements; maybe in the areas that we know that are highly vulnerable, start designating no-build zones or funding land trust acquisitions so that we can protect the areas that are of high priority, and all that goes into strengthening our ecosystems and just being flexible about how we decide to adapt to these issues that we know are coming our way. And that's all I have so I'll take questions. I know this is a pretty inquisitive group.

Mr. Chaikin: Alright, thank you very much for that, Tara. It's certainly an interesting subject and a subject that we're going to have to be hearing and talking a lot more about in the weeks, and months, and years ahead. Commissioners, do you have any questions for Tara? Commissioner Bacon.

Mr. Bacon: Just the one question. You were talking about the sea level rise in a hundred years sort of thing. What increments are the current -- is the current thinking in terms of like 10-year periods, 20-year periods, and that sort of thing?

Ms. Owens: I think people are more hesitant to make those predictions because while we can pretty -- we can be pretty confident in that one meter sea level rise, you know, I mentioned all the different variables and we don't know how fast some of those things are going to be happening or whether they'll continue to increase. There's not a whole lot of guidance on breaking it down beyond the century level, especially at the local level, and it has to be looked at at the local level, like -- or regional level, like the Hawaiian Islands level because there are other factors that play into that - there are tectonic issues, subsidence, and -- you know, it's going to be what we see. The impacts are going to be different on each of the islands, even within Hawaii, because of the geologic issues. So I don't think I have a good answer for that right now.

Mr. Chaikin: Alright, does any other Commissioners have any questions? Is there anybody out in the public that would like to ask any questions? You're welcome to if you'd like to.

Mr. Vanderbilt: Thank you, Tara. You mentioned that you're going to be doing Maui next, one of these maps that show -- and that you, hopefully, will include Molokai. Is there any way that Molokai could move up ahead of Maui cause they finished their Island Plan, we're just getting started on ours, and this would be very important information? And if there is, who do we talk to and --

Ms. Owens: I think you'll -- well, so I, myself, don't create these maps but Maui County just signed the contract with Chip Fletcher at UH to start putting together the maps for Maui County, and I don't know what the priority areas are for that project. So that question probably should be directed to - I would say two people - Jeffrey Dack, at the Maui County Planning office, who's in charge of that particular contract, as well as Chip Fletcher at UH who could directly answer that for you.

Mr. Vanderbilt: Is this presentation that you gave today online anywhere?

Ms. Owens: It's not but I would be happy to provide to you by email or ...(inaudible)...

Mr. Vanderbilt: Well, I think there's a lot of good information just as we're getting into our planning and research I mean that we -- it would really be helpful.

Ms. Owens: Okay. If somebody would provide me an email, then I'll be happy to get that to you.

Mr. Vanderbilt: Maybe the Planning Department could get it. And then that map that you showed in Kaunakakai with the -- that was with a one meter rise?

Ms. Owens: That's correct.

Mr. Vanderbilt: And you said it might not be exactly accurate because you're dealing with some low resolution stuff, but could you do that map based on the low resolution for the entire island of Molokai without much trouble? Or who would we see about that?

Ms. Owens: Again, that's Chip and the base -- I'm not sure what -- I think they used some 10 meter or 30 meter DMs probably from the USGS to create that map, and I can find out for sure exactly, and it probably could be created easily, fairly easily for other areas of Molokai.

Mr. Vanderbilt: It seems really important. I mean if you drive out East End, the water's coming right up under the roads right now, and so in our community plan, we're going to have to start figuring out how to get easements in this round of community plans for future road development, and so it's going to be -- that's going to be a big issue in our planning, I would think, but --

Ms. Owens: Well, and your awareness and your questioning is the first place to start and so I mean I would say -- I would say start lobbying the people who are handling the data, if it's very important to you, and is the people that I just mentioned.

Mr. Vanderbilt: Okay, thank you.

Ms. Owens: Thank you.

Mr. Chaikin: Is there anybody else that has any questions for Tara? If not, I'd like to thank you very much --

Ms. Owens: Thank you.

Mr. Chaikin: For your very interesting presentation. I'd also like to thank Clayton for inviting Tara to be here today. Okay, as we move on with our agenda, we have the next part of the workshop here today is discrimination. Who's going to cover that, Clayton? Francis, you're going to take care of that discrimination? Alright, you're up.

#### **4. County Policy Against Discrimination**

Mr. Cerizo: Good afternoon, Commissioners. This is a our annual mandated training for sexual harassment. We'll keep it short. In your packets when you became a

commissioner, this was one of the documents that was included. You can read it in its entirety at your leisure. I'm just going to go over to the high points.

So what is sexual harassment? It means unwelcomed sexual advances, request for sexual favors, and other verbal or physical conduct or visual display of a sexual nature directed by an officer or employee to another officer, employee, or private individual. All personnel, including commissioners, must refrain from this conduct. Making unwelcome sexual advances, making remarks of a sexual nature, using gender based sexually abusive language, and sexual innuendos, visually displaying materials of a sexual nature, physical contact of a sexual nature, and any other similar actions.

The County of Maui has a zero tolerance policy against these activities. They will not condone any harassment in the workforce. This policy is applicable to board and commission members as well as to County employees.

How to file a complaint? An individual who feels that he is subject to harassment shall immediately inform his supervisor or, in your case, you would inform your chairperson. And if it's the chairperson, you would inform the Equal -- the County Equal Employment Opportunity Officer, and that's the Director of Personnel Services on Maui. Other options is you can go directly to the Planning Director, the Deputy Director, another board -- the chairperson, and on the higher level, you can go to the State or the Federal commission, but you're encouraged to go locally first before seeking outside agencies. Complaints may be informal, which means it can either be written or verbal, or we can have a formal complaint where you write the -- you put it down in writing and actually sign the allegation. We will conduct the investigation in an unbiased, fair, and discrete manner. There will be all of the appropriate safeguards to maintain confidentiality and protection from embarrassment that the law allows.

An individual who is found, after an investigation, to be an offender will receive an appropriate discipline. Any disciplinary action ...(inaudible)... will be reviewed by the Director of Personnel Services and approved by the County EEO Office. And one of the important parts of this investigation, there should be no retaliatory or discrimination against the individual that filed the complaint. Any questions? Seeing none, we'll move on to the next presentation.

Mr. Chaikin: Back to floods.

Mr. Cerizo: Back to floods. Let me start it up.

## **5. Flood Hazard Districts**

Mr. Cerizo: My presentation today is on the County's Flood Hazard District Ordinance. I'll be also reviewing the flood maps and the standards, the community rating system, which is similar to the fire rating system, and your role as a Commission, as the Commission, to have a better flood resistant community.

