

**MOLOKAI PLANNING COMMISSION
REGULAR MEETING
SEPTEMBER 28, 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. ***

A. CALL TO ORDER

The regular meeting of the Molokai Planning Commission was called to order by Chair Mikiala Pescaia at 12:05 p.m., Wednesday, September 28, 2011, at the Mitchell Pauole Center Conference Room, Kaunakakai, Molokai.

Chair Mikiala Pescaia gave an introduction in the Hawaiian language.

Chair Pescaia: Welcome to the September 28th meeting of the Molokai Planning Commission. I am Chair Pescaia. Joining me today we have Vice-Chair Sprinzel. We have Commissioners Kelly, Commissioner Kalanihulia, and Commissioner Buchanan. To my left we have Corp. Counsel, Michael Hopper. We have our Planning Program Administrator from Maui, Clayton Yoshida, on my right. We have Suzie Esmeralda who is the Secretary to Boards and Commissions who will be recording our meeting today. If you offer testimony, we ask that you state your name for the record, and come up and provide your testimony at the mike. We also have our Molokai Staff Planner, Nancy McPherson.

B. PUBLIC TESTIMONY ON ANY PLANNING OR LAND USE ISSUE

Chair Pescaia: Aloha. At this time I would like to offer if anyone has any public testimony on any planning or land use issue that they would like to make known to this Commission. Now would be an opportunity for you to share. We may not be able to discuss it today, but we can definitely consider it for a future agenda. Or if you have comments you would like to provide for an agended item but you're not able to stay until that agenda item comes up, you can do so at this time. Seeing none, we shall proceed.

Item C, Communications, the first order of business, we have Mr. Spence, the Planning Director requesting concurrence from this Commission to the SMA on the following item:
A. Ms. Kris Chernik, who is the owner submitting an SMA assessment for interior only repairs and remodeling of a one bedroom, one bath condominium unit at Wavecrest. And this is due to flood damage consisting of plumbing and electrical work, replacing some of the sheetrock, bathroom shower wall and tile, and installing new cabinets. Planner McPherson?

C. COMMUNICATIONS

1. **MR. WILLIAM SPENCE, Planning Director, requesting concurrence from the Molokai Planning Commission pursuant to their Special Management Area Rules, as amended, that Special Management Area (SMA) exemptions can be issued for the following:**
 - a. **MS. KRIS A. CHERNIK, owner, submitting a Special Management Area Assessment for interior-only repairs and remodeling of a one bedroom, one bathroom condominium unit (C112) at the Wavecrest Resort due to flood damage; consisting of plumbing and electrical work, replace of sheetrock, bathroom shower wall and tile; and new cabinets; in the A-2 Apartment District at 7148 Kamehameha V Highway, TMK: 5-6-004:055-0090, East Ohia, Island of Molokai. (SMX 2011/0325) (Valuation: \$10,000) (N. McPherson)**

Ms. Nancy McPherson: Aloha kakou, Commissioners. Nancy McPherson, Staff Planner. This is an interior only repair and replacement. And you have been given the short form for this item, as well as I think you've been given exhibits, too, also. This is out at Wavecrest, and you've had a number of these before. It seems there were plumbing problems out there and the floor above for several units. And there was leakage, and nobody was there, you know, and mold, and everything. So that – they'd just like to take care of all of that. The owner is on the Mainland. She tried to have a representative here, but that person couldn't make it at the last minute. So she throws herself on the mercy of the Planning Commission today. So we would like to know if you can concur with our recommendation for an exemption from SMA rules.

Chair Pescaia: Commissioners, does anyone have any questions or need clarification? The floor plan is not changing. It's just replacing these particular–

Ms. McPherson: Pretty much like with like, yes.

Chair Pescaia: Like with like. Alright.

Ms. McPherson: Same-same.

Chair Pescaia: If there are no questions at this time, I'll open public testimony on this agenda item. Anyone who would like to provide comments, you're welcome to do so now. Seeing none, public testimony now closed. I will entertain a motion or discussion.

Ms. Lori Buchanan: Okay, I move that we concur with the SMA exemption for Kris Chernik at Wavecrest.

Mr. John Sprinzel: Second.

Chair Pescaia: Motion by Commissioner Buchanan, second by Commissioner Sprinzel.
Discussion?

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

It was moved by Ms. Buchanan, seconded by Mr. Sprinzel, then unanimously

VOTED: To concur with the SMA exemption for Kris Chernik at Wavecrest.

Chair Pescaia: Motion carried.

Ms. McPherson: Mahalo, Commissioners.

Chair Pescaia: On to our next agenda: B, Mr. Young, architect, on behalf of Mr. Comstock, who is here submitting an SMA for a 480 square foot bedroom addition, 116 linear feet of property line retaining wall, and site improvements to include 85 cubic yards of fill and grubbing of approximately, 4,040 square feet. Excavation to a maximum depth of 12 inches for ten footings and the retaining wall on 7.356 square feet of land in the interim district. You ready?

- b. MR. RICHARD S. YOUNG, architect, on behalf of the MR. JOHN COMSTOCK submitting a Special Management Area Assessment for a 480 sq. ft. bedroom addition and 116 linear feet of property line retaining wall, site improvements to include 85 cubic yards of fill and grubbing area of approximately 4,040 square feet, excavation to a maximum depth of twelve (12) inches for ten (10) footings and retaining wall on 7.356 square feet of land in the Interim District at 406 Ala Malama Street, TMK: 5-3-011: 098, Kaunakakai, Island of Molokai. (SMX 2011/0315) (Valuation: \$110,000) (N. McPherson)**

Ms. McPherson: Yes. Nancy McPherson, Staff Planner. We have been looking at a number of these additions and alterations in Ranch Camp to existing single family dwellings. And this is another one. The existing dwelling is only 888 square feet built in 1984. And what they'd like to do is build a 432 square foot addition; a carport, 480 square feet; and they would also like to build a retaining wall along the property line. There is going to be some grubbing, some fill, and excavation to a maximum depth of 12 inches for four pier blocks; and a 24-inch wide stem wall footing, which I believe is for the carport; and

an 18-inch wide retaining – and for the 18-inch wide retaining wall. The application was transmitted to SHPD and a response was received. There's no historic properties will be affected by this project. We did an SMA assessment. You have received that, as well as the attached exhibits to the SMA assessment, I believe. Okay, it's in the back. It's supposed to go before the exhibits, but that's okay. The valuation of the project is \$110,000. And it is structural and nonstructural improvements to existing single family residences where otherwise permissible. Therefore, we are recommending that this be exempted from the Molokai SMA rules, and we respectfully request your concurrence with that recommendation. Again, the building permit process, there will be review of all water requirements, parking requirements, septic – wastewater treatment load, etc., because Public Works refused the building permit application as well as our Zoning and Enforcement Division after this SMA process is completed. And that concludes my summation of my report. And if you have any questions, Mr. Comstock is here today, and to answer any questions you may have. Rich Young had to be off-island for a medical appointment today. He expresses his apologies for not being able to attend.

Ms. Debra Kelly: Nancy, sorry, I have different contacts. I cannot read too well. But my question is, the retaining wall, and I'm assuming it's because the property is sloped, so which side of the wall is the house? And so my question is going to be about the drainage. Is it on the neighboring property, or is it going to be on the applicant's property?

