

(APPROVED: 04/27/11)

**MOLOKAI PLANNING COMMISSION
REGULAR MEETING
FEBRUARY 9, 2011**

*** 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. ***

The regular meeting of the Molokai Planning Commission was called to order by Chairman Steve Chaikin at 12:07 p.m., Wednesday, February 9, 2011, at the Mitchell Pauole Center Conference Room, Kaunakakai, Molokai.

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

A. CALL TO ORDER

Mr. Steve Chaikin: All right. I'd like to bring this meeting of the Molokai Planning Commission to order. It's February 9th, 2011, for the record. I'd like to start by just some brief introductions. With us today from the County of Maui, we have Clayton Yoshida, which is the Planning Program Administrator. We also got Joe Alueta, which is the Administrative Planning Officer. We've got Francis Cerizo from Zoning Administration and Enforcement. Is that right? We also have Nancy McPherson formerly of Long Range, currently with Current Planning. We have Suzie Esmeralda, Secretary of Boards and Commissions. Sitting immediately to my left is Deputy Corporation Counsel, Mr. Michael Hopper. Commissioners present here today, we have Commissioner Pescaia, Commissioner Bacon, Kelly, Sprinzel, and myself, Chaikin.

Okay, with that, just one brief announcement on the agenda. Item No. D is the status report on the Molokai Community Plan Update. That is going to be deferred due to the presenter not being able to make it today. So hopefully, maybe on the next agenda, just watch your agenda, we'll try to get on as soon as possible. With that, we can go ahead and start our agenda.

B. PUBLIC TESTIMONY ON ANY PLANNING OR LAND USE ISSUE

Mr. Chaikin: We had our Call to Order. Item No. B, is public testimony on any planning or land use issue. This is where we give you, the public, an opportunity to come forward and present any planning issue that you might have that you think this Commission should be made aware of, or if there is any agenda item that you wanted to provide testimony on, and you don't wanna wait till that item comes up, now is your opportunity to do that. Is there anybody here in the community that wants to provide any testimony at this time? Alright, seeing none, we can move on to Item No. C.

C. ANNOUNCEMENTS

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

Mr. Chaikin: And that is this Commission is taking up our rules that we go by. And we're going to review those rules and see if there's some of those rules that we wanna adopt or change. So we're currently under review. So it's an announcement to the community, if there's any of the rules that we operate under that you think should be revised, you have an opportunity to present that to us either in writing or orally. On future agendas, this item will be on the agenda and we'll be discussing that openly here, but tonight – just today, it's just an announcement.

D. STATUS REPORT ON THE MOLOKAI COMMUNITY PLAN UPDATE - LONG RANGE DIVISION, PLANNING DEPARTMENT

Mr. Chaikin: Okay, Item D, as I said earlier is going to be deferred. So we're gonna move on to Item No. E, which is a workshop on proposed flood maps for Maui County, FEMA, and the Department of Land and Natural Resources. So I think these are some— Francis Cerizo, I think you're gonna handle this, and he's gonna go over, I guess, some proposed changes or changes to the flood maps. So I'm gonna turn it over to you, Francis.

E. WORKSHOP ON THE PROPOSED FLOOD MAPS FOR MAUI COUNTY - FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) AND THE DEPARTMENT OF LAND AND NATURAL RESOURCES (DLNR)

Mr. Francis Cerizo: Thank you, Commissioners. My presentation today is on a new flood map, a preliminary flood map, that's gonna be – that may have wide-ranging effects on the community especially, in Kaunakakai. Today's objectives is to – I'll give you a little background of our existing flood maps. And then we'll have a little – a short presentation by FEMA on the new preliminary flood maps that is a result of a – changes in the status of the Kaunakakai and also a hurricane study. Also, he'll explain the appeals process where you may have some questions on the flood plain. And then what are the impacts on the existing buildings on new construction and existing construction. We'll also be looking at if you are a new construction, we'll be looking at what are the standards. One of the main impacts on the – as a result of this adoption of the maps would be mandatory flood insurance. And lastly, we'll have an update on the Kaunakakai levee—one of the reasons for the map changes.

The maps were first adopted in 1981. And the purpose of the program, the National Flood Insurance Program, is for the protection of human life, protection of property from flood damage, and also the reduction of public cost for flood control, rescue, and relief efforts.

Previously, for the last 30 years, we've had paper maps. In 2009, we made a presentation a couple years ago that we went digital. So now we can have a lot of these maps easily available to the general public at a better resolution and detail.

So as part of this map changing, as you can see on the left and even in your photos, as part of the public notice that we're having a meeting also in the gym. We can see on that on the left side there's an existing effective map, and the right side is the proposed map. There's a big difference in the maps in that now there's – at one time we're protected, no flood requirements. And on the right, you have a totally different situation where now you have to elevate your new construction and have flood insurance.

We have Eric Simmons from – he's a FEMA engineer from California, Region 9, and he's gonna give us a little more background on the – FEMA's flood mapping efforts for Molokai.

Mr. Eric Simmons: Thank you. My name is Eric Simmons. I'm an engineer with FEMA. And I lead new flood hazard mapping projects, so thank you very much for the opportunity to talk about mapping, and explain the proposed flood maps and changes for Molokai.

Realize that FEMA has undergone a nationwide map modernization initiative. And for Maui County, what that really meant is in 2009, the suite of paper maps that were in effect for both Maui, the Island, and Molokai and Lanai became digital format. It increased usability and accessibility, but also FEMA had initiated a new study of coastal areas for the entire State. And that's part of a nationwide larger effort to look at flood hazards along coastlines realizing that much our risk, flood risk, is along the coast. And the other area where FEMA really is focusing on updating its flood maps is around levees. And unfortunately, parts of Kaunakakai here are both in a coastal flood plain and a riverine flood plain along the stream here. So FEMA's been working with different agencies like the Corps of Engineers, the State Department of Land and Natural Resources, and Maui County on updates to these flood maps. And realize that the County of Maui is a participant in the National Flood Insurance Program, which makes flood insurance available to all owners or renters in the County.

But on the mapping, this update was issued – updated flood insurance rate map panels was issued in draft format last year. But just recently on January 19th, the 90-day comment period was started by FEMA. And we're looking for comments on these draft maps so that these new maps are as accurate as possible. And as I mentioned, the proposed changes are along the coastline, the southern shore of Molokai, as well as along in Kaunakakai. So you can see on the screen there, which is a lot of colors, but fortunately, today's technology allows us to put these maps not only in paper format, which we have in the gym room where we're happy to answer any questions, too, but also online, the State has a map viewer that Francis is showing here showing flood zones.

And what do these flood zones really mean? And the areas of purple, or blue, red are what we call the high hazard areas. And what makes them high hazard is they're prone to flooding. They're in what we call the 1 percent annual chance flood plain. Some of you may have heard the hundred-year flood plain. It's the same thing. It's an area that has a 1 percent or greater chance of flooding each and every year. And so for the National Flood Insurance Program nationally, that's the areas where flood insurance may be required by lenders, by banks. Realize that because Maui County participates in the National Flood Insurance Program, any renter or landowner can purchase, voluntarily, insurance, but the majority of policies are from people in that high hazard area even though areas in lower or moderate hazard can purchase flood insurance.

And so this new map, if we just look at Kaunakakai, for example, it shows both riverine flooding and coastal flooding. Riverine flooding either in the channel between levees, but also might ask why is a big change being proposed here in Kaunakakai is because for FEMA to recognize the protection afforded by a levee, an engineer needs to look at that levee and certify that, in fact, it does provide a high level protection. And that's something FEMA, we're updating our maps nationwide to do and that hasn't been done in Kaunakakai. And it's the focus of my agency, FEMA, to look at these areas because often the highest risk, the most losses, the most damages are in areas behind levees, areas that may have flooded before the levee was built regularly, and now they're still a risk. Just because there's a levee there doesn't mean the area doesn't flood. And that's a focus.

You see various zones here as we move closer to the ocean. There's a big red zone. That's a coastal high hazard zone. You can see – we had some handouts, I think we had that red zone is zoned "VE." That "V" is symbolic in that it's a coastal high hazard zone because we would expect during major flood wave heights greater than three feet. So the hazard is different, and therefore, the County has adopted different building criteria for that coastal zone versus the light blue, which is the Zone AE. It's a – again, in that high hazard area, the flood prone area, with a flood elevation, but not subject to high wave heights.

FEMA conducted a study of the entire southern shoreline of Molokai similar to what we did for the other four – the other three Counties in Hawaii. And in general, we now know that there are areas that are flood prone that weren't massive flood prone before. And so that's why we really like to have these opportunities, talk to local officials, to talk to citizens, to explain what their options are whether it's purchasing insurance sooner, and often at a lower rate than later after a new map goes into effect. But we also realize these maps have impacts not just on flood insurance, but flood plain management. That is new development in these high hazard areas.

So just a quick introduction on mapping. Definitely happy to answer any questions on mapping whether it's coastal flooding or riverine flooding here in Kaunakakai or anywhere on Molokai.

Mr. Chaikin: Commissioners, do you have any questions for Eric? Commissioner Bacon?

Mr. Nathaniel Bacon: Yes, as far as the flood plain management, there are certain areas here where neighbors are now experiencing some flooding that they never had before because the people that are next to the river in the flood plain itself and the channels are firming up their properties. And so now, what should really be going through those properties, and as far as I know, no permits were ever taken out to fill in those areas, the people further out from the stream or the river are getting flooded, and they never had that problem before. Can there be something done to have those berms removed? I mean, they never should've been there in the first place. Is there some way that – is there some Federal, State, or County – well, not that the County couldn't do it, but the State or Federal organization that can have that corrected?

Mr. Simmons: Well, I'll start by responding. You know, we realize that flood hazard change. That is, you know, areas that maybe were not flood prone before, become flood prone for a variety of reasons whether – and often most common it's due to the land use or fill upstream, watershed development, and that's just a fact. We, FEMA, through the National Flood Insurance Program has adopted certain minimum building criteria that communities adopt to lessen that, not eliminate, but lessen. And then also encourage communities to adopt safer standards. Some would say more restrictive, but safer standards to reduce future flood losses. And actually, Maui County has adopted some safer standards. For example, building above the minimum flood elevation, actually, a foot above, which is higher and safer. You know, regarding the specific actions of one area, I really have to leave that to the County to respond. On the FEMA side, what we wanna do on the mapping, we wanna map, and analyze, and depict current conditions—what is the hazard today.