As you can see, this is a -- you know, we can incur a lot of damages from a hurricane or from flooding. In 1992, almost three billion dollars of damages were on the island of Lanai -- I mean, I'm sorry, Kauai, and Hurricane Katrina, the big one that we had a few years, was a hundred billion dollars. So, you know, how do you prevent or how do you prepare for this type of catastrophe that may happen, you know, at any time? One of the things that really was mandated to do back in '81 was to adopt a flood ordinance. We recently revised the ordinance in 2009, September of 2009. One of the requirements for any work within the flood zone is to obtain permits. So permits for any type of developments and this is one of the questions the Chairperson brought up, you know, what is a development? When do you need a flood permit? You need it for any manmade change to improve or unimprove real estate and this includes walls, buildings, structures, filling, grading, mining, and other similar activities.

There's two types of flood zones that occurs on the islands and the one on the left is shallow flooding that's caused by riverine flooding or coastal flooding. And on the right side, the V Zone, that is a high velocity wave that usually is initiated by a tsunami or a hurricane.

And these are various types of permits. The main permit is on the right. And there's five types of certification that are required - depending on the type of flooding that occurs on the property.

The main purpose of the program is for the protection of human life, property, and for the reduction of public cost for flood control, rescue and relief efforts. Our first flood maps came out in 1981. These are examples of the paper version. You probably still have them in your library, your local library. But more recently, we had gone online so on this website, you can easily find your property. You can go and put in your address or your TMK and search. Some of the main features on the maps are, besides your flood zone, you also can have, in some areas, you'll have topo, topography maps and those are based on two-foot intervals, so it's a little more information that we have than our older maps. This is an example of the mapping here on Molokai. This is on Papohaku Beach. We have some areas here along the -- this is the dune area here and along the beach we have flood zones that go up to 30 feet above mean sea level, so it's like a two-story building that rises above the ocean if it's coming towards you. It's pretty intense in Papohaku. We have also flooding that's caused by riverine flooding, and these are the streams that you have A Zones. This is a more detailed riverine type flooding. This is right out of town, Kaunakakai Stream.

The flood area typically is considered as the flood plain area. Anything with A Zone is riverine flooding. This area here is protected by a levy so in town we have a levy on the west end of town and it protects the area, so in case this levy fails or does not meet its certification, and that's something that FEMA is looking at due to the many failures of levies on the Mainland, Sacramento is one of them, L.A., and most recently in Katrina. They relooked at all the levies and there's a recertification process for it. And right now, on our island, Iao Stream is being decertified and it's going to look something like this where, you know, you may have thousands of businesses and homes affected by flooding.

So the darker area here is a little -- it's called a "floodway," and a floodway is like the major part of the stream. That's what carries most of the flood waters. On this section here, we can see this is the flood plain as we look at all of the A Zones, for example. This is AE Zones, and what happens is that, the way they created this floodway as if this was the original flood plain level before the floodway was created, what FEMA does is they would flood this portion of what we consider the floodway, and you can't really see the color, but this area is -- it raises the flood plain up about a foot and that's caused by these encroachments. So they allow a certain amount of encroachment in the flood plain but the result is that they can't exceed a foot. The County just adopted rules that requires that any encroachment in any flood plain does not increase this flood height. So if you're building in here, you have to do some work that would be -- that would compensate for the increase in the flood plain cause every time you fill in, you know, there's going to be a little incremental increase in the flood plain and one of the code changes was to mitigate that action. This is your Kaunakakai Stream.

So how do you build in the flood zone? In Flood Zone A, which is the riverine flooding, the main design is to elevate the structures and, based on our new regulations, you need to go, not only to the base flood elevation that's noted on the map, but you need to go an additional foot above the base flood elevation. And in addition to those -- the elevation requirements, there's design elements of the structure that needs to be addressed where if flows either going through the building, under the building, that it's adequately protected. These requirements are usually done by an engineer or an architect that certifies the work.

In the V Zone, which is coastal flooding, where you have high velocity, we have -- it's a little more stringent. The base flood elevation is not only increased by one foot, but we actually make sure that the water does not even touch any part of the structure elements under the building. So in this V Zone area, the water would be right at the bottom of the structure. In other zones, you're allowed to go up to the floor so you'll have some water kinda lapping at your door, but in this case, you're in V Zone since there's a high intensity wave action that was built into the standards.

So this is a typical section. On the left is your V Zone. This is a one-foot freeboard, and this is your, you know, water level of the flooding. In this case here, also in the riverine or

coastal flooding that's non-velocity, they -- all your requirement is to meet the -- the top of the floor.

The County has a -- is involved in a community rating system. Due to higher standards that we have adopted, and some of them were implemented last year, which includes the higher -- the extra freeboard above the base flood elevation, the County has reduced flood premiums and, right now, we have a premium reduction for the whole County of 10%. Based on the new adoption of the -- our related standards, we're looking at obtaining or increasing that 20%. So right now, the savings to the County is about a half-a-million dollars and we're going to increase that to a million dollars in premium savings for all the people that are -- that are required to obtain insurance.

And your role. You know, how can you make it better? There's two areas that we look at, and one that you're going to be involved within the next few years or sooner, is the open space. When you develop your -- open space, basically, is those areas where development is limited. No construction. No buildings. No structures. So some of your community plan areas are right now -- this is the community plan, the current community plan for Kaunakakai and also Kalamaula, and as you can see in the Kalamaula area, we have this huge flood area and, right now, we have, you know, it's filled with homes and it may be too late, you know, you may have all the homes built. Here's the new subdivision that came in and that area is also in the flood zone. Being that this is in the Hawaiian Homes area, they have -- we have no jurisdiction in that area. But, you know, we have other areas that we do have jurisdiction and, you know, we have one here in Kaunakakai, Kawela, Pukoo. You know, you go down to the East End, you have all of these streams that's coming through and they all have similar inundation limits. As part of your community plan, you know, you have -- you know, one thing is to evaluate, you know, the construction within this area. On Maui, we have -- in some areas we have created open space areas where there's no construction that's built in these areas, and that's one option that you have available.

Another area that's under your jurisdiction is the special management areas, and the rules, your rules, require that there be an evaluation of the potential adverse environmental and ecological effects on sensitive areas, such as flood plains, shoreline, tsunami areas - basically, on flood areas. So when there's a development in that area, you know, those questions that you can ask is, you know, how does it affect -- how does that wall that they're building on the street affect your neighbor? How is the grading that they're going fill this lot or this development going to affect the neighborhood or the surrounding areas? So as planners, we're supposed to evaluate and make sure that that's mitigated but, you know, that's something that -- where you can ask more questions, you know, should we, if it's in an open space area, should we build in there? Or if it's flooded, you know, what can they do if they wanted to put a new subdivision here even though it's not open space,

you know, what impacts, what actions can they or the developer impose so that there will be minimal impact on adjacent properties?