Ms. McPherson: Well, maybe we better get the owner up here. Can you come up and respond to that question? I don't know all of the details of the wall. And state your name for the record.

Mr. John Comstock: My name's John Comstock. I'm the owner of 406 Ala Malama Avenue, Kaunakakai. And what we have done is the drainage is going to what Rich has described as a—sorry about my new contacts—a sediment pond. It's at the – what we have is a depressed area. And it's hard to read, but there is something here, which is basically a retention pond for any of our runoff. And we would have a drainage pipe at the base of the retaining wall going to this. And I'm gonna attempt to incorporate it into a slight catchment system for my own irrigation use for – what you call, the rain gutters and things like that. So—

Ms. Buchanan: John, is that on Exhibit 5? Where you looking at?

Mr. Comstock: Exhibit 5, yes, thank you. And—

Ms. Kelly: Okay, sorry, I cannot – you know, the print is really small. So how deep is it? Two feet?

Mr. Comstock: It's three.

Ms. Kelly: Three feet?

Mr. Comstock: Yeah . . . (inaudible) . . .

Ms. Kelly: Is it an existing swale now? So the grading and grubbing would be more than a foot?

Mr. Comstock: . . . (inaudible) . . .

Chair Pescaia: Microphone.

Mr. Comstock: Oh, I'm sorry. It's actually a natural grade right now until I put basically, a back wall on it, some material to— Right now, it slopes down to the neighboring property. I'll be putting a back barrier there to create that—the retention wall.

Ms. Buchanan: Okay, everybody quiet. I going ask some questions, then. The backfill and the retaining wall—why do you need a retaining wall on the south side? And how high is that cement retaining wall?

Mr. Comstock: It varies, but it's approximately, four-foot average of height.

Ms. Buchanan: Nancy, does Ranch Camp Subdivision have a code for how high their walls can be that are not – that are solid barriers?

Ms. McPherson: Thank you, Commissioner Buchanan. That's a very good question. If we had a Zoning person here or someone from Subdivisions, they could probably answer it right away, but what I've seen on Molokai especially, in the shoreline or makai of the highway is no higher – I mean, preferably, and this may be in the code, no higher than four feet for walls in the SMA, and including drainage hole. Ranch Camp Subdivision was done in the '70s. And I have not pulled that subdivision file, so I don't know what the conditions of approval were originally for that subdivision, but again, our Zoning and Enforcement Division should be checking those details when they review the building permit application. And I will put it on my to do list to pull the Ranch Camp Subdivision file. It must still be there on Maui somewhere. And I'm going to find it. And I will make copies and bring them back to Molokai with me. And then I'll know for sure.

Ms. Buchanan: Okay, thank you. So, John, did I ask you a question about why you needed that solid retaining wall on the south side of your lot?

Mr. Comstock: It's to retain the fill we're gonna use for the carport right— If we build the carport as per plan without retaining any soil, the slope would create a situation where my

soil would end up on the neighbor's lot. So Rick thought it would be wise to put that there for the driveway to go around.

Ms. Buchanan: And then why do you need fill?

Mr. Comstock: To bring in – to bring the level of the carport to a spot, which is – which matches the house level. Basically, where the grade is at the bottom – where my footings are for my house, we're bringing the fill up to that spot because it's such a drastic slope that we'd be – if we didn't bring in the fill, we'd be creating a major retaining wall.

Ms. Buchanan: Okay. When you said "major retaining wall," if I'm off the grade, and I want to create a flat surface for my carport, then I'm gonna put a hollow tile. I'm gonna fill in that portion of the carport with fill. But it seems to me with the 85 cubic feet that you're requesting with the retaining wall, it seems like you wanna fill in your entire yard as opposed to the 480-foot square carport. Is that correct?

Mr. Comstock: Not the entire yard. Just between the house and the south side. And if you can tell – again, Exhibit A, you'll see the grade that will create along the – at the top portion of the drawing, the grade will create – to create a driveway to have additional parking in the back.

Ms. Buchanan: Okay, so that does answer my question. So, Nancy, or for John, going back to your description of the property, the property is in a flood hazard area, Zone X, and to be determined outside the 0.2 percent annual and flood plain. How is that gonna be affected from this new fill and a retaining wall?

Ms. McPherson: For properties in Flood Zone X, that is not considered a special flood hazard area. And so basically, a flood development permit's not required. As far as affecting – I believe they are mitigating onsite any impacts as far as storm water goes by doing the retention basin. But again, if Rich were here, he could probably give you much better answers to these questions.

Ms. Buchanan: Okay, but the retention basin is not part of this application, is it?

Ms. McPherson: It's not–

Ms. Buchanan: It's a separate action?

Ms. McPherson: Are they having to excavate for the–? Well, or is it in the fill? If it's in the fill area–

Ms. Buchanan: They're having to erect a four-foot sediment catchment fence in order to help them mitigate the retaining – the retention pond that is not currently existing. So I would see that as an action that you would need a permit for. I could be wrong.

Ms. McPherson: Well, it would be considered as part of the proposal for additions and alterations to an existing single family dwelling. It would not be – I mean, they're doing it in order to meet the codes, regulations, and requirements for that proposed addition. So they – it's not a separate action. It may not be specified in the description, in the scope of work, and we can amend that right now on the floor, if you want that specified.

Ms. Buchanan: Okay, I guess I just seeing them already being on the slope. Adjacent is a gulch. I think if I was the landowner behind the property, I would have an issue with the need to retain runoff on my lot as a result of a development or an action such as the fill and the retaining wall. Yeah, it is an empty lot. That's why I'm saying you don't have the problem, but you're creating the problem now of a retaining pond because you're changing the natural grade of the property. You notice, John, we no have an issue with you filling another 800-foot. That's not one problem for us.

Ms. Kelly: So my question, and I'm sorry, I'm sure it's in the details that I cannot read right now, how much fill is it? I mean, you're bringing it from whatever elevation to a 96 – 95.

Mr. Comstock: . . . (inaudible) . . .

Ms. Kelly: No. You know, you have to do the fill for the garage. How much fill? How many feet up?

Chair Pescaia: It's 85 cubic yards.

Mr. Comstock: It varies because on the road–

Ms. McPherson: Please use the mike.

Mr. Comstock: The road side of the carport is up close to grade. And as we go back down the property, it's– I think it would be– I was looking at this last night that the maximum depth is gonna be about two feet for the carport. Yeah, two-foot on the – to the east end of where the carport is 'cause it does slope down that way. So we're going to retain the south and the east end, and fill in that direction to bring it up to a grade for where the road is, basically. So a carport of a 160-foot, which ends up 16 by 20, something like that. I don't – I got the same problem with glasses and this small print. But because of the way it's shaped, it's about half the actual footprint in fill because of the grade of the lot, the existing lot.

Chair Pescaia: Alright. I'd like to open up public testimony. If anyone has any comments, questions, concerns, please come up to the mike. Seeing none, public testimony's now closed. Commissioners, any further discussion? Or if not, I will entertain a motion.

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

Ms. McPherson: I'm supposed to read the staff report?

Unidentified Speaker: The recommendations.