And I work in a Division of FEMA called Mitigation. And there's several things within that Division that are done, not just implementing the National Flood Insurance Program, but actually offering grants to States and communities to help correct problems whether it's a – you know, a channelization project, or a detention basin upstream to lower flood flows. But we also look at multi hazard, too, not just flooding, but in some areas, earthquakes or fire might be higher hazards. But we also realize, you know, one of the principle and fundamental duties of government is to ensure citizens don't harm others. That's just a premise that often gets lost in that – you know, you have a responsibility if you're gonna develop your land not to do that and harm others. And maybe there aren't Federal programs to do that, but other recourses for citizens who are impacted by others to go. But I'd really have to hand it over to the County to talk specifically about what kind of actions could be done in a specific case here on Molokai.

Mr. Chaikin: Well, why don't we do that? You know, we can switch back and forth because I know there's more questions for you, but just while we're on this topic, maybe we can get

Francis to come up and address this berming, and kind of transferring the flood from your property to your neighbors. But it's not only berms. We're also talking about solid walls that don't allow the water to go through. So maybe, Francis, maybe you can highlight what we, as a Commission, could do either from our own rules or if it's a code change. Or what could be done to minimize that happening?

Mr. Cerizo: Well, there's several options. One is that if the work is in the flood zone and that's something that can be investigated. What would initiate the action would be that a request for service would be filed. Once you file that request for service— And in some cases, you know, anonymous complaints are not handled, but in cases where there can be pending damage or loss of property or life, we would take those — we may process those. So it's been an administrative procedure not to do anonymous. But if you file your name in— And we will keep all names confidential. And — but if — so what we would need an address, the property, where it is, and we can investigate.

Typically, you know, when you do any development in a flood zone, and that is structural improvements such as a building, grading, that should get a flood permit. Sometimes the action is outside the flood zone, and it's higher up. It's in an area that's not studied, and those are typically a — it can be either a civil matter, or it could involve major grading work and a grading permit was not obtained. Public Works would also get involved in the investigation. So it all starts with an investigation. It can be investigated and resolved if we find the party not in compliance.

Mr. Bacon: Three things: one is when people do submit a request for service with their names on it, they don't get attended to. The other thing is oftentimes, their names are spread around the neighborhood and people know exactly who did it. And it's not just guessing. It's people know who did it. So somehow the name of the person is getting out from your department to the person who is the offender, apparently.

And the other one was we don't get timely service. I mean, you know, having somebody come over here three months after somebody's been filling something in, and then they say, well, you don't have pictures of before, so we can't tell that it wasn't done before, if they could come over — if we had somebody on the island, they could come over and look at it immediately, they would see that, yes, there's trucks bringing stuff in. They would know that it is actually happening now. So we need some sort of timely service for enforcement here. And that's our biggest problem, I think. I mean, one of the reasons that people do after-the-fact things here is because they don't wanna go through the process. It takes so long. And then if they start to do it, we don't get — if somebody sends in a request for service, we don't get an enforcement officer here right away. And so it gets dropped. It gets further and further back. And people, you know, like to complete a house or something, if they started, and they would have a complete house by the time any action actually got taken as far as enforcement goes. But enforcement is, you know—

I mean, we're sitting here trying to level the playing field for everybody. I mean, people come into us and they ask for exemptions for things or – well, basically, exemptions. And so we give it to them, but then they can point to three neighbors that never did that, and they got away with it. And oftentimes, requests for services have been sent in for those particular things, and maybe not. I can't say for all of them, but I know for a number of them, they have been sent in. And we get no feedback from the County. It's really frustrating and it makes our job all the harder.

Mr. Cerizo: Well, one thing I can do is I can work with our Inspectional Section, and talk to their supervisor, and see how we can improve the response time for the Planning Department. I know there's several agencies that can respond: Building, Plumbing, and so forth, Fire. So it's not a perfect system. You know, the RFS system is – can be viewed from anyone that works in the County that has access to the permit processing. And that's people here on Molokai, people on Lanai, and also on Maui. So you'll have hundreds of people that have access to that information. But, you know, it all starts with an RFS. And, you know, we can bring this up to the Department and indicate that there's some breaching in the – and then we can work from there. I'll talk to the different departments that are involved in enforcement, and maybe we can get back to you. If you'd like to put it on an agenda item that you wanna talk to Public Works when it gets here, or if you wanna talk to Planning the next time that – you can put it on – what is the status on the confidentiality of RFSes and so forth, because that seems like the problem– you don't wanna file because it's gonna be spread around.

Mr. Bacon: And really, what's the problem with an anonymous one? I don't see that there's a great problem with that. It's simply somebody says they're filling in something. They don't wanna give their name. So because they don't wanna give their name, that means that the filling isn't being done, and that the County shouldn't look into it? I mean, is that the principle behind that?

Mr. Cerizo: I think right now, since we have the new Administration that Public Works has that policy. You could address that to the Public Works Director or their representative. And likewise with our Department, we have the same policy, if we're gonna continue it, and why. Right now, you know, I'm not a policy maker. I just follow the policy that's mandated.

Mr. Chaikin: Alright, Francis, just a very quick follow up on this because this is really about the flood maps, not about enforcement, but while we're on the subject, just very quickly, you had on a routine basis, an enforcement officer coming here on a scheduled day of the week every so often, and anyone that wanted to make an appointment and meet with that enforcement officer. Is that still happening or what happened to that program?

Mr. Cerizo: As far as I know, the program still is happening, but I believe the frequency is less. We may have come in every other week. I think it's – it was reduced to once a month. And I think it may be even reduced further.

Mr. Chaikin: Okay. Thank you for that. Getting back to the flood maps, Commissioners, do you guys have any other questions for Eric or Francis? Eric, if I could ask you, you touched a little bit on our levees out here. You said that they weren't certified. And I was just wondering how they go about getting certified, who pays for that certification, what are the detriments of not being certified, and the benefits of being certified. Can you just speak to that?

Mr. Simmons: Okay. Yes, what does it mean to be certified is really to have that data assembled that shows the level of protection these levees provide realizing that there's one levee on one side of the stream, one on the other. And then if, in fact, that data shows the levee or each levee provides the high level protection, then it gets certified. High level meaning it's reasonable assurance to provide protection from this 1 percent chance it'll flood. And it's not just height, even though that's important, too, but it's also how strong it is, how stable is the foundation of the levee, how strong is the earthen embankment itself, are there any weak spots whether it's – you know, where you can walk over and it's lower, or if there's any kind of piping that goes through the structure, looking at those aspects.

Who does that? Well, typically, it's a private consulting engineer. There are engineering companies out there. Sometimes another agency like the Corps of Engineers might work with that agency. That's something not – my agency cannot fund, but is typically funded by the levee owner, the County itself.

Mr. Chaikin: Okay, so what are the – say we did get certified. Right now, we're not certified. If we did get certified, what happens is the flood zone change or how does that work?

Mr. Simmons: Okay, so realize there's a levee on each side of the stream. So the more southern southeastern levee gets certified, then this – and if you can hear me without the microphone, then this pink zone goes from what's proposed as a high hazard area to a moderate hazard area. So that pink zone, which is being proposed as Zone "A," is a high hazard area where flood insurance is typically required by people that have mortgages, by their lender. A shaded Zone "X" is a moderate hazard zone. Typically, insurance is not required. If the person chooses to buy flood insurance, it's often less expensive in that "X" zone than in a high hazard area.

Mr. Chaikin: Okay, so we talked a little bit about the monetary aspect that since that's all in pink over there, everybody's insurance and lenders and stuff is gonna be going up or has

already gone up. What about building requirements? Do they all go up because that levee hasn't been certified? Is that a Francis question?

Mr. Cerizo: Yeah, I'll be talking on that.

Mr. Chaikin: Okay.

Mr. Simmons: So I think, you know, we'll have some information on the building, but we'll also – fortunately, I have a colleague of mine who's an insurance specialist who can talk about the specific insurance questions you may have or just in general about flood insurance.

Mr. Chaikin: Okay. So why don't we just carry on with your presentation. I know that there's a lot of people out in the public that have questions, but I think it's probably best to go through the whole presentation because perhaps, maybe one of your questions might get answered. So after we hear everybody's presentation, then we'll go ahead and take questions from anybody that wants to ask them. So you can go ahead with whatever else that you have planned.

Mr. Cerizo: So the next area we're gonna get into is what are the impacts if you're in a flood zone on new construction and existing construction. And basically, you have to comply to the current standards. And I'm gonna go through the standards, briefly.

So whenever we have riverine flooding or coastal runoff – and that's the areas that are not red, you know, it's the "A" zones. The "V" zones are the coastal high hazard areas. The "A" zones are less velocity and less destructive. And the requirements in that area is to elevate the structure. One of the requirements now, we revised. The standards are to raise it another additional foot above the BFE, the base flood elevation, and design your structures to withstand the flood forces. In riverine areas, we look at that there's no impact on the base flood elevation. You can't increase the base flood elevation in any way.

In "V" zones, and that's near the pier, along the coast, we have considered "V" zone construction requirements. And these are instead of just elevating the structure, you have to elevate the structure so that the height of the building, the lowest cross member, in this section here, on the bottom of this floor or the bottom of this beam, your – that elevation has to be at or above the base flood elevation, plus one foot.

Mr. Kip Dunbar: Is the one foot new?

Mr. Cerizo: Yes, that's been since 2009. And this is a little graphic on the improvements. Here's your "V" zone construction. You're looking at the bottom of the lowest beam here. And that has to be one foot above the base flood elevation. So when you're up on coast,

on the riverine side, the construction standards are a little different. You can actually go up to the – your floor level can go up to the top of your floor.

Also, as we can see there's other standard requirements. Whenever you have an enclosure on the bottom, you have to have openings. In the "V" zone construction, you can't have any enclosures. You have limited improvements below the base flood elevation. It's typically for storage, access, and parking.

We have quite a few permit and certifications. These are just examples of certifications that are needed by the engineer, as you come for new construction. There's also existing construction. You know, if you had to do a new addition, or you want to renovate your interior, you're limited to a maximum of 50% of the value of the building. And when we say, the value of the building, if the building was built here or built on Maui, that it would – it doesn't include the value of the land or the location. And what we do on substantial improvements is that we keep that value for ten years. So if the value of your building now is let's say \$50,000, you're allowed to only improve your building for a maximum of \$25,000 for over ten years.

So this is the "V" zone construction—a little more requirements. If you have an enclosure, there's a requirement that you have to enter into an agreement that you will not convert the enclosure. There's been common occurrences where they put a storage in the bottom, and pretty soon it turns into like a little play room, and the next thing you know, it's a TVR. So that's a new provision in the code.

Next is the flood insurance. How many people here know anyone that lives makai of Kamehameha Avenue? Okay. And how many people have mortgages? Is it new construction or maybe you refi on it? All of those that have a mortgage on their property will be required to get flood insurance, mandatory flood insurance. And we have a specialist here today, Jana Critchfield. She's from FEMA. And she's gonna explain to you the ramifications of the flood insurance requirements. Maybe she can give us some idea of cost. I know a person that became – got in the flood zone and it's just maybe a couple feet below the BFE, and it cost a hundred dollars a month. And so can that person afford \$1,200 a year? And she's gonna explain the ramifications of getting flood insurance prior to the effective dated and – or if you wait till afterwards, you might have to pay the full. So, Jana?