So those are your two areas: the open space for the community plan approval that's upcoming, and your special management area reviews. Thank you for your attention. Do you have any questions?

Mr. Chaikin: Commissioners, do you have any questions for Francis? Francis, I'll see if I can come up with a question for you here. Can you just once again define for us what base flood elevation is?

Mr. Cerizo: On the flood maps, you know, when you bring it up online, the base flood elevation is a -- is the elevation, as you can see on this map here, this squiggly line, and that is the elevation on the water surface and the reference point on the water surface, it's 28 feet above mean sea level. Datum that we use is called "local tidal datum," and it's based on more or less mean sea level. So that is the elevation that you would use to build or design your development. It has to be at or above that requirement. But since the new ordinance, we indicate that there's additional freeboard, so you would have to build, in all cases, you'd have to build a foot above the base flood elevation.

Mr. Chaikin: Okay, so that 28-foot, is that some elevation that they expect it to flood at in the next hundred years or what is that?

Mr. Cerizo: That's correct.

Mr. Chaikin: Okay, so it's a hundred-year flood. Highest point that they expect, project in the next hundred years.

Mr. Cerizo: The hundred years, the way they define a hundred-year flood, that's just more of a layman's term, but it's the 1% chance, anytime there's a tsunami, there's a 1% chance that it may be the big one. So but in some cases, you know, you could have it one year and then you have it the next year, but it's just that there's a 1% chance of that occurring at any one time.

Mr. Chaikin: Okay, and that 28-foot, where did that come from? Is that FEMA that determine that?

Mr. Cerizo: That's correct.

Mr. Chaikin: And when FEMA determines that 28 feet, do you know if they're using -- I mean are they using projected data or are they using data from the past?

Mr. Cerizo: That's a whole new class, but in essence, that's -- the studies that provide, and it's in the flood insurance study, it's based on past. There's several past tsunamis that they base their models -- they use their models with. They use on their models. And it's 1946 occurrence and, you know, that's the big one that happened in -- on the Big Island and several other ones. But right now, there's plans to reevaluate the tsunami inundation limits. There's a new study that's being done by the University of Hawaii for the -- well, they're doing the study and it's a -- we'll be looking at it but we're not sure if we're going to be using it, but it'll be a good study to kinda compare with what FEMA came up with.

Mr. Chaikin: Okay, thank you. I just have one more question about the process because you know here at the Commission we review all these different applications that come before, and when we look at the application, we go through all the data and within there, it says that they have to obtain a flood permit in some cases. Now, that means that the application might actually change. I mean doesn't it -- when it comes to you, what's your average day? You look at these things. Sometimes you get things before you and then you have to change what these people are requesting to do or how does that work?

Mr. Cerizo: Well, if -- a lot of times we have engineers or architects that do the job and if they're familiar with the process, you know, they come in and they do it correctly most of the time. There may be, like in this case here, you know, we have a new code that just came in so there'll be a new learning -- there'll be a learning curve to get used to to the new standards but eventually, you know. We don't have too many developments within the flood zone and --

Mr. Chaikin: Well, I guess let's just take today, for example, we had an application come before us and it says that they have to get an -- they're in the A Zone so they have to get a flood permit for that. Now, this application started in 2007. It is now 2010. Still don't have a flood permit. I mean why does it -- is it not already addressed after three years, the flood permit?

Mr. Cerizo: Yeah, I don't know the details on this project as far as, you know, why it took so long, but a lot of times, you know, we look at SMA permits as a conceptual approval because there can be times where you could just, you know, the Planning Commission has the authority to change this and, you know, change the plans, change the location, move the building somewhere else, so once they get their approval, we'll make sure that the building does comply to the flood ordinance and there's some minor changes, you know, like the material that they use. I think the height is the easiest because that's like, you know, you have to build it at that certain height. So the changes that people do is that, you know, the material they use on whatever is below the base flood elevation has to be flood proof material. It can't be, you know, it can't be regular plywood and so forth.

Mr. Chaikin: Alright, well, thank you for that clarification. Is there any -- Commissioners, do you have any other questions or anything? Does the public have anything they would like to address? If not, we'd like to thank Francis for coming here today and taking the trip to Molokai. And with that, we can move on to the Item G.6., which is the timeline for the Molokai Community Plan Update, and we do have Long Range Planning that has made the trip here today. So at this time, I'd like to turn it over to them for their presentation.

## **6. Timeline for the Molokai Community Plan Update**

Ms. Nancy McPherson: Aloha kakou, Molokai Planning Commissioners. I'm Nancy McPherson, your former Staff Planner. I'm now working for the Long Range Planning Division, and we're here to just give you a briefing, per your request, on where we are with the Molokai Community Plan Update, it's Molokai and Lanai, but we'll tell you a little more about that in a minute, and so we're here just to give you a brief overview of where we are in the planning to plan process. And I would also like, I think you all know me, I don't know if everybody here does, but I worked on Molokai for three years as the Staff Planner and in September, I went over to Maui to work for the Long Range Planning Division to work on the Molokai Community Plan Update as well as many other things they want me to do. So I'd like to introduce my teammates now if I may, Kathleen -- well, David Yamashita, and I'll let him say just a brief word about himself, and Kathleen Kern. We also -- Dave Michaelson, who came to your last meeting, he's on the team also, and we also have a GIS tem who's going to be working on your maps and other information. So let me hand it over to David.

Mr. David Yamashita: Hi. It's good to be here. My name is Dave Yamashita, as Nancy said. I'm a Planner with the Long Range Division, and I just joined the division last year. I grew up on Oahu and worked -- went to graduate school at the University of Oregon, and then worked as a planner in Portland, Oregon, for about 30 years before my wife and I decided to move back. And -- but I know Molokai pretty well because my high school classmate, and I'm sure everybody here knows, is Jeffrey Gusa at Mid-Pacific, so Jeff and I are good friends, and I spent -- I made many visits here so I, with Jeff, went hunting, I went surfing at the wharf, camped out in Wailau, Halawa, and bunch of other places so -- but it's good to be back and so I'm looking forward, like I think everybody else, to working on the community plan. So thank you.