Ms. McPherson: Well, the recommendation is that you concur with our determination, our assessment determination, and request for an exemption from the SMA rules, please, if you can.

Mr. Sprinzel: I'm not at all worried about the details of this because from my experience, Richard is a very responsible – and he does know the law. I'm pretty sure he wouldn't suggest anything that's contrary.

Ms. Buchanan: Was there a motion hidden in there?

Chair Pescaia: It was a comment.

Mr. Sprinzel: It was a comment.

Chair Pescaia: Come on, somebody. Well, it looks like you – the way the wall is being constructed, there is ample – like if there's overflow, like there's seepage allowing water to pass through. It's not a solid, solid wall. The pond– I know where your property is, so I kind of have a better visual of what this is describing. So I can see how . . . (inaudible) . . . And you just kinda working with that slope. And you kinda wanted to just dip it back up a little bit on the bottom so that it can hold back the water so you can use it for irrigation, which I think is brilliant in Kaunakakai with our water situation. And I find it amazing that you build houses for a living, and then you have a little house. And you're finally getting a chance to upgrade. So – and with that, I know that you put a lot of thought into making the best possible choices given your property. And having an experienced background, I kind of – I'm taking that into consideration as well. So if anyone else has any questions, ask them now. If not, I will entertain a motion.

Ms. Kelly: Just for my peace of mind, you're gonna vegetate, yeah? You're gonna grass–?

Mr. Comstock: Yes, vegetables even, if possible. Again, going along with the water, it's just a– One of the reasons we got Rich also like he had mentioned is I've worked with a lot of architects, and I – sometimes I have to decipher a lot of things where the computer just

doesn't explain 'em. And sometimes I go back to the architect and he has a hard time explaining what the computer did. Rich has proven that – beyond that to where he is very responsible. And if I have a question, he's there not saying, yes, you're on the job, you take care of this. So it's kind of why we stuck with him.

Mr. Sprinzel: I certainly propose a motion to accept the County's recommendation.

Chair Pescaia: To concur with the exemption, the recommendation for exemption. Okay, motion by Commissioner Sprinzel. Second? Second by Commissioner Kalanihūia. Discussion?

Ms. Buchanan: I have just one. I cannot concur with the exemption. I guess I agree with the building portion because that house is so small. I know it was foreclosed upon sometime ago. And then since then, you've been working on it. But I not worried about the drainage and all like that for now. I just worried about the house kinda kitty corner to you, which is Lourdes' old house. Unless I was onsite, I cannot determine where that water is gonna flow through common sense. And I don't know if in a hundred-year or fifty-year rain that retention pond would suffice, and if it overflowed, where it would go. So for that simple reason, I cannot vote in the positive for this. Thank you.

Mr. Sprinzel: Might I suggest we have a motion to defer till Rich can get here and explain it all to you?

Ms. Buchanan: We still in discussion?

Chair Pescaia: We still in discussion.

Ms. Buchanan: I guess what I could do is drive my body up there, and look for my own self, which I usually do, except I never have the paperwork until I got here today. So sometimes it's hard for me to spatially, you know, make a determination in my brain. Sometimes– I'm a visual. I have to look at it. And so I guess we could say yay or nay, but I think the only thing that deferring would do is would be deferring until we could do one site visit. So if it's to defer, it would be my thing would be to defer it for a site visit. Or the applicant could amend his applicant to amend his application to only include the improvements without the retaining and fill.

Chair Pescaia: And then come back and do it separately?

Ms. Buchanan: I would think for the record, he could amend that today, but I don't think he would want to.

Ms. McPherson: Well, we'd need new plans. He'd need to amend the SMA assessment application with a new description and new plans, revised plans. And then we'd have to resubmit that to you and bring it back again.

Chair Pescaia: Okay. Let's vote and then we'll take a next step.

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

It was moved by Mr. Sprinzel, seconded by Ms. Kalanihuia, then unanimously

VOTED: To defer until Mr. Rich Young, the architect, can be present.

(Assenting: J. Sprinzel, J. Kalanihuia, D. Kelly, M. Pescaia)

(Dissenting: L. Buchanan)

(Excused: N. Bacon, R. Davis)

(Absent: Z. Dudoit)

Chair Pescaia: We have one opposed and one abstained, which is a positive. Motion fails. Okay, I will entertain a new motion.

Ms. Buchanan: Defer pending the next meeting where we'll have a site visit.

Chair Pescaia: Okay, motion by Commissioner Buchanan to defer pending a site visit.

Mr. Sprinzel: Second.

Chair Pescaia: Second, Commissioner Sprinzel. Discussion? Okay, do we all need an official site visit, or is it something that people can go on their own?

Mr. Michael Hopper: . . . (inaudible) . . .

Chair Pescaia: Oh, okay. Okay, Corp. Counsel is advising that we cannot do drive-bys. So either we're having an official site visit where we need quorum to all go out and do the site visit.

Ms. Buchanan: Okay, how about we have some discussion, then?

Chair Pescaia: Okay.

Ms. Buchanan: Okay. So if everybody is all fine with not having a site visit, then off the record, I'll do my own. And then that's it. Defer until— Yeah. So that's part of the discussion. If everybody's find with it, then I will amend my motion, Chair.

Mr. Hopper: . . . (inaudible) . . .

Chair Pescaia: Okay, Corp. Counsel is advising for a full site–

Mr. Hopper: Just to comment, as we typically advise, Members shouldn't typically go on their own site visits. The issue is there's an application and there's an attempt to get consistent information among all of the people reviewing the application. So if one Member goes and others don't, that kind of changes things. You're certainly welcome to have a site visit, if you vote on that. You've had them before. But I wouldn't advise Members to go on their own and visit the property. Yeah, I can't advise that.

Mr. Sprinzel: But, Mr. Counsel, Lori just said she can't visualize it and would like to see it. And if she's the only anti, why shouldn't she be allowed to go and see it? I mean, that doesn't make sense to me.

Mr. Hopper: I'm saying you as a Body can, but if an individual Member goes and has a site visit and others don't, an applicant can say that– You're basically sitting as a jury right now. Okay? If a juror in a court case went and did their own investigation of the case without hearing evidence presented to them – I know this is a relatively informal process, but this is technically, a contested case hearing under State law right now that we're having 'cause an applicant's asking for a legal determination of their rights, and the Board is making a determination on that. So that's the issue. And that's been the consistent advice that I've given. There's case law on this. So that's why I'm advising it.

Chair Pescaia: Planner McPherson?

Ms. McPherson: Thank you, Chair. I could volunteer. I don't know how everyone feels about my site analysis and drainage evaluation skills. I'm sure they– I'm always trying to improve them. But I could make a site visit, which I didn't do for this application, which I now regret. And I could also take additional photographs because only the two photos were provided, and it didn't really show the entire site. I could go there with the architect and possibly the owner, too, and take a picture of every portion of the property and the adjacent property, if you give me the specifics of which property you're concerned about, and the gulch, and maybe even get a topo map from somewhere, and bring that back to you at the next meeting, if you will.

Chair Pescaia: Okay, so two options: Nancy goes out, does the site visit for us, gathers all this information, makes a presentation at the next meeting; or we call the next meeting to begin at 11:40 up the road, do a site visit ourselves, and then reconvene at noon here. What would be your pleasure?