Ms. Jana Critchfield: Thank you, Francis. Good afternoon. Thanks for inviting us over here to talk with you. My name is Jana Critchfield, and I'm the regional flood insurance specialist for FEMA in the Oakland Office, which is FEMA Region 9. We handle Arizona, Nevada, Hawaii, and California.

When these maps change, all of the properties that go from what we consider now to be the low risk, the "X" zoned properties, that go into a high hazard zone will be required by their lenders to purchase a flood insurance policy. If they don't have a lender, no one will ever tell them that they must purchase the flood insurance policy, but they should certainly heed the warning and know the risk that they have, and go ahead and take care of it on their own. But the lender is the person that will tell these people they must buy the insurance. We don't have an exact date for these maps to go effective yet. And these people have up until the day before the map change becomes effective to purchase the flood insurance in the low risk zone and keep that policy for a maximum of three years. So I always tell people to try to purchase in the five to ten-day window prior to the map change date. We could have a storm. We could have a power outage. Pretty much anything could happen that would prevent those people from getting to their insurance agent. The policies are written by their independent insurance agent. All of the insurance agents and companies that write flood insurance do so through the National Flood Program. So all companies have the same rates. All States have the same rates that apply to the same zones. So it's not like it's more here or less here than it would be in some other State or some other zone. It's uniformed across the Country.

For the property owners that are currently in the low risk zone prior to the map change date, they would be able to buy a flood insurance policy for a maximum of \$395 for the year at today's rate. And that would give them \$250,000 on their house and that would give them \$100,000 on their contents. Now, my understanding is that a large portion of the change that's gonna happen here may be where it's more a commercial type property in a non residential setting. So if that's the case, there are preferred rates available also. I don't quote those because I'm not as familiar with them, and they're a lot of different variables in the preferred risk commercial policy. But they can get \$500,000 on their structure and up to \$500,000 on their contents. If they purchase the policy before the map change, at their first renewal, they will get to go on a second year at the preferred risk policy, which will be somewhere in the \$395 to \$400 mark with a ten-dollar surcharge because it's an extension that they're being granted by the NFIP. And for the third year, they will also be granted that extension for whatever the prevailing rate is, plus the ten-dollar surcharge. At the end of that three-year period, they will go into the rating zone of the "X" that they were in prior as opposed going into the high risk zone, but it will be the standard rate. They will no longer qualify for the preferred risk rate. And that rate today for a \$250,000-dollar home could run someone around \$1,050 for the building coverage all alone.

So it's important that you bring this word out to your community stakeholders early and often, but there are gonna be mapping changes coming, that they come and take a look at the maps, that they're aware of what they are, and they understand the insurance implications so that no one gets caught at the very last minute without that knowledge. Their independent insurance agent can help them. They can answer their questions. They

should be able to do that. They're the professional and that's what their job is. If their insurance agent doesn't have the knowledge or doesn't understand, they can contact the company they do business with, or they can contact my office. And I talk to a lot of people all day long or receive e-mails from folks, insurance agents, that just aren't certain what they're doing. So it's important that they know to buy the insurance, that it's coming, and that they do it prior to the map change date.

If they are older structures built before 1981, then they absolutely need to protect that property because if they don't, even if they don't have a mortgage, and then they go to sell it at a later time, or borrow money, or take some type of an equity loan or something, and they're asked to purchase flood insurance, they won't qualify for that low risk rate, and they could be looking at \$1,600 just for the house, and it would be much higher if it was a commercial building. So it's important for people to take care of their property in advance so that they don't get stuck paying more. I don't want anybody to have to pay more than they can pay. So it's not pleasant to be the bearer of those numbers, but that's what my subject matter is, and so I'm sharing that with you so you can then share it with the stakeholders of the County.

Mr. Chaikin: Alright, well, thank you for that. Commissioners, do you have any questions? Let me just ask you, how do they determine – like if you have a \$100,000-dollar house, how do they determine what the value of that structure is?

Ms. Critchfield: Well, the lender will tell the borrower how much insurance they must carry for flood. And that will be either the amount of the loan depending on the size of the loan, the maximum amount of insurance that's written by the National Flood Insurance Program, which is either \$250,000 or \$500,000 in a commercial dwelling, or the value of the replacement value. So they could have a home that they only own \$40,000 on, but the house is valued at \$400,000, so the lender's gonna ask them to carry the \$250,000. If only it was easy enough that the policyholder could just make that decision, but it is the lender that says that they're required to protect the Federal funds they loan.

Mr. Chaikin: And then on the structures that are older than 1981, you said there could be a surcharge on the structure?

Ms. Critchfield: Well, it's not that it's a surcharge, it's just that based on when the communities joined the Flood Program and their first flood maps came out, which we call a FIRM for flood insurance rate map. Anything prior to that we call, pre-FIRM. And so there were no other building criteria that affected any flood because the program wasn't in effect yet. And so like today, there are building compliances that have to be met to build at a certain level to build out of harm's way. So those homes are built at a safer level so those rates, of course, are less than the ones that were built maybe 30, 40 years ago that might be sitting down at the bottom of the hill or closer onto the water or something. So

there is a rate for them, but it's not the preferred rates. But if they purchase in advance, it's kind of like a little loyalty thing. And so we will continue to give them a good rate going forward. Not everybody thinks \$1000 is a good rate, but if you're looking at \$2,500, it is so—

Mr. Chaikin: Okay. And you talked a little about the map, effective date, and people buying insurance prior to that date. And how is everybody gonna know what that date is?

Ms. Critchfield: Once the absolute date is established, there will be a six-month window. And I'm certain that the County has plans to get that notification out via the normal avenues of media or newsprint. Some communities put things in water bills. Some communities have their own local public television, and they have run spots on there. But the County will get the word out to those stakeholders, and then they will know. And they may even hold another public meeting for the stakeholders. Sometimes the stakeholders are like, well, when I know it's really gonna happen, I'll show up. So then if they find out it's actually gonna be February 2nd, or March 1st, or something, then they're like, okay, I'm gonna go to the next one because now I know it's really coming so—

Mr. Chaikin: Alright. This is a subject that's probably pretty important to a lot of members of the public. So this is a workshop. So I'm gonna give the public an opportunity, if they want, to ask you questions. Is that okay with you?

Ms. Critchfield: Absolutely.

Mr. Chaikin: Is there anybody that wants to ask any questions at this time? Alright. Oh, we have taker.

Ms. Critchfield: I mean, I'll be here all afternoon so— Yes, sir?

Mr. Chaikin: Do you wanna come and use the mike so we can get on the record?

Mr. Dunbar: Well, I got a couple questions. My name's Kip Dunbar, for the record. Where do you begin? I look at the maps that you have up there and the little line that you have there, how do you know if your house is in that line or not? I mean, the line can be 15, 20 feet just by that little yellow line. And one of the things, I don't live in Kaunakakai. I live out on the shoreline out on the east end, but if this levee was supposed to be certified, why wasn't it certified?

Ms. Critchfield: I can answer the insurance portion, but that's not your question so—

Mr. Dunbar: Okay, well, like I say, I got hundreds of 'em. Anyway, I – let's go back to this line. You're recreating this line. And for the homeowner who's sitting here, I mean, they don't have any way of judging where that line is.

Ms. Critchfield: Well, that's why the County has maps available. They have online information available. And the State has online information so that people can look and actually see how their home is affected by it.

Mr. Dunbar: Okay, so what are the metes and bounds of that line? Do you have that?

Ms. Critchfield: That's why there are public meetings so that people can come and look at the maps. So your question–

Mr. Dunbar: Well, I'm looking at the map, and I'm saying, how do you know–? And if it runs right through a portion of your home, does it mean the whole portion is, or if it's in the yard?

Ms. Critchfield: If it runs – if there's a dual zone, so when the new zone is drawn, half the yard is in "X," and half of the house, you know, the yard area is an "A," then the lender will absolutely send the letter out stating that the policy needs to be purchased. At that point then, if the landowner knows that their house is not in the flood zone, they can go to the County office or the Building Department and get a copy of the plot map that shows that the house actually sits up here in the "X" zone, and the "A" zone is back over here. And they can submit that then to the lender showing that their structure is not in. We don't insure land. We don't insure trees, or plants, or fences, or pools, or anything like that. So we only insure the structures. So if the structure itself is not in the high hazard zone, they will need to show that to the lender that, yes, part of my property is, but the structure is not.

At that point, the lender is gonna say one of two things. The lender is either going to say, okay, well, then we see we don't need a flood policy. And then that borrower will specifically ask them to give them in writing and keep a couple copies in a safe place. The lender does have the option at that point of saying, well, it does cross – you know, your property and your next door neighbor's all the way in, so we really want you to carry a flood policy. They can do that because when we sign those documents that said we wanna buy that structure, at some point in time, one of the things we initialed or signed was that we would always provide whatever hazard insurance the lender requires for the life of the loan. But because the structure is in the low risk area, they will always be entitled to that preferred risk policy while that takes place. So if the map changes, and their structure is in the "X" zone, and their lot is in the "A" zone, and the lender still wants it, and that map doesn't change again for 15 years, and the lender still continues to require it, they will still be able to enjoy the low risk policy, which will be in the high \$300's to the low \$400's based on whatever approved rate–

Mr. Dunbar: A year, \$400 a year.

Ms. Critchfield: Currently. Congress is the one in control of the rates. They're allowed to increase the rates 10 percent annually. They don't on an annual basis, but they do make changes every 18 to 24 months. So the rate that is \$395 today, three years ago, it was \$388.

Mr. Dunbar: And that's the "X" zone?

Ms. Critchfield: That's correct. And that's building and contents for a residential structure. There are also those preferred rates for the commercial properties and non residential. I don't have those with me, and I don't quote those normally because there are a lot of variables. You can have a lot of different combinations of building and contents coverage on the commercial that you don't have that option on the residential.

Mr. Dunbar: Do you have some sort of a handout that shows all that? Some sort of a card?

Ms. Critchfield: That shows all the rates?

Mr. Dunbar: Yeah.

Ms. Critchfield: No. I don't pass out rates. All that's available if you wanna take a look at some of the rates at floodsmart.gov.

Mr. Dunbar: Do you have a FEMA card?

Ms. Critchfield: I don't, sir, just because it's that time of year when we're in a new budget and they haven't come in yet. Federal employees don't have a lot of business cards, sir, I'm sorry. My information is available—

Mr. Dunbar: They don't mind a lot of our business, but they don't have any business cards.