Mr. Kathleen Kern: And I'll just briefly introduce myself. I'm Kathleen Kern. Like David, I also just joined the Long Range Planning Division last year. I'm educated at the University of British Columbia as well as the University of Washington in Seattle and have worked for both the City of Seattle as well as the City of Vancouver in BC, and while this is my first time living in Hawaii, I do have a brother who lives here and has done since 1975, and I've been visiting here since I was about this big quite often as I've had family who's lived here part time as well.

I'm just going to start off with a powerpoint. We're going to actually take turns delivering this powerpoint. I'll just sort of do this first section that's sort of a board overview of the community plan and the update for 2012. The 2012 update is going to be, obviously, an update to the 2001 community plan. The Long Range Division along with Chris Hart & Partners, planning consultants, will be working on the update. And as you may or may not know, the Molokai Community Plan is part of the umbrella, a set of policies and plans that are part of the Maui County General Plan. The sort of overarching document is the Countywide Policy Plan, which was approved by Council this year, on March the 24<sup>th</sup>. The Maui Island Plan is actually before Council right now, and they'll be going back to deliberating on the Maui Island Plan after they've finished with the budget deliberations. But the next thing that the Long Range Planning Department is working on is both the Molokai and Lanai Community Plans. Maui Island Plan then also has another set of seven plans, community plans, that will follow from it.

The community plans are mandated or rather the Maui County Code 2.80B.070 actually describes in detail what each community plan shall contain, and this includes but it's not necessarily limited to description of the plan area, description of major problems and opportunities, social and economic projections, land use standards and principles, and all these things. What's new and different for the 2012 update compared to the 2001 community plan is there are some new requirements that we will have to do, and these include streetscape and landscape principles; public facilities and transportation improvements plan; an action element and an implementation program; a capital improvement plan, which includes public facilities, water, utilities, drainage, roads, which includes the financial elements that is the financial projections of how much those improvements are going to cost, and the broad implementation schedule. And finally, we will also be required to develop a monitoring plan, which needs to include milestone and will have annual reports after the plan is approved.

As I said earlier, we're going to be working with Chris Hart & Partners consultants, or CHP. Some of the things that CHP has been contracted to do include helping us develop an economic development issues paper; a housing issues paper; resource and capital improvements resource as a needs; developing growth scenarios and a directed growth strategy; and helping to prepare the preliminary, and the public review, and final drafts of the plan. And CHP will also be working with us to conduct community outreach events, collect data, do research, deliver public information, and in staffing and doing presentations to CPAC meetings.

A little more detail on the economic development issues paper. CHP has subcontracted to John Knox and Associates. He will produce an economic issues paper for Molokai and Lanai that covers emerging economic development issues, threats and opportunities, economic development policy options and strategies. Knox will gather information on

economic conditions issues, threats, opportunities through interviews as well as through research.

An affordable housing paper will be -- is being subcontracted to Tom Danell, who's a former professor with University of Hawaii School of Community Planning, who'll research housing affordability on Molokai, and the research will document the extent and depth of the need for affordable housing and that's to get causes of the worsening affordable housing problem and assess current public and private efforts to address the problem.

With that exciting news, I'm going to turn it over to David who's going to talk more directly about our principles for the plan.

Mr. Yamashita: Alright, I'm just going to talk about how we're going to approach the project and also go over the timeline as well very quickly. So when we started the project, we just started to think about how we would approach the whole work program because each project is a little bit different so we -- I just wanna go over some of the things that we discussed on how we're going to do this. The first thing is you already have a community plan so it's not like we're starting from square one, so what we're going to do is just start with the existing community plan, add the new elements that are required by 2.80B, and also add new data to the plan. So again, we're starting -- it's really an update of the existing plan. We're also going to incorporate previous planning efforts. One of the things that struck us when we started was how much had already been done by the community, there's a lot of good work that is really pretty unusual, and so we're going to integrate that as much as we can into our work program.

It's also, this is what's going to be a little bit different, we're going to try and utilize a strength based approach. Sometimes it called acid based planning. But we decided it to call it -- it's for community based and strength based planning, which means that instead of looking at say Molokai in terms of problems, what we would like to do is to look at -- start from the strength of the island and think about first what works, and then think about how to utilize that, and how to strengthen that instead of, again, always focusing on problems. So we're not quite sure how this is all going to play out but that's the general idea and so you'll see that in the work program and things that we do. One of the first questions is: What's working for you now? And then build from that.

We're also looking to broaden community participation, and Nancy will talk a little bit about the things that we're doing, but we're looking at a pretty wide range of efforts to encourage involvement from all parts of the community.

We're also going to think about -- think carefully about implementation. In some of the early interviews we did, what we heard quite often was, gee, you know, that first plan was great but nothing was ever implemented or very little. So that's a question for us, and we

would also turn it back to the community as well, not only what can the County do, but what can the community do to help implement the plan.

Okay, quickly on the timeline. Our big deadline, and this is a good one to just keep in mind, is right now we're scheduled or we'd like to have a draft to the CPAC by essentially around this time next year, about April of 2011, so we're doing a lot of community engagement between now and then, and the CPAC will be convened in - you can see this - if you look at -- we're at, right now, research and data gathering, and developing the draft plan is at the end and at the March or April of 2011, and between you have a lot of community engagement workshops. Once the plan is developed, there'll be an internal review, it'll be given to the CPAC, and then they have about six months to look at it, and then it goes to the Planning Commission, the Planning Commission has a maximum of about six months, there's another revision period, and then it goes to the Council, which has a whole year to review the plan. So that's why it stretches out. And these are maximum times. These are not the necessarily what we're going to take.

Okay, so that's it for the timeline. Nancy's going to talk about community engagement.

Ms. McPherson: Well, we did a lot of research on best practices today in the planning fields so we were really trying to bring things up to sort of the cutting edge tools that planners are using right now in the United States and Britain and in other countries. And one of the things that is really being recommended, and also that Dr. Manerbi has us doing at the University of Hawaii, was using as many different methods of gathering information from the community as possible, so the idea is to make things visual, make them, you know, verbal voice, written, we wanna use the internet, we wanna talk as much as we can one on one with people so we're meeting with stakeholders, which we hope are representative of the broadest, you know, cross-section of the community, and I mean everyone's important, but we do know that there are key people who are in key roles in the community, so we're trying to talk to them. We wanna make sure that the public events are well publicized. We want to have a variety of events. And we want to engage the youth and children, the opio and the kupuna.