Ms. Buchanan: Chair, I'd like to amend my motion.

Chair Pescaia: Okay.

Ms. Buchanan: Okay, I amend my motion for deferral to the next Commission meeting pending further information by the applicant.

Mr. Sprinzel: Second.

Ms. Buchanan: Okay. Discussion would be the further information requested would be to Planner McPherson to get the information she stated earlier on the record. Also, to have feedback from the architect, and that's it.

Mr. Sprinzel: It would be good to have Rick here.

Chair Pescaia: Okay, any further discussion? Alright. So motion stands to defer until the next meeting and Planner McPherson to provide the information as requested previously.

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

It was moved by Ms. Buchanan, seconded by Mr. Sprinzel, then unanimously

VOTED: To defer until the next meeting and Planner McPherson to provide the information as requested previously.

Chair Pescaia: Motion carried unanimously. So thank you.

Next order of business we have Mr. Fox, Mr. William Keoni Fox of Alii Wireless Specialists, who is the consultant for Sprinzel Nextel Hawaii, who is requesting an amendment to the county special use permit and an SMA minor permit for replacement, and upgrade, and relocation of three cell phone service antennas on the roof of the Lucy Wilhelm Center at a maximum height of 34 feet, installation of interior equipment cabinets, power and telco panels, conduits, and GPS antenna on 38,895 – I'm guessing square feet of land in the B-CT country town business district at 60 Kamehameha V Highway. This project has a valuation of \$40,000. And the applicant is also requesting a 16-month time extension on that County special use permit.

2. **MR. WILLIAM KEONI FOX of ALII WIRELESS SPECIALISTS, LLC, Consultant for SPRINT NEXTEL HAWAII requesting an amendment to the County Special Use Permit and a Special Management Area Minor Permit for replacement/upgrade and relocation of three (3) cellular phone service antennae on the roof of the Lucy Wilhelm Center at a maximum height fo thirty-four (34) feet, installation of interior**

equipment cabinets, power and telco panels, conduits, and GPS antenna on 38,895 of land in the B-CT Country Town Business District at 60 Kamehameha V Highway, TMK: 5-3-1001: 060, Kaunakakai, Island of Molokai. (CUP 2009/0003) (SMX 2010/0436) (Valuation: \$40,000) (N. McPherson) The applicant is also requesting a 16-month time extension on the County Special Use Permit.

Ms. Buchanan: Chair, I'd like to call for a five-minute recess in order to review some information that we just received.

Chair Pescaia: Okay.

Ms. Buchanan: . . . (inaudible) . . . inconvenience.

Chair Pescaia: Alright. Okay. That's fine. Let's take a five-minute recess.

(A recess was then called to order at 12:41 p.m., and the meeting reconvened at 12:48 p.m.)

Chair Pescaia: Alright, so I'll call this meeting back to order. Planner McPherson?

Ms. McPherson: Mahalo, Chair. Nancy McPherson, Staff Planner. Before you is a request to amend permit terms and conditions for a County special use permit, which is called CUP 2009/0003. And with that comes also an SMA assessment, SMX 2010/0436 submitted by Sprint Nextel Hawaii for a replacement and relocation of three antennas, three cellular antennas on the roof of the Lucy Wilhelm Center, also known as Paddler's Inn at 10 Mohala Street, TMK: 2-5-3-001:082 in Kaunakakai. Also, for continued use – well, a time extension of 14 months as was related earlier. I believe it's 14 – 16 months. So there's two actions here that we are bringing before you. And so it's kind of a hybrid staff report. So I hope that's not too confusing. The CUP comes first. And this application – actually, a request for antennas from Sprint – I think it was Sprint or Nextel—I can't remember which now—came before you previously, and that was approved. That was the CUP 2009/0003. And there was also an SMA minor permit issued for that, previously. The consultant that submitted this originally is no longer working on the project, Debbie Wong. There is now a new consultant from Alii Wireless, and that is William Keoni Fox, and he's here today representing Sprint Nextel Hawaii. He is here to discuss the project, to answer questions, and I'm gonna go through – I'm not gonna read the whole staff report on – I'm hoping that you all have gone through it pretty thoroughly. We have waived the requirement for a public hearing because this is a request to amend permit terms and conditions. Country town business design review was done administratively by me because the total area proposed to be changed comprised 50 percent or less of the total area of each affected

elevation. So under the design – under the B-CT zoning and design review for country town business, our Department's able to do that. That's I think just about the only one that I can do without bringing that to you for approval, so I do it when I can take the chance, and when I honestly feel that it is not going to affect the design. In fact, in this case, I feel it's going to improve the visual appearance of the roof to an extent because these antennas are gonna be lower. And I think they're also more attractive, if that's possible. Their colors are going to match the color of the roof, to the extent possible. So that– I'm trying to check if you were given a copy of that design review approval, and if you weren't, if we take a break, I can– Oh, here it is. Okay. It's Exhibit 15. So that was step one to determine that this – to do this review. Also, to– Originally, they just submitted the SMA, and then they subsequently submitted an application to amend permit terms and conditions, as well as country town business design review. So that was taken care of. That's Exhibit 15.

Ms. Buchanan: Nancy, while you're on Exhibit 15, who's the UDRB representative for Molokai?

Ms. McPherson: That's Darryl Canady. And I did mention it to Darryl. Darryl's main concerns in the past had been about service area, actually. So which is more related to the SMA than the CTB design review. So – but I did ask him about visual impacts. And he wasn't concerned about that. So more concerned about service levels. So what I did was I went through the minutes of the UDRB meeting, and analyzed that, and analyzed it against the design guidelines. And there were conditions, four conditions, that were put onto the approval: that the color of the antenna shall match; that all co-axle and other cables shall be contained within conduits that matches; and that any additional changes shall be submitted under a new SMA and CTB application; and also, full compliance with all government requirements.

This application's been deemed complete. The surrounding uses are various commercial and office uses. It is right on Kamehameha V Highway. The applicable regulations are for County special use permits which is especially used as – approved with a special use permit in Title 19, our Zoning Code, for the business country town zoning district. There are eight criteria for approval of the – and I believe this applies also to changes, requests for amendments to permit terms, and conditions, and time extensions. Therefore, a final compliance report was submitted. You received a copy of that as well. That is Exhibit 9a and 9b. That's the final compliance report. We requested that and the applicant complied with that request.

They have been in consultation with the Maui County Police Department regarding possible frequency interference. And a response was given by the Police Department. And that is Exhibit 12. This is solely a 1,900-megahertz turnup. Therefore, I don't see – foresee any issues. "The Maui Police Department will make operational checks in the area following the turnup. If there are any issues, we will contact you." So it sounds like there is

communications and coordination going on between Sprint Nextel and the Maui County Police Department regarding this. Sprint Nextel is going to notify the Police Department as to the turnup date. There's going to be monitoring. And my understanding is they will make any adjustments needed in order to eliminate the potential for interference between those signals, because we all know that public safety is – takes priority. And the emergency notification networks have to have top priority for the community – for community safety.

Ms. Buchanan: Nancy, since you're on Exhibit 12, did you have a response from Mr. Pacheco or Mr. Amaral to this e-mail sent by Mr. Mayes?