Ms. Critchfield: My number's available any time you wanna go through the County to get it. I'm happy to be of service. I do have some handouts on the table back here that talk about different things regarding flood insurance and whether you should or shouldn't carry it. I'd be happy if everybody would help themselves.

Mr. Dunbar: So you say you have a phone number?

Ms. Critchfield: I do: 510-627-7266.

Mr. Dunbar: Thank you.

Ms. Critchfield: You're welcome.

Mr. Dunbar: Because the flood insurance that I have is certainly not \$400 a year.

Ms. Critchfield: Are you in an "X" zone?

Mr. Dunbar: I am in an AE zone.

Ms. Critchfield: Okay, well, that's an "X" zone policy rate. The "A" zones are much higher, sir, because they're already in the flood risk.

Mr. Dunbar: Okay, but, I mean, I'm certainly higher than \$1,600.

Ms. Critchfield: Well, I'd be happy to talk to you about it offline and see what kind of insurance coverage you do have.

Mr. Dunbar: That'll be great.

Ms. Critchfield: Sure.

Mr. Dunbar: Okay, who's next? Okay. Oh, sorry.

Mr. Chaikin: Yeah, and let me just say, could you announce when your meeting is gonna be for the public if they wanna ask specific questions?

Ms. Critchfield: I don't know the answer to that, sir. Those are all handled through the County. We come as an invited guest and we're happy to come whenever we can.

Mr. Cerizo: The meeting is happening now. It started 11 o'clock. And it's gonna end at three o'clock today. So we wanted to make a presentation to the Commission today. And also, what the informational meeting that we're having next door is to actually answer questions to individual property owners. Like today is like to the whole public, but if Kip wants to actually look at the lot and see and confirm what your flood zone is, and what kind of requirements you're gonna have, and what kind of permits you need, we will give you that information next door up to three o'clock today.

Ms. Critchfield: And any future meetings will then be organized by the County.

Mr. Chaikin: Okay, so thank you. Is there anybody else out in the public that has any general questions? Okay, seeing none, Commissioners, do you have? Commissioner Bacon?

Mr. Bacon: Okay, I got one question. So if I build in the – it's the "A" zone that's the most expensive, right?

Ms. Critchfield: Correct. Well, the "V" zone.

Mr. Bacon: Okay, the "V" zone. Okay, if I build a house there up on stilts the way the new code is and everything else, and I do that, am I paying the same rate as somebody who built 15 years ago?

Ms. Critchfield: In all likelihood, no, sir, because you would've built at the safer level.

Mr. Bacon: So I have the preferred rate?

Ms. Critchfield: Well, you would have the preferred rate in the "X" zone. If you build in the "A" zone, you're gonna have an "A" zone rate because there's still higher risk in the "A" zone. If you built that house in the "A" zone high enough, you might be able to get it re-rated back into an "X" zone, that particular structure.

Mr. Bacon: So this – but our new code thing that we just said about a foot above whatever that flood is, could that get me back into the other zone?

Ms. Critchfield: No, that's the requirement for the "A" zone. You would have to talk to the Building Department about where specifically you would have to build, and get some assistance from a land surveyor to see how it looked on the elevation certificate to get your property removed from the "A" zone.

Mr. Bacon: Okay.

Mr. Chaikin: Okay, anybody else have any questions? Did you wanna have a question? Okay, could you just for the record, could you speak into the mike?

Mr. Poncho Alcon: My name's Poncho Alcon. Question for you, I know now new construction, in order to write the flood policy, you're probably gonna need an elevation certificate?

Ms. Critchfield: If it's built in an "A" zone?

Mr. Alcon: Yeah, pre- and after construction?

Ms. Critchfield: No. Oh, pre and after construction of the build, the new build? Oh, yes, sir, yeah. When you said "pre," I was thinking pre-FIRM.

Mr. Alcon: Before construction, you still need an elevation certificate?

Ms. Critchfield: Right.

Mr. Alcon: Is there a way that you guys or the County can do it so you can take information off of these drawings or whatever so that the homeowner doesn't get taxed for the elevation certificate two times? ...(inaudible)...

Ms. Critchfield: Okay, yeah, it's not anything I could answer.

Mr. Alcon: Can you guys somehow mitigate that so the homeowner doesn't get hit with that? It costs like a thousand dollars ...(inaudible)...

Mr. Cerizo: Can you repeat the question?

Mr. Alcon: The elevation certificates that are required to write the flood policy, the homeowner usually is gonna have to absorb that.

Ms. Critchfield: Well, it's also required to build.

Mr. Alcon: I don't think the cert is. They probably got it on the map, but there's not a certificate that's issued because I asked the builder, and he didn't have one.

Mr. Cerizo: Okay, every building that is constructed in the flood zone requires an elevation certificate. I know at one time in the early '80s and '90s, the certificates were not all submitted. In fact – but currently, the newer construction requires a preconstruction elevation certificate and an as-built elevation certificate.

Mr. Alcon: But that certificate is required of who?

Mr. Cerizo: It's required by the County.

Mr. Alcon: By the builder?

Mr. Cerizo: By the County for – to show that your building is in compliance.

Mr. Alcon: No, my point is, I agree that you're requiring it, but the guy that absorbs right now is the homeowner.

Mr. Cerizo: That's correct.

Mr. Alcon: Is there a way that you guys can do it so that maybe they can just take figures off of the maps or what have you that they submit to you guys, because I think you got the information on the maps? You know, how it's gonna be and so forth, so that the homeowner doesn't have to hire the surveyor to come in and shoot it.

Ms. Critchfield: Well, doesn't the developer hire the survey in the first place?

Mr. Alcon: I asked the guy for a certificate. He said he doesn't have one. This is the builder. And he said it's gonna cost the guy \$500 or \$600 each time he has to do it.

Mr. Cerizo: Yeah, the builder is required – you know, whoever is applying for the building permit, it could be the builder or it could be the applicant. Usually it's the homeowner.

Mr. Alcon: Exactly.

Mr. Cerizo: Yeah, the homeowner – it always comes down to the homeowner. He's paying for all the bills. He's required to get an elevation certificate. The contractor, the builder, when he gets his permit, he's informed to get an elevation certificate.

Mr. Alcon: No, I understand that. Now, your pre-drawings already has the heights on them, right?

Mr. Cerizo: That's correct.

Mr. Alcon: So why can't you just take it off of that, take the info, do the cert without having to charge the homeowner?

Mr. Cerizo: Because the preconstruction plans show what the building is supposed to be at.

Mr. Alcon: I understand. And the flood policy is gonna be issued based on that.

Mr. Cerizo: Well, see, it just tells you what the required design elevation your building has to be at. Now, someone has to certify that it's built at that elevation.

Mr. Alcon: So when does he do that, before they build?

Mr. Cerizo: After they build.

Mr. Alcon: No, but you need a preconstruction cert you said. So can't that be taken off of the drawings?

Mr. Cerizo: The preconstruct cert is actually done by the designer. The designer says—

Mr. Alcon: No, I understand that. Why do I have to go pay the surveyor to come do the cert if you can take it right off of the drawings?

Mr. Cerizo: Because the drawings tell you this is what you have to meet.

Mr. Alcon: Exactly.

Mr. Cerizo: Yeah.

Mr. Alcon: And you're asking for an elevation certificate based on that drawings ... (inaudible)... shoot anything.

Mr. Cerizo: Because the only person that is qualified or licensed to do elevations is a surveyor. The engineer can't do it.

Mr. Alcon: The surveyor is gonna take the info off of the drawings to do the elevation cert. The preconstruction, the preconstruction, I'm talking about.

Mr. Cerizo: See, the contractor and the designer, they design it for — let's say we looking at this house here on the map here that says "nine feet." So you have to have it at nine feet.

Mr. Alcon: Okay.

Mr. Cerizo: Okay. So all the designer says, build it at nine. The drawings, they're supposed to be topo on the drawings to say, well, the ground is actually at seven. The surveyor has already been on the property. He surveyed the property and says it's at nine feet. The building has to be at— I'm sorry. The ground is at seven, the building has to be at nine. So when you have an as-built certification, the surveyor has to come back one more time and say, well, it's built at nine. And there's no one else other than the paid surveyor can do that.

Mr. Alcon: You're talking about the completed elevation cert.

Mr. Cerizo: Correct, the as-built.

Mr. Alcon: What about the one before it's completed?

Mr. Cerizo: The before one doesn't have to be a surveyor. It can be a designer. It can be a draft. You know, it can be an engineer or an architect. Based on information they get from the surveyor, you know, they show what the ground elevation is. And based on the flood map it says what the elevation of your building is supposed to be at. Those are two parts of the equation. And then, to confirm that they built the building the way it's supposed to be built, that's—

Mr. Alcon: No, I understand ...(inaudible)... The one that's before is the ...(inaudible)...

Ms. Critchfield: Yeah, we can't use the one from before because that's the at, should be. And so they have to have a second one that shows what it really is.

Mr. Alcon: ...(inaudible)...

Ms. Critchfield: That doesn't—

Mr. Alcon: ...(inaudible)... to build.

Ms. Critchfield: Right, and then you have to have a completed one afterwards, right.

Mr. Alcon: ...(inaudible)...

Ms. Critchfield: That's a building question. I'm just telling you that if it's built in an "A" zone, we need to have that to rate the insurance. And it needs to be completed after it was built because what if something happened and it wasn't built at nine, and it came in at six?

Mr. Alcon: I understand. So you need one before you ...(inaudible)...

Ms. Critchfield: The completed one.

Mr. Alcon: No, I'm talking about new construction.

Ms. Critchfield: We don't need that to read the insurance.

Mr. Alcon: If you write the insurance, what are you gonna base it on?

Ms. Critchfield: We're gonna write the insurance after it's done.

Mr. Alcon: ...(inaudible)...

Ms. Critchfield: The course of construction policy is totally different.

Mr. Alcon: So what is the rate on ...(inaudible)... ?

Ms. Critchfield: Sir, I don't quote course of construction rates.

Mr. Alcon: You don't need an elevation cert ...(inaudible)... ?

Ms. Critchfield: Well, they can buy the policy based on what it's supposed to be. And it has to already be coming out of the ground or the lumber and all the materials have to be onsite.

Mr. Alcon: So you're saying you don't need the elevation certificate?

Ms. Critchfield: Right, to start the policy. You didn't say "course of construction." I'm sorry. I thought you were still talking about—

Mr. Alcon: ...(inaudible)...

Ms. Critchfield: And they may, but not to get a course of construction flood policy, but they do convert it.

Mr. Chaikin: You have another question? Go ahead.

Ms. Francine Pactol: My name is Francine Pactol and I live Kawela side. And I just wanted to double check because I have an elevation certificate where I live at my property. So once I have this on file, and if I was to sell my house or whatever, do I still have to have one more certificate done again?