So we're going to have -- originally, there were only going to be two events. We've expanded that to four because we felt it was important to have an open house be the first event to welcome the community to introduce ourselves, to give everyone some basic information, to make it a fun atmosphere for learning about community planning and giving us some of their mana'o, and so it's going to be kind of like the Earth Day cause that seems to work really well so we thought, well, why don't we do something kind of like that. Then we're going to follow that with two workshops, issues and opportunities, goals, and principles, and then an ideas charrette, so some real good creative, you know, problem solving kinds of activities, working together as a group. And then, finally, with the results of all of that, we wanna bring it back to the community and have it, you know, looked at by

everyone. We wanna ask the community is this -- is this -- did we get this right? And then -- we can move on to the draft.

So the first event is tentatively scheduled -- well, actually, firmly scheduled for June 26, and we just found out today that we could have Kalaniana'ole Hall, so the restored building over there in Kapu'iwa Grove. We thought that would be appropriate to honor the past, Molokai's past as the first homestead community in Hawaii, and so it's going to be from 10 a.m. to 2 p.m. People can come in any time they wanted. It's not -- it's structured but it's not structured. It's to try to just be really welcoming and people can bring their children and they can come whenever they -- they can and, hopefully, we'll, you know, learn something. We wanna introduce ourselves, get -- meet as many people as we can, introduce what we're going to be doing to the community, give you some basic information that we have so try to tell you a little bit about what we know so far, and then also get you to help us fill in the gaps, you know, help us identify and prioritize things. The layout is going to be stations. Each station is going to have, hopefully, two staff or one staff and a community volunteer, so we're, hopefully, going to get some community volunteers to help us, and people can -- don't have to do it in order, they can mill around, and we may have some activities on a table in the middle. We're also going to do a video blog so people can sit in a special little area just by themselves, or with someone else if they want to, and talk about what they feel is important for us to cover in the community plan.

So we have another event, which is going to be identifying -- so that's going to be more like the small group round table discussion kinds of things, you know, talking about the vision, the values, and principles, and, you know, have a dialogue about issues and opportunities, and kind of develop a list of goals that residents have for Molokai. Then we're also going to be doing an idea charrette, which is a hands on workshop where people are drawing things, and writing things, and moving stuff around, and really generate some ideas and solutions for Molokai's challenges and also, you know, identifying our strengths again, and bring -- base those on the principles and values that were identified in the previous workshop, and then really try to -- charrettes are great because they help you put it all together. It's holistic. It has to be interconnected. You're not doing it separately. So if it looks like it will work, then it most likely will because we've kind of got all of the moving pieces in one place at the same time.

So finally, and a open house, again, to kind of cap the end of the process to -- again, open house drop-in format, present the result, give some, you know, of this information to the community, get some more feedback on that, some more fine tuning, and really display all the hard work that the community has been doing with us to get this plan to the draft stage. So we are at that point as we are formulating the draft, we'll be going into the CPAC, community plan advisory committee selection process. We are advocating that the GPAC members be appointed to the CPAC, but the County Council makes the final decision, and nine members will be nominated by the Council and four by the Mayor. So there is an

application process and you can, you know, call us or email us if you need more information about how to do that, and we would hope the community would, you know, kind of come together to try to help us get a good CPAC and then any questions, observations? And you can ask any of us.

Mr. Chaikin: Commissioners, you got any questions for Nancy? Nancy, on the CPAC, I mean that's a -- it's a very important group because I think all the different groups within the community really have to buy into this whole process, and if somehow they feel like they weren't given an ample opportunity to sit on that CPAC, you might get splinter groups splitting off and saying they don't really wanna be apart. So I think it is important that, you know, you get out in the community and make sure everybody knows that they can apply to be on this CPAC. So, you know, I just bring that up because I think that it is important that, you know, you get that out to the community so everybody, you know, feels like they weren't slighted or --

Ms. McPherson: Well, I think we'll try to do that at the open house workshop, the first open house event. We'll make sure that that's made very clear to people.

Mr. Chaikin: And this open house event, I know you said you wanted to make it like Earth Day. Earth Day has food and entertainment and it really seems to bring the people out. What are your plans?

Ms. McPherson: Yeah, we're working on it. You know, unfortunately, we're looking at kokua right at this point, but we're working on some different options and, you know, I think I was brainstorming with the team this morning and, you know, if we have to cook at my house and bring it over, then that's what we're going to do so -- and, you know, yeah, food and entertainment. The idea is that this is fun -- we wanna make community planning fun for the whole family. I really don't think everybody feels that way about it. But we'd like to kinda bring that into -- it's your community plan so come and check us out, you know, and so we're really going to try to make it a festive atmosphere.

Mr. Chaikin: Okay, another just observation on that. Kalaniana'ole building, do you know what the occupancy limit is for that?

Ms. McPherson: No, I don't, but I can find out, and there is a big lanai also, so I think it's as big as this room. I know we were originally planning on doing it here.

Mr. Chaikin: Just double-check in case you're planning to have a big event --

Ms. McPherson: Right.

Mr. Chaikin: That's something you might wanna take into consideration. I just have one comment. You had handed out this brochure, what looks like a brochure. This one that you gave to us.

Ms. McPherson: Right.

Mr. Chaikin: Okay. And then I looked through it and just kinda reviewed it, and I just have a couple comments. One is that I think, you know, when you pass something like this out, your target audience is the community, and the whole goal is to get the community engaged in the process. But when you read through this, I understand it because I'm on the Planning Commission and I know that there's certain areas which, as a community member, I can provide input, but I think it would be helpful that, under your timeline, you put like a bright yellow line under that showing where the community can come forward to provide input because, otherwise, it might be hard for them to figure out cause people aren't really -- real astute to the process so they don't understand it, so you really have to serve it to them in a way that they can just clearly see in what areas they're going to be able to come forward.

Ms. McPherson: Actually, those materials were originally prepared for policy makers, and what we're going to be doing is newsletters, so we're modifying that information and we're going to provide it in a much more sort of community friendly format and have newsletters and, hopefully, be able to get those into all of the -- the postoffice boxes and that sort of thing, but that's a really good comment. Thank you.

Mr. Chaikin: Okay, and don't forget about Akaku; trying to make sure that's part of this whole process.

Ms. McPherson: We're actually most likely going to be able to get them to film the entire process.

Mr. Chaikin: Alright, thank you. Is there any other Commissioners? Anybody got any questions or comments on this whole thing? Anybody from the public? DeGray, did you wanna ask questions?