Ms. McPherson: Well, this e-mail was forwarded to me by Sprint Nextel Hawaii. And this is pretty much all I received. So Andy Mayes was the contractor for Sprint Nextel communicating to Walter Pacheco.

Ms. Buchanan: I guess I was more concerned about what Mr. Pacheco had to say in response or Mr. Amaral, because if I'm not mistaken, Mr. Amaral is the head for the communications person for MPD, and Mr. Pacheco is the retired national – I forget exactly what, but if anybody knows anything about anything, it would be those two gentlemen. So I was wondering if you had any correspondence from them or if they had any concerns.

Ms. McPherson: Well, we would have to ask the applicant if there's been any further communication because I don't have a record of that. Also, I did call Jim Vancil who works for Harmer Communications. And he – I consider him extremely knowledgeable about these kinds of issues. And he has been working for the Maui County Police Department on installation and upgrading of their system. And he said he didn't foresee any conflicts because they're difference frequencies. But again, I told him, well, if this gets deferred, I may be calling you back. Would you like the applicant to respond to your question, Commissioner Buchanan?

Ms. Buchanan: After you're done.

Ms. McPherson: After I'm done? Okay, well, I'll try to finish up here. I would like you to review these criteria for permits – these eight criteria for permits on page 3. You need to make these findings that all of these criteria have been met in order to approve. And conditions can mitigate any potential impacts. So approval with conditions is designed to mitigate those impacts, if you feel that there are any potential impacts.

The time extension is for one year and four months, so 16 months. The first component is replacement and relocation of the three antennas, so please refer to your Exhibit 5 – well, Exhibit 3 and Exhibit 5 kind of illustrate it the best, also, Exhibit 6. So, yeah, you gotta have those magnifying glasses on. If we could do 11x17, that would be helpful but–

We also have some specifications, so there's an illustration of the antenna. Specifications, this is Exhibit 7. Patterns of radio frequencies, 7c. I don't pretend to understand all of this stuff, but I have been doing a crash course this morning, Commissioner Buchanan, on wireless communications' technology. And I did find a couple of interesting— Well, we did download the best practices guide. So that's going around. If anybody else needs to look at one, I've got another one here. That's for 800 megahertz. I did inquire as to if — to Mr. Vancil if that would still be applicable. And since he hadn't seen the guide, he wasn't — oh, I'm sure he's seen it but— There are different situations. I guess they can even interfere with radio, like a radio station. So I also found something on *Dispatch Magazine* online about 800 megahertz interference rebanding, and that kinda describes the whole history of what happened in — starting in 2000, 2002. Some of these issues started coming up. And there was a lot of work done between Nextel, and other vendors, and the FCC trying to reorganize frequency — you know, do frequency reallocations in order to reduce or eliminate interference in the band. And it sounds like there was a lot of outcomes to all of that. And best practices guide was one of those outcomes. There were a lot of actions. It sounds like the FCC's pretty on top of this. Now that people are moving into the 1,900 megahertz band width, I'm not sure, but I think our consultant who's here today can answer any questions that you may have about the upgrade to the 1,900 megahertz band width. There's not a lot of information on the web out about that right now.

There are also going to be an installation of two GPS antennas. And those are also on the plans. The antennas are gonna be — the main three antennas are going to be located at a height of 34 feet from existing grade, which is more in compliance with the height limit of Kaunakakai. So that's a good thing. There — oh, one additional GPS antenna. There's two on there already. They are also going to be modifying equipment in the equipment room. They're gonna be installing equipment cabinets on a platform. They're going to be installing power and telecommunications panels, and other new equipment, and new conduits in an existing equipment room.

Oh, here we go. The County special use permit, the SMA minor permit were previously issued by this Body in 2006 to Nextel. The 2006 permit expired in 2008, and therefore, a new CUP and SMA minor permit was granted in 2010. This existing permit has not yet expired, but I felt that because it was a change of equipment and change of location that a new SMA minor permit would be the clean way to handle it.

I went through an SMA assessment also. Did not determine that— So I felt that there were no impacts for the amendment to permit terms and conditions for the County special use permit. They are in compliance with previous permit terms and conditions with the exception of the height issue, and that frankly, was — seems to have been a miscommunication and error. And this proposal is to rectify that in part, and to improve service to the Molokai community. Yay!

So the alternative— Oh, and then conclusions of law starting on page 8. You don't have a page 8? It's not anticipated to have impacts. And we've determined that the project is a development. The project has a valuation less than \$500,000, which is the now the cutoff for an SMA major permit. The project has no significant adverse environmental or ecological effect taking into account potential cumulative effects. It's not adding more antennas. It's replacing three antennas. It is increasing the frequency. It is going to a higher frequency, however, or megahertz. And it is consistent with the objectives and policies, special management area guidelines set forth in Chapter 205A, and consistent with County General Plan and zoning. Your alternatives are deferral, approve with no conditions, approve with conditions, or denial. And there are two permits that you'll be doing that for. We would probably ask that you handle the County special use permit first. That's approving the use, basically.

So that completes my quick summary of the report. And now I would entertain questions from the Commissioners. And the applicant is also here. And maybe I'll encourage him to come closer to the mike. And we know that your questions will be intelligent, and insightful, and helpful.

Chair Pescaia: Commissioners, you have any questions ready?

Ms. Buchanan: Yeah, for staff. Okay so, Nancy, you asking us to do several things. And I noticed one trend in stacking actions on the related subject, and then having to go through each one of them like today. So now, you asking for an amendment to the County special use permit, correct?

Ms. McPherson: Yes. They're requesting to amend the plans as previously approved because they're submitting new antennas, and a new location, actually, even a new TMK because there was a consolidation of the two lots there. And they are asking for a time extension as well.

Ms. Buchanan: Okay, so a time extension, replacement, relocation, and then the actual hardware is different hardware. Is that correct?

Ms. McPherson: Yes. It's going from 800 megahertz to 1,900 megahertz.

Ms. Buchanan: Okay, see, that was another question I had because I was confused because in the purpose of the application and in other places, it clearly states "800." And then on the last page in the correspondence to Mr. Pacheco from Alii consultants, it states "1,900." So that's where I was confused so—

Ms. McPherson: Okay, under purpose of the application, Item 2, it states, yeah, "replacement and relocation of the three 800 megahertz antennas." And then if you keep

going, blahdy, blahdy, blahdy, blah, “with three 8.4-inch high, 1,900 megahertz cellular antennas.” So it’s a little bit wordy, and I apologize for that, but I’m always trying to get all of the details down. And if there was – were spots where I left the 800 in there, I apologize, and I will correct them on the floor, and we will revise this staff report to reflect corrections, if there are corrections. I’m doing these as – very, very quickly. I have a compressed work schedule. So mistakes happen sometimes. Thank you for proofreading the reports and reading them thoroughly.

Ms. Buchanan: Now I see it. Thank you. So we’re replacing, relocating, and we’re time extending?

Ms. McPherson: Yes, and some replacement of equipment in the room, and some additional carpentry work in the equipment room.

Ms. Buchanan: So all of that is to be treated as one action in one motion to do all of that?

Ms. McPherson: It’s two actions. Clayton, correct me if I’m wrong, but I think they should act on the County special use permit first because there’s different conditions that are– I mean, it could be done in one motion, I suppose, but that might get a little complicated. But I would leave that to Clayton and our Corporation Counsel, Mr. Hopper, to advise you.