Ms. Critchfield: No, the elevation certificate, unless there's substantial improvement to the house is – remains with the house. And so if you were to sell the house, it would be in the buyer's best interest and your kindness way to give them a copy of it so that they would have it when they went forward to get the insurance because the insurance is assumable or transferrable in a flood policy. So once you've done it, then the best thing to do is just share it with others.

Ms. Pactol: Okay, so I don't have to do anything else afterwards?

Ms. Critchfield: Well, you got the elevation certificate for what particular reason?

Ms. Pactol: For – because I needed to do 'em for my property, but I just wanted to know if once I did it, like I how I said, I put 'em on file, and if something else come up that's stating that I need an elevation certificate, will it still hold water or will they say it's outdated?

Ms. Critchfield: Yes. It's too old? No.

Ms. Pactol: Okay. That's all.

Ms. Critchfield: You can keep it and then if sometime you find your property in a flood zone, it may benefit you with a lower premium.

Mr. Cerizo: The only exception is that let's say you add onto your house, you add another thousand square feet, that certification that you have now is for the existing building. Then when they build the thousand square foot addition, that part has to be certified.

Ms. Critchfield: And that's what I said: substantial improvement.

Ms. Pactol: Oh, so anytime you do something else to your house, even though you get this, and they already came out, and they survey 'em and everything, you still another one?

Mr. Cerizo: Yeah, to show that the addition is also compliant.

Mr. Dunbar: What if you build a second floor?

Mr. Cerizo: If you build a second floor, if you have an existing plan and everything's on the same footprint, and you're compliant, that's fine. The answer is no. You wouldn't need to have another EC for a second floor.

Ms. Pactol: Okay, thank you.

Mr. Chaikin: Does anybody else have any insurance questions at this time? Alright, seeing none, thank you very much for coming and sharing with us.

Ms. Critchfield: Thank you.

Mr. Chaikin: Francis, I don't know what else you've got, but, you know, do you think you could just for a homeowner that's interested in their own personal property, and they wanna figure out how to go online, and look up their own property, and figure out what zone they are? Could you just run us through how you do that?

Mr. Cerizo: Okay. If – right now, we have a presentation on the other side for anyone that wanted to actually look at your own property. But let's say we're on this property now. We're on Seaside. Let's look at this house here. How do you get there? One of the things you can do is Google. This is the website. And if anyone's here, we have the handout that you have on your desks that I gave out. And anyone else here, they can– Let me just show it to you. This flyer that we're handing out at the meeting, and on your desks, and we

have some in the back has the URL on the bottom that shows you how to get there. And also, there's a video that shows you – if you're just like I don't know how to do this, they will actually go point to point as to how to get there. But for the public that's here now, we can actually go through a scenario. We're also giving out these. It looks like credit cards. The website is on here. You can pick up a card on the way out, and take it home, and share it.

You know, many of these properties, as you can see below Kamehameha V, these are all new flood zones. So every one of these, if they have insurance – if they don't have insurance now, and I know a lot of these were not in the flood zone, they're gonna be required to get insurance. So this is kind of a real life thing on how to do it.

You go on the website. We have a search engine here where you can type in "Maui," and let's put in "Seaside" here. And as you can see, there's – the options kind of come up right away. So to find out where you are, you can go to "street lookup," and choose. Does anyone know anyone that lives on Seaside? We can look at their house. Let's just take this one here: 230. And it brings up a property that's on the shoreline. So right now, the flood zone is – the flood zone is nine. You can blow it up. Take a look at if your house is in or out.

Now, as you can see, these property lines are not accurate. This layer–

Mr. Dunbar: That's what I've been saying.

Mr. Cerizo: Well, we have – we are the weakest link. The County provides the layer on the parcel there. So you have to use those layers as just for – to get you there. We found the address and the owner of 220 Seaside. This is my house.

So the next thing you do is that you look at your house and you ignore the lines. You know, you found your lot, you ignore the lines, and you see, does the line go through the lot? In this case, it's in the entire lot, but there's fringes where you have the "X" zone like near Paddler's Inn, Paddler's Inn is somewhat on the high side. So it recognizes that it was raised up to a certain extent and – but I can see that Paddler's Inn, there's part of it that actually is in the flood zone. So that is a good candidate for an appeal. You get the survey. It says I'm way higher than nine. Submit that information. That is technical data that can be used to assist and taking yourself out of the flood zone. It's a much – it's less painful now. If you wait till two years from now or one year from now when it's adopted, it's a longer process.

But let's take a look at 220. There's other information here that's available that you could use to assist yourself on determining if you're – if the map is right or not. The map, the layers along the south coast have – we have topography available. Topo maps are

elevation maps. It tells you – as you can see, this – can you see these lines here? These – the gold lines, those are the topo lines. And as you can see here, this is at elevation six. This is an elevation eight. And your flood zone is nine. In some cases, though, you may have a lot that you may have filled a little higher. You might be already at nine. So, you know, if you go down the road and you see this one person say, I wanna make it higher, then that person also can be a candidate for appealing the map and taking yourself out of the flood zone.

Let's say you wanna know this parcel here. And if you're in the bigger map, and you wanna find information for another parcel, we have a "select parcel" selection here. You can select any parcel on the map. When you have a map on a smaller scale, you can actually choose – if you could have – you know, if this map was really small, we can go to the Kip's property, and we can click on it, and it'll bring up the latest information on that lot. And that's how you do it.

Mr. Dunbar: The question is, 2-5-7-04-08. That's a little bit more relative because I know what the topography is of that piece of property, and it is on the shoreline. I mean, I have no idea what this poor gentleman is doing at Seaside, and it's not relative to anything, so it's unarguable. So you find something that's relative . . . (inaudible) . . .

Mr. Cerizo: What's the TMK? Is this an address or is this a TMK?

Mr. Dunbar: That's the TMK.

Mr. Cerizo: Okay, what's the TMK?

Mr. Dunbar: 2-5-7-004-008. Only because they show the topography map. It may or may not be true.

Mr. Cerizo: Okay. In your case, the flood zone is at elevation nine along the coast. And it's ...(inaudible)... You can see here that this may not be oriented in the right area. This could be – this property line could be maybe here. But you can make that call. So ignoring the property lines, we can see here that elevation seven, we have some elevation six here.

Mr. Dunbar: Where is elevation seven? ...(inaudible)...

Mr. Cerizo: Yeah, right – you see the preliminary map, it's Zone AE. And the preliminary elevation is at seven feet, local title datum. And this topo is approximate. You know, it's not something – it's more for planning purposes. You won't use it for certification purposes, but it's more for your information. You can use it for planning, but when you build a

property, you would have to get a surveyor out here to confirm these elevations. The only elevation I can see on the property is a four, and we have some sixes here.

Mr. Dunbar: What is the elevation of the road there? ...(inaudible)...

Mr. Cerizo: As we can see here, most of the lot is at four. You can see a four contour through here, another one here. If you're looking at the roadway—

Mr. Dunbar: You see, the problem that I have, Francis is that ...(inaudible)... You know, once you put it in stone like this, the landowner is just – it's impossible to get it changed. Now, I know I didn't even set a foot on the ground, . . . (inaudible) . . . what it looks like. It's just like the SMA. It's the same thing.

Mr. Cerizo: Well, see, this is where, you know—

Mr. Dunbar: ...(inaudible)... We need to know how to comment. We need to know how to appeal. And those are the things that can be helpful to the people so that they can get something legitimate to you folks, then you would then ...(inaudible)...

Mr. Cerizo: Okay, what maybe we can do is have Eric come up one more time and just kinda give a little high points on what does it take to file an appeal, or what kind of information that you would need to have to—

Mr. Dunbar: Because then you can tell on your topo map right there on the pink side, you see ...(inaudible)... hillside there. It's in pink. If that floods, Kaunakakai's gotta be under 25 feet of water. So I'm just saying it has to be relative to the piece of property, not just everybody's pie in the sky. So we need to know how to comment on it and appeal it so that it's relative to the property.

Mr. Simmons: Yeah, a very good question as we worked together before, and realize we're right now during our comment period. So we want citizens, the County, other folks to look at these maps and provide comments. And if you're disputing one of our proposed flood elevations, that's what we call an appeal, those elevations are based on new models and analyses. And to actually appeal those flood elevations, you would have to submit models, or analyses, that technical data. But again—

Mr. Dunbar: ...(inaudible)...

Mr. Simmons: Okay. But the concern you have that we looked at here is on this Zone "A" that's actually been mapped for about 20 years. And you're right, when we look at this data here, it looks like that boundary should be adjusted. And we welcome those kinds of comments also. And then in those kinds of cases, you do not need to submit analyses.

What we do ask if citizens or other landowners have questions, comments, disputes, that they submit those to the County. The County asks that you actually make two copies of that. So they all review those and forward one of those sets to FEMA, to me, personally.

Mr. Dunbar: Because this property is ...(inaudible)... Okay? And it didn't even get close to those lines that you got there. Not even close.

Mr. Simmons: Okay. And that Zone "A" is based on flooding from the gulch, riverine flooding. And it's that same line that's been there for about 20 years.

Mr. Dunbar: ...(inaudible)...

Mr. Simmons: Well, this is a great opportunity to make that line more accurate.

Mr. Dunbar: But I can't afford a hundred thousand dollars for an engineering study to show you why you're wrong.

Mr. Simmons: No, as we discussed before, all we ask you to do is to submit that comment to the County. Highlight that area, and they'll forward it to us, and we'll ...(inaudible)... that.

Mr. Chaikin: Okay, thank you. Does anybody else have any further questions at this time? Seeing none, Francis, did you have additional information for us?

Mr. Cerizo: Yes, we just – we'll be wrapping it up in a few minutes. Our last speaker is going to deal with the Kaunakakai Levee. On the County's side, we're working with the Department of Public Works. In fact, the Department of Public Works is taking the lead for the re-certification of the levee. There needs to have funds to be added to the budget, and hopefully, they can get it in this year. They're looking at perhaps, a budget amendment. But they wanna have the map contract out coming next fiscal year. Their tentative schedule is to have the contract out once this authorized – the funds are authorized. Have the contract out within four to six months, and perhaps, six to 12 months to complete the project. At that time, they would have the adequate data to show that they're – that the levee is actually certifiable. And Mr. Lincoln Gayagas, from the Corps of Engineers, will be speaking on their part in assisting us in getting the certification.

Mr. Lincoln Gayagas: Mr. Chair, Commissioners, thank you for this opportunity. I'm Lincoln Gayagas. I'm from the Honolulu District. Our offices are at Fort Shafter in Honolulu. So I do have a presentation, if you would like. I have about 20 slides or so. It's kind of a levee safety 101. Kinda sets the common operating procedures so everybody kinda's talking about the same thing, if you'd like.