Mr. Vanderbilt: Aloha, Mr. Chairman, Members of the Committee. My name is DeGray Vanderbilt, and I'm really disappointed with the process that's being proposed because there was no community input in this, and I think the Planning Department has taken some assumptions it might be contrary to what some people in this community are thinking. Molokai is basically getting very short changed in this process. Maui -- Maui community, if you look at this timeline here, this is a process that takes four-and-a-half years, but the people that have to do the work, the real work, be on the record, make the decisions, do everything else, they only have six months with no chance to extend that. In our last

community plan, which the Maui County says is one of the best community plans put together, we had 180 days, and then we had the option, if we needed more time, to go to the County Council by resolution. On the Maui Island Plan, they got six months. Actually, they took over -- almost -- over a year-and-a-half, 20 months to do their Maui Island Plan. When we did our 2001 plan, we had 21 meetings, and that's a lot of meetings and we did it in about seven or eight months. But now, as you notice in that handout that was given to you by Nancy of 2.80B, and I think ...(inaudible)... mentioned it too, but this handout of 2.809B, it just shows that, from our other community plan, we're going to have just some massive workloads to do in addition to that that weren't in our other community plan. We have the action element, which will prioritize general scheduling and identify each implementing action. And then there's the capital improvement. And then there's the financial element. And these all take a tremendous amount of time so there's no way for our GPAC to get finished in six months. So we were proposing to go to the Council and there to change 2.80B so that Molokai's Island Plan review will get the same time flexibility as the Maui Island Review, and Lanai too. We're proposing Lanai too, just for the Island Plans. Cause we have a very complex plan here and it's just sad that the -- the real guts of the work, they only got a 180 days, so we're going to go try to get that amended. And also, this Countywide Policy Plan, which you don't have, it's signed into law, I don't know how many pages is it - wouldn't you say it's 200, 300 pages? It's just voluminous. It replaced this plan. And it has, you know, 400 or 500 things, the implementing actions and everything else, and our community plan has to be consistent with that, and everything else, and the GPAC members for Maui that worked on the Countywide Policy Plan also were in charge of the Island Plan, and it was very helpful because that Countywide Policy document is a bear and if they hadn't have gone on and done the Island Plan, there would have been no institutional knowledge. You would have had to start over from square one. And our GPAC members, I don't understand the whole rules. The law here says that our GPAC only has 120 days to review the plan, but we took over a year. We took over a year to do our work on the Countywide Policy Plan. And then, as I've said, Maui took over a year-and-a-half to do their Island Plan. But anyway, if you'll notice on Page -- I don't know where it is. Page - let's see. The handout I gave you. Well, it's not on there. But let's see. I'm sorry. I just -- but anyway, most of us know who's on the GPAC team. It's Ronny Kimball, Mahealani Davis, Zessica Apiki, Moses Luczon, Jimmy Duvauchelle, myself, Glenn Tevez, Alton Arakaki, Ruth Manu, and people that worked really hard and have the confidence of the community, I think, as far as really coming to meetings and getting down and working hard, and I just think that we need to -- to do things and extend the time that the GPAC has because when we did -- the GPAC did the policy plan, it went to the Planning Commission and they only took a couple of meetings to approve it. As a matter of fact, I remember Joe Kalipi saying, "Why would we wanna change a whole lot of stuff that's been done with community input and all of this stuff." But yet your Planning Commission will have six months, and then if you need more time, you can go to the Council. So I don't know how that got left out of the law but I think the Council would be amenable to doing that. And I guess the other thing I wish that the Planning Department

would get a little more input with the community as to what kinda technical reports. It seems like it's the same for Maui, it's the same for Lanai, the same type of reports, and some of them may be mandated but there's other reports whether it be on subsistence or anything else, and on Page 15 of the -- I put just some of the reports that have already been done, and they all say about the same thing. People said the same thing about the values and everything else. There's several great video productions, *Return to Pono*, *No Cruise Ships*, *Molokai Sustainable Conference*, *Molokai Visitors Bureau - Sustainable Living on Molokai*. And then -- I mean we got great documents. We have a *Sustainable Visitor Industry*, there was a community based document. So we've done a tremendous amount of work and it just seems like the front end of this is loaded a little bit about trying to bring in people to find out what their values are. That was done with the Focus Maui Nui, when they came to Molokai, Zessica Apiki head it, I think she was sort of a coordinator for that, and I think they had about 136 people participate in that. And so I don't know what the Planning Department is doing, but I'm hoping that they will support an effort to amend the -- the -- to amend the Bill 84 so we could get more time and then have our -- have the same situation that the Maui Island Plan have the institutional knowledge of our GPAC members folding into the community plan. And, you know, one of the other things I was worried about was funding, and on Page 1, I sent Jeff Hunt a letter just saying how are you going to fund all this? Do you have the funding? Because there was an email going around that I got a copy of, it wasn't sent to me, but it was asking help because the County Council was trying to cut Long Range Planning. I just got it forwarded to me today by a member of the community. And so how much funding do you have? And is it committed? So we don't get down the line and say, oh, well, we really planned to do that but we spent all this money on these charrettes and things like this and now we got no money to do the real hard work. And I, you know, I'm all for community involvement. This community is always involved. But I think if you read through all these reports, you're going to find out the same thing. The same values. The same respect. The same problem for the island. And then now we just gotta get down and really look at how to -- to fix those, and there's some just major issues that are going to be in this plan and 180 days is not enough time so, hopefully, we can get the Council to do something. And I -- most in that testimony there is just an email I sent to Sol Kahooalahala, who is the Chair of the Planning -- Council's Planning Committee, and he was going to have a meeting with John Summers and David Michaelson but it never happened. They were going to talk about the Maui Island Plan and the Molokai plan but all the time was taken on the Maui Island Plan so -- but I know that the Council would be amenable and, hopefully, we can get the Planning Commission's support, and maybe this can stay on the agenda for the next item if in case there's anything that comes up. So thank you.

Mr. Chaikin: Alright, thank you, DeGray. You know, you've obviously given this a whole lot of thought and so I'd like to maybe ask Nancy a couple followup questions since you guys are here today. Nancy --

Ms. McPherson: Thank you, Chair.

Mr. Chaikin: Nancy, you hear DeGray speak about the six month period, and we did hear that Maui took more than six months. Can you explain how that came about? Did they get permission or how did that extension occur?