Mr. Yoshida: Well, if you go to the recommendation, there is a recommendation on the County special use permit, and a recommendation on the special management area minor permit. So if – whether the Commission chooses to take them separately or handle them together, it’s the prerogative of the Commission.

Ms. McPherson: You can’t really have one without the other. And in order for the SMA to be approved, it has to be consistent with zoning. And the only way that it could be consistent with zoning is if this County special use permit, amendment to permit terms and conditions is approved. We can do it in the same motion. We can do it on the same day, but I would prefer that you – you know, at least talked about the County special use permit first, and made sure that got approved. We can’t really approve the SMA without the CUP, I guess is what I’m saying because it won’t be consistent. So that changes the deal.

Chair Pescaia: When the time comes, we will entertain two separate motions: one, first, for the CUP, and then for the SMA minor. Does anybody have any questions for Staff Planner or for the applicant before I open up public testimony?

Ms. Buchanan: Question for the applicant. Okay. Okay, I have questions for the applicant. Keoni?

Mr. William Keoni Fox: Correct.

Ms. Buchanan: Okay.

Mr. Fox: And, Commissioner Buchanan, before you start, you did ask about this e-mail from Walter Pacheco. It was Exhibit 12. It just looked like Nancy's exhibit just cutoff the header that actually was like the to and the from, and it actually shows that it was from Walter Pacheco. It had the dates and shows that all that individuals were copied including, Jeffrey Amaral. And I'll just go ahead and pass this around.

Ms. Buchanan: Okay, thank you. So, Keoni, I don't know nothing about 1,900 megahertz, 'cause all we used to deal with was 800 megahertz. But isn't it true that about three years ago the problem was so bad that the County and State officials asked Sprint Nextel, as well as Motorola, and all the rest of the players to come up with a solution at which I think players, which I'll say is Sprint and Motorola actually paid for amendments to the system in order to make those problems better or to go away. And they were mostly interference with the different radio frequencies. And so, that's another story, 'cause I'm assuming our little stuff from Molokai is not gonna have a problem, and you already said you had worked with the Police Station about it. So you're also making amendments to the storage units for Sprint. So are you adding more battery capacity within those units at the storage?

Mr. Fox: Well, let me just take a minute to kind of explain what the scope of the project is. Sprint merged with Nextel. I think this was in 2006. I'm not a radio frequency engineer. My background is leasing and permitting. Nextel operates in the 800 megahertz frequency. Sprint operates in the 1,900 megahertz frequency. The FCC allows all the wireless carriers to use very specific frequencies. They pay a lot of money for those frequencies. I'm talking millions and millions of dollars. But they need to stay within that range. If they don't, they could interfere not just with our public communication systems, but other wireless carriers, and all the other wireless devices we use like your garage door opener, your baby monitor. All those things could cause interference with each other if they did not stay within that specific frequencies.

Because Sprint and Nextel merged together, they couldn't use the same radios at every site. They basically had to have double radios. They had to have the 800 radios and the 1,900 radios. So here on Molokai, there are two Nextel facilities. There's one at Maunaloa. There's a tower there. And there's also the Nextel facility that's there now on the Lucy Wilhelm Building. After the merger, Sprint added equipment at the Maunaloa facility. But that is the only 1,900 CDMA facility here on Molokai, which is – the reason why a lot of people that only have the Sprint phones don't have really good coverage here in Kaunakakai Town. Sprint has been getting a lot of complaints. They do realize that there is a need for improved Sprint 1,900s here in Kaunakakai. And that is the reason they need to add the additional radios within the building in their indoor equipment room. And they need to switch out the antennas. Right now, those antennas only allow transmission of the 800 frequency. So the new antennas that we're gonna be installing actually transmit and

receive both the 800 and the 1,900. So they're what we call dual band antennas. But the radios, of course, only do 800, so we gotta add more radios inside the equipment room for the 1,900.

Ms. Buchanan: Okay, so that equipment includes battery storage? Is that correct?

Mr. Fox: There's a separate rack just for batteries, and then there's a rack for the radios, and one for power.

Ms. Buchanan: So the separate rack for batteries, does that come with like a safety data sheet on how to care and emergency calls, if it explodes?

Mr. Fox: They're pre-manufactured. They come in cases. I've never heard of them ever exploding. That's a good question. I never had that question before.

Ms. Buchanan: Good question, ah? That's what I thought. And I going tell you the reason why I asked—because of that antenna array that we have on top of Naiwa. I've at least been through three permitting processes of those antenna arrays. And that is an issue that most people are not even aware of. So now— I don't know what the capacity of battery storage is within a public facility. Well, not a public. It's a public building that has a dental office, a nightclub at times, and so if there's a potential for hazardous material to explode, then I would want to know about it in the application.

Mr. Fox: Yeah, honestly, I've never heard of any problems with any batteries at any of our sites. We have about 200 sites Statewide. And the equipment room is safe. It's self-contained. And I'm sure that the County would look at it when we applied for a building permit.

Ms. Buchanan: Why does Nextel have to have more than one frequency? And what triggers and determines the change in frequency if you would need to change the frequency?

Mr. Fox: So that kinda goes back to my previous description of the project. So Nextel is iDEN technology. It only operates in the 800. Sprint is 1,900 frequency. That's PCS. I'm sorry. What was the second part of that question?

Ms. Buchanan: I guess because in your application it says that you have different – there's more than one frequency under which you can operate. And if any time, any of those changes within the frequency affects the public, then you going work with the Maui Police Department in order to mitigate whatever—

Mr. Fox: Correct. Correct. So that applies more to the 800 band. That is also the same band that the Police Department uses for registering a response to a radio and so forth. So when Nextel first started operating, I will admit there were some interference issues. And since then, Nextel has worked with the various County Police Departments to make sure that doesn't happen. They've added what they call isolators and filters to their equipment to make sure that their transmission stays within the specific 800 megahertz that they're allotted, and does not go beyond that. And that's why we still have post communication with the Police Departments. They monitor when new facilities go on air, and make sure that we aren't interfering with their communications.

Ms. Buchanan: So you're not— Why did you have to relocate your antennas?

Mr. Fox: The existing antennas that are on top of the building are for the 800 megahertz only. So these new antennas will allow us to operate at 800 to 1,900. The alternative was to add three more antennas just for 1,900. But we thought, hey, six antennas instead of three would have more of an impact on the community.

Ms. Buchanan: And they not going have an issue with clustering with the MOBI PC?

Mr. Fox: MOBI's existing. They operate — I wanna say also in the 1,900 band. Our interference issues aren't usually caused by us operating on the same band. It's usually because our antennas are too close to theirs. But we've positioned our antennas on the building so that we will not be beaming our signals into their antennas, and they will not be doing that either.

Ms. Buchanan: You can explain Exhibit 13a and 13b to me?

Mr. Fox: Is that the coverage, the radio frequency?

Ms. Buchanan: That's the spatial infrared whatever type of whatever data. I see the before and after, current and—

Mr. Fox: Correct. So this shows the improvements—the improved 1,900 megahertz. So only the CDMA Sprint coverage that will be allowed by removing and replacing these existing antennas.