Mr. Chaikin: Yeah, I'd say go ahead with your presentation.

Mr. Gayagas: Okay. Really, this is just a primer on basic terminology just so we're all kinda talking about the same sort of thing. I'll cover a bunch of topics and then open up to questions for you and the public. Really, this is just to familiarize you with the levee, or the things that we look at at the Corps of Engineers; maybe update some of the activities that the Corps is participating in with the County; and then as always, just trying to communicate the risk that's involved when you live behind a levee.

The best is bottom line up front. So if you're like me and you have a short attention span, this is the gist. You can kinda skip to the end. But it's – right now, the Levee Safety Program is a national effort to find out what's out there, find out what condition it's in, and then take steps to improve the performance and reduce risk. Our key message is really, no. 1 is always public safety. There may be some considerations for economic or environmental issues, but for now, public safety is paramount.

I mentioned shared responsibility whether it's the homeowner building illegal berms to divert drainage in other places, or throwing banana stumps in a gulch that could cause problems, at the County level, their ordinance is that guide development; the State, who administers the program; and at the Federal level, whether it's FEMA or the Corps of Engineers, we all have a responsibility to do our part, and make sure that we're communicating, collaborating as we go forward. And steps like these are great because over the past two or three years, we've worked closely together to address some of these issues and make sure that at least we're communicating some of the issues to the public and shareholders.

And then finally, communicating that risk even though there may be a levee out there. And we sort of get hijacked because we're concerned with the 1percent event. And you can always be flooded whether it's from a bigger event. You can be flooded from interior drainage problems. There could be a failure in the structure itself. So there is still always some risk even though you live behind a protected – inside a protected area.

The program components, we started this actually before Katrina hit with flooding problems there. The silver lining in that tragedy was that Congress took note and started funding some of these activities to go out and find out what's there. The Corps, by no means has all of the expertise on flood control projects or levees. And we've worked with academic experts and scientists in trying to come together on common rules and regulations. And so, part of that is the National Levee Safety Act of 2007. And so that's starting to push the Corps to be the national expert on levees. There are levees from other Federal agencies: the Soil Conservation Service or NRCS. Private developers may have built levees. A lot of times just a farmer pushing up stones, or over here, you know, plantations pushing up dirt and stones. So part of that effort is to find out what's out there, and to put it into a national data base so that it's easily accessible. So when somebody wants to know how many levees do we have in our area, what condition they're in, all of that information is

gonna be in a central repository. And it'll be geo-spatially-based, so that you can click and point and find lat and long. It'll be like Google Earth.

As far as inspections, what they've tried to do is come up with a ...(inaudible)... system that's GPS-based, so you can go back to a problem area as the inspector is going out there. It's got a bunch of drop-down menus. And it allows the inspectors across the nation to weigh deficiencies in a more common way so that everybody's looking at the same thing, and calling it the same thing.

Here's some revised criteria as far as vegetation that's allowed. If you're familiar with places like Sacramento, they've got 2,000 miles' worth of levees in the Corps' program. And they have a lot of vegetation issues. You might have a heritage oak that's 150 years old in a levee. So those are some of the things that they're looking at now. Those sorts of criteria are being revised and looked at. There are scientists looking at what is the impact really, of having a tree on a levee, and does it need to be removed. And if you remove it, does it make it weaker. So we're looking at that.

And then up there: one, five, and ten inspections, those are annual inspections, a five-year inspection, and a ten-year assessment. And each of those require more scrutiny. You know, you have more people going out there to look at that. You have more expertise. And you actually have to go and walk these levees. As a matter of fact on Kaunakakai, the inspector was here this morning. Took a look at it as part of his annual inspection. So he comes out every year to look at them. I talked with him briefly. He said it was in good condition, maintenance-wise so—

As far as assessment, we look at – it's almost like a desktop exercise where you look at the old design criteria, look at what the current common practice is, and look at the consequences. And then that rating is provided at the national level so they can prioritize. It's given a safety action classification so that if it's in really bad condition and low consequences, you're probably not gonna get a whole lot of money to fix that on a national level. But if you have high risk and high consequences, that'll be at the top of the list. How that's funded, I don't think Congress has figured that out yet, but that's on the table for them to do ...(inaudible)... Act was passed. They're still working through implementing rules and regulations. And that guidance is supposed to be out over the next two years or so.

And then portfolio management, here in Hawaii, the Corps does not own any of the levees. They all belong to the Counties, and so that will help you make better decisions at a County level, and how you're gonna fund, fix this, or maintenance efforts, those sorts of things. And again, this is just a tool for more informed decision-making.

The levee, if you're looking down a river, the levees go down on either side. And I know it's kinda confusing sometimes because you say, oh, it looks like a dam or something. The

dam goes across and holds back water. The engineering behind it is very different because levees don't need to hold back water for long periods of times. In the Mainland, you may have high water for a week, or a month, something like that. Here, a couple of hours because our topography, we're very flashy as far as floods go.

A flood wall is often confused with a levee, but it's just a concrete structure that provides protection similar to a levee. I've got a picture here real quick. The channel is the natural channel below grade. And then the dam, I mentioned, is a barrier that holds back water. It's much more engineering than fences.

So there's your channel, the water level, the existing ground here as shown by the dot. You got a levee on this side, which is dirt, stones, some sort of material mounded up. Over here, because of maybe space constrictions, you're gonna use a flood wall. And so that just allows you to get more usable space. And so that's why some areas do have flood walls. In Kaunakakai, in particular, there is no flood wall.

Just an example, throughout the State, there's one in Hilo, earth and ...(inaudible)... This is Paaau. Armored. And then this is a levee incorporating a flood wall. In Molokai, we just have a combination of an earthen levee that's armored. So you'll see the big stones on top. That's an armor revetment to protect the earthen levee.

I talked about this very quickly, there's many ways that you can get wet. By design, levees are going to fail because they're only designed to a certain level. And once you exceed that level, you're gonna get wet. So you may have something larger than designed, or you may have a construction downstream that backed up water and causes water to overtop further upstream. You may have a failure of the structure itself, and that's what we call a breach. It could be because of scalar, seepage through or under the structure itself; erosion, whether it's by rainfall or vehicles; or water actually flowing over the top of it. And then there may be deliberate breaches, which is not common here because we don't have high water for long periods of time. On the Mainland, they may deliberately breach farmland levees to protect the city. And then you can also get wet by interior drainage problems.

We look at lots of stuff at different degrees. We may not always look at seepage especially, when it's dry. If there's high waters, we'll look for boils and things like that. You can't look at them all of the time. And we always caveat it by the inspection being a snapshot, a point in time. Those conditions change every day. And then we try and document as many pictures as we can. We evaluate a lot of things as we go through into more detailed inspection. So we wouldn't do all of this detailed evaluation every year, but we look at the design documents, pull up the as-builts, which here is a little bit of a problem because this project was originally designed in the '40s; built, I think, in 1950. And there

have been a couple of improvements, but the original design and prints are – they're not blue lines. They're actually blueprints, you know, the old style.

And so we look at how reliable is it, will it sustain more than one high water event. You know, it might pass one today, but if it's damaged during that event, will it hold another one next week. So we look at those sorts of things, too, when we determine a rating classification that we give these projects. Just some of the things that we deal with in trying to develop the most accurate inspection data that we can.

We talked a little bit about risk. And the basic definition is that you take the probability of an event whether it's high water or failure, structural failure, and the consequences. And I talked a little bit about it. If it's low consequences, well, your risk isn't that high. You may have higher consequences, but a very low probability of an event happening. So that all kinda works together to determine the amount of risk. And the point is that levees only reduce that risk. They don't eliminate it. You know, we talked – there's no such thing as 100 percent protection.

And just a graphic down at the bottom that shows, you know, we design these to a hundred-year event. And this house up here wouldn't even need insurance because it's above that design level. But you have a 110-year event, and they actually do flood. So everyone is at risk. And like Jana was talking about, our message should be that everybody faces risk. If you have the opportunity, you should lower your risk, or the pain that you might get when you get wet by purchasing insurance.

This is just a graphic that kinda wraps everything up and says, you know, there are ways to buy down your financial pain should you get flooded. And the levee is just one small piece of this. And you can see like evacuation plans; what we're doing today, outreach, making sure that you're informed about the risk that you face; zoning; insurance, all those other private actions reduce the risk, but at the end, you still have some risk that you face. And you could – even though you do all of these things, you could still be harmed financially, when the floods come.

Let me talk a little bit about levee evaluation. And the Corps now doesn't say levee certification because certification implies a certain level of guarantee for protection. And so what we're doing is we're evaluating the data, the supporting data, whether it's the hydrology, the hydraulics, the construction, all of those sorts of things. The FEMA's rules are that we look at the design, the construction, maintenance, and how it's operated, and then make a call. Say, okay, we put together the report. These are our findings and we have evaluated the data and it does meet the criteria that FEMA has published.

So the Corps actually employs a slightly different rule from what FEMA requires of consulting engineers. They've accepted our technique of using risk and uncertainty. And

so we're actually able to go with a two feet of ...(inaudible)... instead of three feet as required by the CFR. And really, the state-licensed engineer or a Federal agency who's got substantial experience in levee design or maintenance. And that report is submitted to FEMA. And then FEMA will accredit that data and then accredit the levee.

So I put this up here because it's not easy to get to the Corps to have us do the work. And so the County is working through this process. I guess two years ago, the County Engineer for the flood plain was gonna self-certify. They were gonna use in-house labor. That gentleman has since retired, and so the County's kinda going back and looking at, okay, we're gonna gather some data from consultants, and we're gonna get to the Corps. We're gonna – I think they're gonna use grant money for a portion of it. But there are rules so we don't compete with private firms because they could this sort of work. But eventually, the local sponsor is responsible for certifying that. The County owns the project, and so they are the ones who have to submit that data. So we can provide some technical background, but ultimately, it is the County.

I'm subject to your questions or the public's questions.

Mr. Chaikin: Commissioners, do you have any questions for Lincoln? Let me just ask you, I think the goal here for all of us is to get levee certified. Ultimately, somebody has to certify it. Does that – when the certify comes, is there any – you said that it comes with a certain amount of guarantee, but is that – I mean, is there any bond or anything?

Mr. Gayagas: No, there isn't. And it doesn't come with a guarantee. It's more that – I guess the guarantee is that the data has been looked at, and it meets common – the standard engineering practice. So whether it's the survey data, the rainfall data, they have to look at all of that. And then it's submitted to the FEMA engineer, and he will look at it again and say, okay, this meets the criteria. So I kinda wanna stay away from guarantees and things like that because there really isn't one.

Mr. Chaikin: So you guys used to do the certification, and now you're not calling it a certification? You're calling it an inspection?