Mr. McPherson: Well, my understanding was, as well as with the Countywide Policy Plan, that the enabling legislation had to be amended because of different technical problems with the language, so the GPAC was put on hold for a few months at one point so I think that's why they ran -- one reason they ran over time. The whole process took longer because it kinda did a stop and start thing. Well, we had that problem a little bit too with the Molokai and Lanai plans, but we really want to get into high gear now. As far as the Maui Island Plan goes, yeah, I think what happened was they a very large group, they had 25 people, and at one point, you know, there were a lot of questions about wanting more information and so they formed these smaller groups, kind of like little subcommittees, and so that took a bunch of time and energy. And so I guess the thing is that the more you wanna, you know -- we have not said that we don't support putting -- adding language in that would, you know, allow the CPAC to get an extension, but anytime you try to tweak the legislation, 2.80B, you slow things down. So I think if the ultimate goal is to get the community plan update going and to get things rolling, you know, there are important things that need to be attended to but I think if we try to tweak the process too much right at this stage, we're going to get into problems and actually end up taking more time. So -- but that's not the Department's -- you know, that's just my -- my impression as a staff planner. But, yeah, it's important to have some flexibility but it -- it means going to the Council and it means getting it amended and you know.

Mr. Chaikin: Well, you know, I can certainly understand that, you know, there's a time frame and we wanna move this thing through the process in some orderly fashion, but as you've seen in the past, sometimes things occur which prolong the thing when you didn't previously anticipate that. So we just throw that out that you really should have a backup plan in the event that we need to, for one reason or another, extend that six month period especially when we take into consideration that this particular going around there's a whole lot more stuff going into the plan that you noted. So, anyway, that's something that we come out -- another concern, I think a legitimate concern that he had, was about the funding for this. Are you guys going year by year or do you have money tucked away for this process, or can you explain that to us?

Mr. McPherson: I believe that the funds have been encumbered for the entire process. There's a travel budget. There are other kinds of budget. We don't have a budget for food, unfortunately. But, like I said, we're going to get creative with that. But, no, my understanding is that it's all encumbered and, you know, the planning -- Long Range

Planning is very insistent that those funds do not get touched so -- because this is a very important process.

Mr. Chaikin: Alright, that's encouraging to know. But let me just, on the food thing, it's not like you have to provide food, but if you had like booths there that people selling food, that's what they do on Earth Day. You said you wanted to be like Earth Day, you know, that's just some kind of -- you can make it more of an event. It's just something to consider.

Ms. McPherson: Yeah, we have certain constraints and, you know, our Corp. Counsel might weight in on that, but I'll check into it.

Mr. Chaikin: Okay, and then just a suggestion. The way that it seems to work, when I look at this time schedule, you have a certain area in which you're developing a draft plan, and then you're going into internal review, and then right after that, you go into the CPAC, which means that, you know, basically, people don't have a lot of time to reflect. They're getting this draft plan and then it seems like it's -- they hit the go right there and there's not that period that the people really have to review. You know, it's kind of like people need to get this document and have them to look at it and then, boom, you have the start time. Just another comment is that, when I look at this timeline, there's such a long period of time from the community outreach to the when you're actually going into the CPAC. People have a short attention span. I mean looking at this like ten months or a year between when you're going to go and try to get everyone motivated, engaged, till you actually go and in that process, you're going to lose a lot of people. So whatever you could do to kind of, you know, get people motivated and then keep that whole bandwagon going, I think the better off you are. Is there any -- Commissioners, do you have any other comments or questions? Seeing none. Okay, DeGray, very quickly cause we're in a time constraint.

Mr. Vanderbilt: I have to -- I have to disagree with Nancy on the resolution and tweaking it. It's not going to hurt the process one bit. I mean I have a resolution here amending 2.80B that the Council did to give themselves more time and that was done in about 45 days. And again, I really stress the importance of the GPAC being the CPAC because just imagine what would have happened on the Maui Island Plan if they had to get 25 new people and start all over from ground one after those months and voluminous countywide documents that they have to be consistent with - it would have delayed things forever and really compromise the process. So I hope the Planning Department will support this cause I don't know why -- I have no idea why you wouldn't want us to have the same benefits as Maui.

Mr. Chaikin: Alright, thank you, DeGray. Is there any other burning issues or questions that you guys have while we have Long Range here? If not, I'd like to thank Nancy, Kathleen, David for taking the time to travel here from Maui and share your mana`o with us today. So thank you for that.

Ms. McPherson: Thank you, Chair.

Mr. Chaikin: You know, we had a question earlier in the meeting whether or not people from the community could actually get a copy of like the community plan or the islandwide policy plan, and there was some -- I guess it wasn't real clear where they could get that, I know it's online, but some people don't have that, so if they can't get it online, what do they do?

Ms. McPherson: Well, we actually printed out copies of the community plan. It finally got a cover and color maps. But we've actually run out of copies so we're going to try to reprint that as quickly as we can. They'll be available here at Mitchell Pauole, so just ask Nina, and the Countywide Policy Plan we can also make sure that copies are here on Molokai for people. And, you know, as we get notified that they're running out, we'll keep making them.

Mr. Chaikin: Okay, thank you. And you might actually check from time to time if they've run out in case --

Ms. McPherson: Yeah. Okay.

Mr. Chaikin: Somebody's not notifying you of that.

Ms. McPherson: Right, I did do that recently and then we also will bring some to the first event and make sure we have those on hand.

Mr. Chaikin: Alright, well, thank you, Nancy, and thank you, Long Range.

## **H. UNFINISHED BUSINESS**

### **1. Subcommittee to review the rules of the Molokai Planning Commission.**

Mr. Chaikin: Okay, with that, we'll move on to our next item, Item H, which is Unfinished Business. Item 1 on there, and unless anybody objects, I'd like to actually remove that from the agenda. I mean we have it on the agenda today but it shouldn't be a recurring item. But since it is on the agenda, we have to -- if anybody has any comments on that. Basically, it's just we're reviewing the rules, there was an announcement earlier on in the agenda, so I don't think we have to have that on the agenda twice. So, Clayton, on the future agendas, Clayton? On the future agenda, can we remove that item until we notify you to put it back on?

Mr. Yoshida: Yes.

Mr. Chaikin: Alright, thank you for that.

## **I. CHAIRPERSON'S REPORT**

### **1. Improvements to the Planning Commission's and Planning Department's service to the community.**

Mr. Chaikin: With that, we'll move on to the Chairperson's Report on improvements to the Planning Commission and Planning Department's service to the community. Just very briefly, we talked about this a little bit last time about the County being in a financial crunch and that, you know, everybody has to figure out how to save money, and, basically, the bottom line is if you're not part of the solution, you're part of the problem, so here, at the Commission, we're trying to figure out ways how we can save money. We brought up last time the idea about the video conferencing in the event that you had somebody that was going to travel from Maui just to make a short presentation, it's certainly possible for them to do that up on the screen and save the County a whole lot of money. I have talked with the Parks and Recreation Department, they do have wi-fi in there, we just need to test that and see if it's adequate that we could actually do video conferencing and if that is the case, we could potentially implement that at some point and save the County some money. So, Mikal, is it okay if I work with you on that and we can kinda test it out and see whether or not we can get the thing working to a level that it would work for these meetings? Okay, and then we can defer to the Planning Department, you know, when might be an appropriate time to actually implement that. Okay, is there anything else? Commissioners, you got anything that you wanna add or -- to that? Alright, seeing none.