Ms. Buchanan: Okay, what color am I looking for, and how you going prove that this is what you going get after you install those?

Mr. Fox: I apologize. I know this is very hard to understand. But if you look at Exhibit 13a, that shows the existing Sprint coverage here on the Island of Molokai. The green level is great. That's a great signal. That's four bars on your phone. The yellow, that's like three

bars. When you get into red and blue, that's two, one bar. You're gonna be dropping a lot of calls. Can you hear me now? You're probably not gonna be able to get good coverage in a building. So that's what you're seeing in 13a. 13b shows the coverage with the new antennas. And if you look at where Kaunakakai is, we have – you'll see a little symbol here. There's like three triangles. And that's our site identifier number. You can actually see a lot more green within the Kaunakakai Town.

Ms. Buchanan: Okay.

Mr. Fox: That is the improved coverage by having–

Ms. Buchanan: Can you hear me now–red, blues, and yellows? Three bars?

Mr. Fox: Correct. So same thing as this other one. Red is two. Blue is one.

Ms. Buchanan: So no look like that much. You know, I know live here, so I still going be saying, “Can you hear me now?” with your new relocation and your new 1,900 megahertz.

Mr. Fox: Correct. It's not great coverage. And what we've tried to do is use an existing site. We tried to use an existing site that at least gives better coverage to Kaunakakai. You know, honestly, if they put up like maybe a 50-foot tower or 60-foot tower right in the center of town, we'd probably have awesome coverage. But, you know, that would require a much different permit, much more working with the community, and so forth.

Ms. Buchanan: So why doesn't Sprint ask to co-locate with those 50-foot already applied for variance antennas existing in town?

Mr. Fox: You know, I think Sprint saw this as the easiest way to improve coverage right now for Molokai. Right now, there are people already complaining, but they already have an existing facility. Hey, why not just switch out the antennas? That can take care of some immediate problems. But down the road, I believe that Sprint will do more to try the coverage here on Molokai.

Ms. Buchanan: . . . (inaudible) . . . not one happy user, ah? . . . (inaudible) . . . We're fighting Sprint for a while. My last couple questions is just to your Exhibit 9a and 9b, which is correspondence from Alii Wireless to Nancy McPherson. And, Nancy, I don't know if Item no. 2 on this letter – it says, “Sprint shall not transfer the permit without written approval of the Commission.” I'm not sure if that's in there already from the old, which is transferring under the special use permit. And then–

Ms. McPherson: Yeah, Condition 2 is that the County special use permit shall not be transferred without the prior written approval of the Molokai Planning Commission.

Ms. Buchanan: Okay. I don't think there's room to co-locate on that antenna, but I guess that would be another one. I don't know of any co-location for those types of antennas. And then I wasn't sure exactly because the maximum was – the 36 feet was applied for. And then in order to meet the B-CT zoning, this is still on Exhibit 9b, no. 7, "Current Sprint antennas exceed the height limit of B-CT zoning ordinance by one foot." And then another correspondence I see in the permit you're asking us to . . . (inaudible) . . . is they went down to 34 feet. Is that correct? Okay.

Ms. McPherson: Yeah, that was actually a condition on a previous permit, but because the plans didn't reflect it, we should always – it's really important to not just rely on a condition, but actually make sure the plans are amended so that everybody knows that's what it's supposed to be. They were actually located at 36 feet. So this would bring it down to 34.

Ms. Buchanan: And then no. 10, "Any changes to the operating frequency at this site shall be coordinated with the Maui Police Department." Keoni, is that prior, or after you made the operating frequencies and there's an interface problem?

Mr. Fox: It's actually both. So we've already done the prior. And once we turn up the site, our engineer, Andy Mayes, who wrote that e-mail will work with the Police Department and make sure they didn't notice any interference with their frequencies.

Ms. Buchanan: Because I see on that no. 11, it's prior to making changes, but it's for the 800 megahertz, and it doesn't include the 1,900 megahertz.

Mr. Fox: To my knowledge, there hasn't been any interference to the Police Department to get the 1,900.

Ms. Buchanan: Anybody else like ask some questions?

Ms. Kelly: I have a question. It's only because when they were having the problems with the interference, it affected other emergency responders. And it did affect the Fire Department greatly. So did you folks talk with the Fire Department, too, because they had to change their radios?

Mr. Fox: I did not have any knowledge that there was any discussion with the Fire Department. It's my understanding that this individual at the Police Department managed the frequencies for both agencies. Maybe I'm mistaken.

Ms. Kelly: I know that the Fire Department has their own communication issues, I mean, you know, staff, they have their own staff. But if you can, you know, maybe just check with them too?

Mr. Fox: Yeah, we can do that.

Ms. Kelly: In an emergency, we have our own fire task force, and that was the number one concern back in 2005 where inter-agencies could not talk to each other. So that is still a concern whenever—

Mr. Fox: Okay, so there's some history there I probably wasn't aware of at which you're informing me now. Okay.

Ms. Buchanan: I'm sorry. Couple last questions. We going hit 'em up one time, Keoni. Exhibit 4 and 5, Exhibit 4, is the floor plan for your room, utility room. And that's where I pointed out that you store your batteries, and then your cabinet racks, your power, whatever . . . (inaudible) . . . thing. And on Exhibit no. 5, there shows hatched marks on the outside. Is that a proposed addition to the building, Nancy? Or is that currently existing and where all this stuff is stored? I wanna know where, if anything going explode, where going explode.

Chair Pescaia: Their storage room is at the back of the Ka Honua Momona Office. So if you go upstairs, Dr. Davis' office, then right next is Ka Honua Momona, then there's like a door inside their office that goes to this windowless storage room in the middle.

Ms. Buchanan: Okay, so Exhibit 5, you cannot see that from the road then? It's internal?

Chair Pescaia: Yeah, you cannot see 'em.

Mr. Fox: Oh, I can answer that question for you, Commissioner. So are you referring to Sheet A-4, Exhibit 5, at the top of the page where's the dashed line?

Ms. Buchanan: Yeah.

Mr. Fox: That just shows the dimensions of the equipment room which is inside of the building.

Ms. Buchanan: Okay, it's inside, not outside. And then the floor plan is Exhibit no. 4, A-3, right? Okay. Got it.

Mr. Fox: Correct.

Ms. Buchanan: And so what's the purpose of your GPS? Why you need three?

Mr. Fox: Again, because Sprint and Nextel work off of these different frequencies. Two of the GPS antennas are only for the iDEN, the Nextel side. So those are the existing ones.

The new GPS will be strictly for the CDMA, the 1,900 megahertz. And that will work with the State's 911 system. So that'll help triangulate calls of individuals who are making 911 phone calls.

Ms. Buchanan: Okay, Keoni, I just curious. How you went shave two feet off your antenna total height?

Mr. Fox: Right now, the three antennas are on the top, the peak of the roof. So we're actually gonna bring the antennas lower down to these.

Ms. Buchanan: Wait. Before my Commissioners fall asleep, I gotta stop.

Chair Pescaia: No, get it all out. Go ahead. Any other questions, Commissioners, right now? If not, I would like to open public testimony on this agenda item. Seeing none, public testimony now closed. Further questions? Discussion?