Mr. Gayagas: No, it's an evaluation of the–

Mr. Chaikin: An evaluation?

Mr. Gayagas: Yeah, there's no more letter. I guess the Corps used to write a letter that says it's okay.

Mr. Chaikin: So FEMA wants you to – wants this new requirement of some engineer to go out there and sign it off?

Mr. Gayagas: Yes. It's in the CFR now.

Mr. Chaikin: Okay. Does anybody else have any questions at this time for Lincoln? If not, thank you for taking the time to be here today.

Mr. Gayagas: Okay, thank you very much. If there are any questions, just give me a call. Francis has all my contact information.

Mr. Chaikin: Alright. Francis, back to you.

Mr. Cerizo: Yeah, this concludes the presentation.

Mr. Chaikin: Alright. Thank you very much for that. So with that, we're gonna move along with our agenda. When I do look at the agenda, we have a couple of homeowners that are here specifically, to try to get their project looked at by this Commission. Before that, we had scheduled some proposed amendments, but if it's okay with the Commission, can we let the homeowners go first so they can be on their way, and we can get that done? We're gonna need Nancy for that. Nancy, we're gonna amend the agenda, if that's okay, so we can get these things taken care of before with those proposed County code amendments. So with that, see, we're gonna go to G, and we'll start with the William Spence SMA exemption request.

G. COMMUNICATIONS

- 1. MR. WILLIAM SPENCE, Planning Director, requesting concurrence from the Molokai Planning Commission pursuant to their Special Management Area Rules, as amended, that a Special Management Area (SMA) exemption can be issued for the following:**
 - a. ESTA BIEN, LLC submitting a Special Management Area Assessment for the Condo Loft Expansion, a 108 square foot expansion of the loft area in existing condo unit, interior alteration only at 255 Kepuhi Place, 12B-12. #2226, TMK:5-1-003:006-0056, Kaluakoi, Island of Molokai. (SMX 2010/0372) (Valuation: \$4500) (N. McPherson)**

Ms. McPherson: Okay. Thank you, Chair. Nancy McPherson, Staff Planner. Aloha kakou. Our first one is – I was attempting to use the short form, but you ended up getting all these exhibits anyway. This is for an interior only expansion of a storage loft in a condominium at the resort there at Kaluakoi. That name has changed several times for those condos. What's the name of the condo now? Villa? Okay.

The valuation of the project is \$4,500. It's to expand an existing storage loft area by 108 square feet. So that is considered repair, maintenance, or interior alterations to existing structures. And so that means it's not development according to Chapter 205A. So we are requesting your concurrence with a recommendation that this be exempted from your SMA rules. And it's pretty self-explanatory, I think. And if you have any questions, I'd be happy to answer them. And Luigi Manera is the project point person, and he's here today if you have any questions for him.

Mr. Chaikin: Commissioners, do you have any questions for Nancy? Nancy, in the middle of the page, you have this black box. And inside that box is some verbiage. Can you explain that to us?

Ms. McPherson: Okay, well, this doesn't seem to be correct.

Mr. Chaikin: So can we just scratch what's in that black box in the – from the report?

Ms. McPherson: Yeah, I don't know why that was done that way, but anyway, please replace that with what is on the other side in the assessment, repair maintenance or interior alterations to existing structures.

Mr. Chaikin: I see that.

Ms. McPherson: I apologize for the error.

Mr. Chaikin: Okay. If the Commissioners don't have any questions, I'm gonna go ahead and open this up to the public. Is there anybody that wants to comment on this particular project? Alright, seeing none, it comes back to the Commission. Commissioners, if you don't have any further questions for Nancy, I'll entertain a motion.

Ms. Mikiala Pescaia: I move that we concur with the Department and with the determination that this activity is exempt.

Mr. Chaikin: Okay, we have a motion.

Mr. John Sprinzel: Second.

Mr. Chaikin: Second by Commissioner Sprinzel. Any further discussion on this?

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

It has been moved by Ms. Pescaia, seconded by Mr. Sprinzel, then unanimously

VOTED: ***To concur with the Department and with the determination that this activity is exempt.***

Mr. Chaikin: Okay. Thank you, Nancy.

Ms. McPherson: Thank you, Commissioners.

- b. MS. FRANCINE PACTOL KAAHANUI submitting an after-the-fact Special Management Area Assessment for the after-the-fact 612 square foot carport addition and a 30 square foot half-bathroom (bathroom) addition to the existing 748 square foot single family dwelling at 14 Kawela Way, TMK: 5-4-013: 041, Kawela, Island of Molokai. (SMX 2005/0520) (Valuation: \$16,000) (N. McPherson)**

Ms. McPherson: Moving right along, we have an after-the-fact addition of a carport and bathroom which is really just – on the photo, I think I entitled it “lua,” because it really is very small and it’s only enough room for a lua. So this was done quite a few years ago. The applicant has attempted to become compliant since at least 2005. The problem being that the property is in Kawela Gardens Subdivision, which is in the flood zone, and possibly, even the floodway. So she needed to get a flood development permit. She did have to revise her plans at one point based on the fact that it is in the flood zone, and the feedback that she got from Francis Cerizo and Zoning as far as the flood development permit goes. As the applicant stated, she’s here today. And she asked a question earlier. She does have an elevation certificate. She has gotten a flood development permit. So she’s straightened out everything. It’s unfortunate that it has taken this long to do that. But we’re doing the best we can, and we’re here today to request that you concur with our recommendation that this after-the-fact construction is exempt from the SMA rules. And then we can go ahead and issue her an exemption for this.

Mr. Chaikin: Commissioners, any questions of the Kaahanui Project? Nancy, just from a procedural perspective, how does that work when somebody goes in for an after-the-fact permit? I mean, does a Building inspector go out there and look at that? Or is it all just off of the—?

Ms. McPherson: Yes. And in fact, speaking earlier about getting assistance from other departments, we did get assistance from Anthony Fukuoka here. And he actually took photographs for me. He took the pictures of the lua in the rear of the house. So he’s being very helpful. And I hope that we can continue to get that assistance in the future. And so,

yes, that building permit after-the-fact is actually just awaiting – I'm not sure if it's approved already, but she is waiting for SMA in order to be completely in the clear.

Mr. Chaikin: But isn't this an exemption to be exempt from the SMA process?

Ms. McPherson: Yes, an SMA exemption is what she needs, yeah.

Mr. Chaikin: Okay. Alright, Commissioners, any questions? If not, I'm gonna ask the public, is there anybody that has any thoughts one way or the other on this issue? Alright, seeing none, Commissioners, it's back to us. Do you have any final thoughts or anything on this? If not, I'll entertain a motion.

Ms. Pescaia: I'd like to make a motion that we accept the Department's recommendation–concurrence for an SMA exemption for this Pactol Kaahanui residence addition.

Mr. Chaikin: Okay, we have a motion.

Mr. Sprinzel: Second.

Mr. Chaikin: Okay, motion by Pescaia, and second by Sprinzel. Any discussion?

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

It has been moved by Ms. Pescaia, seconded by Mr. Sprinzel, then unanimously

VOTED: To accept the Department's recommendation– concurrence for an SMA exemption for this Pactol Kaahunui residence addition.

Mr. Chaikin: It passes unanimously. Thank you. And thank you for your patience. It's been a long time.

Ms. McPherson: Thank you, Commissioners.

Mr. Chaikin: Okay, with that, before we get into this whole bill for an ordinance, we're gonna take a short break. So let's reconvene in five minutes, then we'll carry on.

(A recess was called at 2:00 p.m., and the meeting reconvened at 2:09 p.m.)

Mr. Chaikin: Okay, at this time, I'd like to reconvene this meeting of the Molokai Planning Commission. We're on Item F-1, which is some proposed amendments to Chapter 19.31. And with that, I'm gonna turn it over to Joe Alueta.

F. PUBLIC HEARING

1. MR. WILLIAM SPENCE, Planning Director proposing various amendments to Chapter 19.31 of the Maui County Code relating to Public/Quasi-Public Districts. (J. Alueta)

Mr. Joe Alueta: Good afternoon, Commissioners. Long time no see, and happy new year since I haven't been here in a while. The bill that's before you is our continuing effort to update, simplify, and streamline the existing Maui County Code. As you know, we're trying to correct some conflicts with other sections, as well as standardize how each chapter in Title 19 is set up so there is a consistency throughout the code. Again, we're trying to have things that – you know, list the things that are allowed, what things are considered standard accessory uses to what's considered allowed, what are considered special use permits or special uses that would need Planning Commission review, and then set up a standard table format for what is this development standards.

They kinda jumped ahead to 19.31. I'm still working on the industrial area. The reason was I was asked by the administration to kinda jump ahead to public/quasi-public district because we have some new County facilities coming up, and we wanted to update it. There's also some revitalization of the – not so much affects Molokai, but on Maui, the Old Maui High School is coming in. And one of the glaring things that's empty from the public/quasi-public district is public/quasi-public uses, which are defined in the code. They're not listed as an allowed use in the public/quasi-public district. So it was kinda ironic, and so we decided we needed to update that part.

So we kinda went through and did that, you know. So we have a defined use for a public facility and public use that we're adding in. And those are existing definitions. We're not adding those definitions. Those exist currently in 19.04. Because we are adding it to the allowed uses, and I'm working from Exhibit 1, that's the proposed bill, I wanted to show you what the definition was. Also, again, quasi public use, or quasi public facility was not allowed in the public/quasi-public district, so we're again, adding that use to it. And again, as part of our energy – you know, try to become more sustainable, self-sufficient, we are adding energy systems, small scale, to all of the districts where we think they're applicable.

It did go out for review. We didn't have any major comments coming in or conflicts. Another big change that you should be aware of is we're increasing the height. We get a lot of variances for gymnasiums for schools. That seems to be a standard feature. And you can see the amount of variances that have come through. So within the existing height limitation within the public/quasi-public district is 35 feet. We're raising it five feet. We're also allowing for in the P-2 district where we're creating a new district called P-2. Currently, there's a P-1, quasi public, and then they had a P-1. And those development standards

were as listed on page 3 of Exhibit 1. We felt that maybe there should be a larger – a P-2, all the same exact same uses, right, but have larger – for larger lot size, as well as allow for larger or taller structures. We felt this is important because we do have larger buildings that would go above the 40 feet primarily such as MCC, which is a huge campus, as well as the hospital. You have large facilities. Maybe it could be a wastewater treatment facility or a tank that needed to be built that was larger than the 40 feet. It just gives a little more flexibility. It allows for a larger height. And so we're adding that in.