### **2. Status of the project to study the expansion of the Molokai SMA boundaries to include the entire island**

Mr. Chaikin: Let's see what else we got. Status of the project to study the expansion of the Molokai SMA boundaries to include the entire island. That's something that was brought up at the last meeting. This is something that dates way back. This proposal was brought up way back. The County was -- the Planning Department was informed to do a study. They did a study for us. And they had some recommendations. We never really heard those recommendations. Clayton, do you have any update on that?

Mr. Yoshida: Yes, Mr. Chairman. On January 9, 2008, I guess there was supposed to be a status update on the Molokai special management area boundary review study from Thorne Abbott, our Coastal Resources Planner, however, due to time constraints, they never got to the presentation, and I guess it was with the assistance of Kaimana Lee, who was a, at that time, a graduate student who had worked during the summer of 2007 to assist Thorne. I guess we need to find the whatever they were going to present because

we don't have Kaimana anymore, we don't have Thorne anymore; you know, we have to try to reconstruct what they were going to present because it was on your agenda but, for whatever reason, it never got presented due to time constraints.

Mr. Chaikin: Thank you, Clayton. Well, maybe you can do some more digging in the files cause there should be that report. I mean she did a report so it should in your files somewhere I suspect. Also, I know Thorne actually had recommendations made up for this Commission, which where he thought the new SMA boundary should be. I don't know if that's the case. That's just what I recall. So if you could continue, maybe we can leave this on the agenda, you can continue to look through the files and see if you can find any kind of old documents on that.

Mr. Yoshida: Yes.

Mr. Chaikin: Okay, thank you. That completes the Chairperson's Report, or let's see here. Sorry. Huh? Okay, very quickly.

Mr. Vanderbilt: Yeah, and I just think that on that SMA, Clayton, when the Long Range was giving the report, they said the community has to help with the implementing actions and this is one of the major implementing actions in our community plan, which this Commission took the initiative to implement or try to get implemented, so it'd be good to try to bring some closure to it and also include some of the other documents, like the letter the Commission sent to the Planning Commission to initiate this process and everything. Thank you.

Mr. Chaikin: Alright, with that, we'll move on to the Director's Report, Clayton.

## **J. DIRECTOR'S REPORT**

- 1. Pending Molokai Applications**
- 2. Closed Molokai Applications**

Mr. Yoshida: Yes, Mr. Chairman, we have submitted our list of pending and open Molokai applications if the Commissioners have any questions on that. I know some of these we just have to write the letter. The Commission has already taken action, say on the Fred Parker and on the Molokai Veterans, the Molokai Health Center, some of these others so actually it's less than what is actually shown.

Mr. Chaikin: Clayton, we show Steve Morgan on here is that something that's been --

Mr. Yoshida: Yeah, that's already done.

Mr. Chaikin: Okay.

Mr. Yoshida: That decision and order already was issued to Mr. Morgan.

Mr. Chaikin: Well, we see here American Savings Bank as an RFC. What is that?

Mr. Yoshida: I'm sorry which --

Mr. Chaikin: RFC, what is that again? Request for comment. Okay.

Mr. Bacon: ...(inaudible)...

Mr. Yoshida: Oh, a sign -- yeah, sign permit.

Mr. Chaikin: Okay, any other Commissioners have any questions on that? Seeing none. Okay, Clayton?

**3. Agenda Items for the May 12, 2010 meeting**

**a. Public Hearing on Blessed Damien Center SMA application**

**4. May 26 Public Hearing on the Sprintcom and MobiPCS County Special Use Permit applications as well as review of the Special Management Area Assessments for the operation of cellular antennas on top of the Luci Wilhelm Building in Kaunakakai, Island of Molokai.**

Mr. Yoshida: Okay, the next item was on the May -- your next meeting is on May 12 and we have the public hearing on the SMA application for the Blessed Damien Center in town. And we also have an SMA -- oh, well, yeah we have an SMA assessment for William Hodgins. It's coming up in that meeting. Well, I guess for the -- on the May 26 items, that Sprintcom and Mobi County special use permit applications, that got moved to the June 9<sup>th</sup> meeting, and we also are doing that Council Resolution 17-10, a bill for an ordinance regarding small wind energy systems, so that's on the June 9<sup>th</sup> meeting. If there are any questions on either agenda items for May 12 or I guess public hearing items for June -- well, we don't have any public hearing items for the May 26 meeting.

Mr. Chaikin: Commissioners, do you have anything to add to that? Seeing none, Clayton.

Mr. Yoshida: The only other thing is we've circulated the letter from Ian Costa, the Planning Director with the County of Kauai. It was Kauai's turn to host the HCPO

Conference and they notified us that due to the current economic conditions, this year's conference is postponed.

Mr. Chaikin: Alright, thank you, Clayton. Does that conclude your Director's Report?

Mr. Yoshida: Yes.

Mr. Chaikin: Okay, thank you. And with that, I think we've come to the end of our agenda, so this is kind of a happy hour. We'd like to thank all the members from the Maui County Planning Staff that flew over here today, and the members of the public that had joined us, and at this time, I'd like to adjourn this meeting and see you all at the next meeting on May 12, 2010, right here, 12 noon. Thank you.

**K. NEXT REGULAR MEETING DATE: May 12, 2010**

**L. ADJOURNMENT**

There being no further business brought before the Commission, the meeting was adjourned at 4:52 p.m.

Submitted by,

SUZETTE L. ESMERALDA  
Secretary to Boards and Commissions

**RECORD OF ATTENDANCE**

**Present**

Steve Chaikin, Chairperson  
John Sprinzel, Vice-Chairperson  
Nat Bacon  
Napua Leong  
Mikiala Pescaia

**Excused**

Lori Buchanan  
Joseph Kalipi  
Don Williams

**Others**

Clayton Yoshida, Planning Program Administrator  
Mikal Torgerson, Staff Planner, Molokai, Current Division

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Jim Buika, Coastal Resources Planner, Current Division  
Francis Cerizo, Staff Planner, Zoning Administration and Enforcement Division  
Nancy McPherson, Staff Planner, Long Range Division  
Kathleen Kern, Staff Planner, Long Range Division  
David Yamashita, Staff Planner, Long Range Division  
Michael Hopper, Deputy Corporation Counsel  
Tara Owens, UH Sea Grant Program