In the draft bill I'm gonna talk about two other amendments that are not on Exhibit 1, and I'm – these are some minor corrections. The first change, I was talking about just for correction before I go over the bill is that on page 1, line 30 on Exhibit 1—so I'm gonna be working from Exhibit 1—you'll see where it says, "The following permitted uses are allowed in the," and you just need to scratch off "P-1," because in reality, it's in the whole – in public/quasi-public district. And the only difference between P-1 and P-2 is in the development standards, okay? So all the uses that are listed are allowed in either district. I'm not separating that out. The reference would be similar to how we have the residential district. You have all the allowed uses in the single family residential district, and then you have different development standards for R-0, R-1, R-2, R-3. So it's kinda like that. I'm just doing that with the P-1 district now.

The other change is the little paper I gave you, the little fortune cookie-sized slip. That's gonna go on page 3, line 8, under Development Standards, where it says "Minimum Lot Area, " and it's in square foot, it says 15,000 for P-1, and then I'm adding the new P-2 called 20,000. Under Notes and Exceptions, that text will be inserted. This is to account for Public – Solid Waste – not, Solid Waste, excuse me, Environmental Management like sewer pump stations, water pump stations. You know, you see those? Utility substations. You see small phone relay transfer stations. They don't need 15,000 square feet of land, but we may or may not designate them as P-1. But we're just saying if we had to on a community plan, people know where the MECO substation or the telephone exchange is. And you designate it on the community plan as public/quasi-public use because that's what it is. And someday we may do comprehensive zoning, and we say everything that's community planned public/quasi-public will be designated, and we don't wanna create this nonconformity where all of a sudden you zone something that had a substandard lot size. So we wanted to make sure it was allowed.

Let's see. Exceptions – on looking at the development standards, I wanted to talk about because it was brought up was you have light poles that are allowed. And you also, if you look at Notes and Exceptions, we set a height limit not only for walls and trash enclosures that are within the setback, but also – of eight feet for walls and trash enclosures, but also for 30 feet for light poles. So you typically see a light pole like in a parking lot in either – like a church or other governmental institutions, but also in the business district. And we'll be adding that separation to show that you could have a light pole that's typically on the

edge of a property or if your parking lot extends that line. We've been getting a few variances, as noted, in some areas where the height exceeds that in the district. But mostly, because we are regulating towers, I didn't want – I wanted to separate out what a light pole and a light tower or tower structure. As you noticed, we're allowing for a freestanding antenna, wind turbine structures height and setback. And so those towers would have to be set back one foot from the property line for every foot in height. But we didn't think that standard should apply to a light pole. So we wanted to separate that out. So we're saying there's a tower and then there's a light pole that could be allowed within that setback area, but we didn't want to have an unlimited height.

Mike brought up a point just now about the definition. Originally, we had a definition for light pole and light tower; however, it became a very big debate. Whether or not you should do it, have the definition or not, we feel – my Director chose that we'll just go with the *Webster's Dictionary*. We all know what a light pole is. And then if somebody comes up with a light tower, I mean, we're gonna say that's a tower. I mean, so he didn't wanna have to define it and box ourselves too much on that. That's the reason it's not included because if you look at the standard, structure, everyone pretty much knows what a light pole is.

That's pretty much it on the changes. Again, this is again, just part of our standard streamlining process, trying to simplify the code, make it easier to use, as well as correct some longstanding conflicts maybe down the line. Again, this thing was last edited back in 1986 so– And that's pretty par for the course for some of our sections in the County code, so we feel it's time to update it.

Mr. Chaikin: Thank you, Joe. Commissioners, do you have any questions for Joe? Joe, how come on some of the letters that went out to agencies for comment on this, you referred to this particular proposed amendments as the small scale wind energy amendment?

Mr. Alueta: Because some Divisions– I sent out– I review a lot of them. And I sent them all out to different agencies as separate transmittals. And some of them decided to consolidate their comments, and just list all the things they received from me over the last five months and write me one letter. And so from Water Department, I have a letter that includes the residential district, the – I mean, they covered them all. And then they broke out their comments. So I just have to make copies of each one of those comments every time I do a report. So some of these letters may be the same letter you seen when you reviewed the small scale wind energy. That's the exact same letter they sent earlier, and I just attached it when I did my presentation last year on that project.

Mr. Chaikin: Okay, so this small scale wind energy definition, I mean, this was just put in, right? That's a new addition–the small scale wind energy? Is that correct?

Mr. Alueta: No, there was – there's – I'm adding small scale energy facilities. But if you remember last year, I believe it was Mike Molina who introduced a resolution dealing with small scale wind energy systems. And you were a commenting Board. I brought it before you as a separate matter, and the review of the resolution, and that has already been transmitted back to Council. So that's another matter. It's just that people have – the agencies that review this, they review all of my amendments. So for that particular agency, they decided to have the same comments for the two commenting things.

Mr. Chaikin: Okay, so these energy systems small scale is the definition that was – is this applied to all the different zoning classes—the same definition?

Mr. Alueta: That same definition is being added and has been added to the interim district, all the districts that we reviewed so far that I brought. So all the residential districts, I added that same definition. And if you recall, I also – as part of that, provided that it does not have a nuisance effect upon surrounding properties. That was the amendment that this Board added, and I felt that it was a good comment, and so we added it to all of the districts that whenever we add small scale energy systems.

Mr. Chaikin: And the State also noted that there's noise ordinances that need to be taken into consideration that are already on the books from any proposed wind turbine that may be in close proximity. There's a comment in here on one of them that commented about noise.

Mr. Alueta: Correct, and that was applied to when you reviewed the small scale wind energy bill. That comment was added to – was noted in the report.

Mr. Chaikin: Yeah, I just had a question on that definition just for clarification, like it says that if you have a small scale energy system that it has to be incidental or subordinate to whatever's going on. So what does that mean? Like we have all these different zoning districts, so if it's on ag land, can you have an energy system on ag land? It has to be subordinate to or – and the same thing with the quasi. Can you just put a wind turbine or do you have to have another building there?

Mr. Alueta: You have to have a use. That's why it's considered an accessory use to an allowed use. So if you have a small farm, a farm, and you know, you have your farm dwelling, and you decide to put a wind turbine or solar panels on the roof of your house, we would consider that to be an accessory use because the amount of power that – and depending on the size, as long as the majority of the power generated from the system is being consumed onsite.

Mr. Chaikin: So is that part of the definition or part of—?

Mr. Alueta: Yes, yes, it is.

Mr. Chaikin: Alright. Okay, let's see if I've got anything else. Just like on this wind turbine thing, there's certain setbacks that you have to have from the line. If it's freestanding, one foot for every height, but if it's connected to a structure, you could put it real close to property, maybe as close as ten feet to the property line. So if you had a wind turbine, you build a little structure on the bottom, then you could put it close to the—?

Mr. Alueta: Correct. You would be subject to the – whatever the height limitation. So if you had a church, and depending on how you designed your church, say you decided to do a standard gothic church with a wall, and you had some – you mounted these wall-mounted wind turbines that took advantage of wind sweeping up against the wall, similar to the ones you see at Maui Ocean Center where they're mounted to the wall, we would give you a ten-foot bonus. So you could do vent pipes or any energy system ten feet above whatever that structure is as a bonus. But again – and you would only be subject to the setbacks of whatever that structure is required to set back. But if you decided to put a pole in such as this communication tower that's out here in front of Mitchell Pauole Center, you would have to have it set back one foot for every foot and height of that tower.

Mr. Chaikin: Okay, thank you. Commissioners, any other questions? Public, I don't know if there's any public. I don't see any public, so we're gonna close the public portion of the hearing. So, Commissioners, you got any final questions? So what – is there any feedback from the other Commissions on this?

Mr. Alueta: I took it to Maui yesterday. They approved it in like five minutes. They were like – took me 15 minutes to present it, and a couple questions, and—

Mr. Chaikin: No additions?

Mr. Alueta: No, just the additions that we talked about, which were the amendments of scratching P-1 off of there, and adding – putting an “s” by “district,” and then adding the insertion of the slip, and that was it.

Mr. Chaikin: Okay. Well, if that's the case, if there's questions from the Commission, I'll entertain a motion to concur with the staff on these proposed amendments as just presented.

Mr. Sprinzel: I would propose we accept the recommended approval of the proposed bill.

Mr. Chaikin: Okay, we have a motion. Second on that? Commissioner Bacon. Any discussion?

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

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

VOTED: To accept the recommended approval of the proposed bill.

Mr. Chaikin: Alright, thank you, Commissioners, and thank you, Joe.

Mr. Alueta: Thank you.

Mr. Chaikin: Alright. Moving along with our agenda, we – the Chairperson's Report.

H. CHAIRPERSON'S REPORT

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

Mr. Chaikin: I don't really have anything to report. So we'll move on to the Director's Report.

I. DIRECTOR'S REPORT

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

Mr. Clayton Yoshida: Thank you, Mr. Chairman and Members of the Commission. The Department has circulated the list of – well, open and closed Molokai applications. Looking at the open list, some of them will be moving to the closed list shortly, such as the Esta Bien, LLC, which the Commission dealt with today; the Michael Bond SMX, which the Commission dealt with at the last meeting. And some of these are for farm plans and also for variances which are handled by the Zoning Division. But if you have any questions at this time?

Mr. Chaikin: Anybody have any questions for Clayton? Seeing none, Clayton.

- 3. Agenda Items for the February 23, 2011 meeting**

Mr. Yoshida: Our next meeting is scheduled for February 23rd. We have a few more SMA assessments to bring forth. We will check with our Long Range Division if we can reschedule that update on the Molokai Community Plan. And I guess we'll talk to Malia

Akutagawa if she can do the workshop no. 3, which was on water issues. I guess she did the other two last summer, but she's kinda been very busy lately.

Mr. Chaikin: Okay, thank you, Clayton. Does the Commission – anybody have any recommendations on things they'd liked to see on that 23rd meeting agenda? Seeing none. Does that conclude your report?

Mr. Yoshida: Yes, Mr. Chair.

Mr. Chaikin: Okay, so that brings us to the end our meeting. So I'd like to thank everybody for their attendance, and see all of you at the next meeting on February 23rd 2011. This meeting is now adjourned.

J. NEXT MEETING DATE: FEBRUARY 23, 2011

K. ADJOURNMENT

There being no further business brought before the Commission, the meeting was adjourned at 2:29 p.m.

Submitted by,

SUZETTE L. ESMERALDA
Secretary to Boards and Commissions

RECORD OF ATTENDANCE

Present

Steve Chaikin, Chairperson
John Sprinzel, Vice-Chairperson
Nathaniel Bacon
Mikiala Pescaia
Debra Kelly

Excused

Lori Buchanan
Don Williams
Joseph Kalipi

Others

Clayton Yoshida, Planning Program Administrator

Joe Alueta, Administrative Planning Officer

Francis Cerizo, Staff Planner

Carolyn Cortez, Staff Planner

Nancy McPherson, Staff Planner

Michael Hopper, Deputy Corporation Counsel