Ms. Buchanan: Okay, we might as well then. Here it goes. Since we got a – since there's several different components to this one thing, if I don't agree with the time extension, can we just amend that and still approve everything else?

Ms. McPherson: Yes, you may. If the applicant can live with that, and just go to the time that was originally approved, and then come back. Now, another option – I'm just gonna throw this out there is – I'm not gonna be recommending this, but in other Planning Commissions on other islands, they actually allow staff to approve time extensions. So is that how that works, Clayton? I haven't done one yet, but can you tell the Commission a little about administrative approval of time extensions? And does this apply to the County special use permit?

Mr. Yoshida: If the condition states that the Planning Director can issue the subsequent time extensions, then the subsequent time extensions can do administratively. But if it doesn't, if it says the Commission then, time extensions would have to be dealt with by the Commission.

Ms. McPherson: And I do know this Commission a little bit. Humbly say that. But that's why I didn't put that in there. But I'm bringing it up right now because I think perhaps you might want to consider it in future for possibly for other special use permits. It would make things easier. But if this Commission wants to see everything, they want to see everything. And if you want it under your purview to approve time extensions, then that's what we'll do.

Chair Pescaia: Are we separating the three? So let's just look at the special use permit right now, then. Okay? I think we went over the recommended standard conditions.

Ms. McPherson: Yeah, I'm not gonna read them, but we do have a recommendation. We have conclusions of law. I've been told not to read them all. It's basically, is those eight items. And those are your findings of fact, then your conclusions of law, and then the recommendation is for standard conditions. There's six of those, and then there's five more project specific conditions. And if you would like to amend any of those, it sounds like there's already been a suggestion to – and what I have to do right now is look up the original expiration date of the County special use permit that was originally approved, CUP 20090003. And – but then, that motion has to be made, etc.

Mr. Hopper: Just to comment. I'm not sure where this language at the bottom of page 4 comes from, but it says – it's about how the permit's enforced. I'm not sure what the reference in 1980 is. I think it's just 19.530.030 of the Maui County Code as amended and strike out "1980." And the rules, I would just say "and applicable rules," because the rules have a different title right now, and it might have a different one in the future. So I would just say, "applicable rules." That's gonna apply anyway. It's good to make it clear in here, obviously, but just those little changes.

Ms. McPherson: Okay, can you give that to me specifically, after the meeting, Mike?

Mr. Hopper: Sure.

Ms. McPherson: Okay, thank you.

Chair Pescaia: Okay, in Exhibit 9a, correspondence to you from Mr. Fox it says, "The current County special use permit is valid until June 30, 2015."

Ms. McPherson: Oh, thank you, Chair.

Chair Pescaia: Okay. So that's why I think where that date of October 30th 2016 came from—the 16-month extension. So currently, Commissioners, June 30th of 2015. And I think that they was just asking for the extension more so because they're coming before us, and they did do their final compliance report, which was required of them in order to even ask for an extension. And since they're before us now, I think they just wanted to try and put it together. But if you folks wanna wait, this is 2011. So we looking at something expiring in four years.

Ms. McPherson: It was actually my suggestion, because I figured, well, give it another five-year term since they're coming before you.

Chair Pescaia: Then it would be five years from now with the new equipment in place. Commissioners, any further discussion? Or I shall entertain a motion.

Ms. McPherson: So your options are you may defer, you may–

Ms. Buchanan: Are we doing the time extension?

Chair Pescaia: We doing – the time extension is part of the first condition of the special use permit. So either the motion will be to include that, or change that condition, and leave it at its present, June 30th, or–

Ms. Buchanan: If you're asking for a motion for this to be added, I move that we keep the same time limit on the special use permit of June 30th 2015.

Ms. McPherson: And, Commissioner, are you moving to approve the rest of it or too?

Chair Pescaia: That's a portion of the entire special use permit. So that's the fourth condition. I need a motion for the whole–

Ms. Buchanan: So I going withdraw that because I no like the whole, yeah.

Chair Pescaia: Good thing, because never get second. Okay, right on. Anybody else?

Ms. Janice Kalanihulia: I'm gonna move that we accept staff's recommendation to approve the special use permit with the change to the date of the original 2015 date.

Mr. Sprinzel: Second.

Ms. McPherson: It's actually to amend permit terms and conditions, yeah.

Ms. Kalanihulia: Amend? I'm sorry?

Ms. McPherson: To amend the permit terms and conditions.

Ms. Kalanihulia: To amend the permit terms and conditions.

Chair Pescaia: Okay, a motion by Commissioner Kalanihulia. And second by Commissioner Sprinzel, Kelly, everybody. Okay, discussion? So the conditions, both the standard conditions, project specific conditions, everybody's okay with, and with the exception of the date remaining at June 30th 2015. And then Counsel's – oh, and including, Counsel's changes to the wording on the bottom of the conditions . . . *(This portion could not be transcribed due to technical difficulties.)* . . . striking that portion. Okay.

Ms. Buchanan: So you're in discussion?

Chair Pescaia: Yes.

Ms. Buchanan: If it does pass it, would be good to include Exhibit 9a, the letter from Alii Wireless Specialist on the conditions, 'cause you including the condition—too much papers—the project specific conditions? So it could be part of Project Specific Condition no. 8. You could just add at the end, “and representations made in Exhibit 9a.” We just talking story.

Chair Pescaia: Okay, so the suggestion is to have Exhibit 9a. Okay, Nancy, what's listed in 9a—

Ms. McPherson: Oh, you just call it Exhibit 9. I just do that for the page numbering.

Chair Pescaia: Okay, 9, Exhibit 9, are those the conditions that were made on the original?

Ms. McPherson: This is the final compliance report, right?

Chair Pescaia: So this is their response to each of the conditions that were in the original CUP?

Ms. McPherson: Yeah. They're supposed to state how they've complied with all of the conditions previously – you know, there's a basis for granting the permit, previously. And that was in order to support the request for a time extension. It's like they have to show that they've been performing as promised, as they've agreed to with the original permit approval. So is there a specific item that the Commissioner wanted to be turned into an amendment to Condition 8 or—? See, this is basically a representation of past performance. If there's a way to phrase it so that— I mean, I'm fine if you say, “As recommended by the FCC as well as representations made in Exhibit 9,” but it's a little vague. So if it's possible to be more specific, that would be helpful to future Planners.

Chair Pescaia: Well, some of these what's listed in Exhibit 9, the conditions, some of them already exist in the current recommendation. So if there's anything – instead of pulling it all back in, maybe if there's something that they've done in the first time around that we aren't addressing this time around, maybe we can just pull that one specific or two specific things out?

Ms. McPherson: Yeah, that's what I would suggest. And keep in mind that the staff report and exhibits are your findings of fact.

Chair Pescaia: Right, so they're all a matter of record.

Ms. McPherson: You're basing that approval with conditions on those findings of fact. If those facts change, then you can actually withdraw the permit, I believe, or there's a violation procedure. I'm sure Mike knows more about it.

I think they're changing the codes now so that it's easier to bring that forward and say, hey, we're not happy with what you're doing. We're gonna have a hearing and possibly pull your permit. So you do have recourse.

Chair Pescaia: Okay, Commissioners, is there anything missing from the proposed conditions?

Ms. Buchanan: The word "prior."

Chair Pescaia: The word "prior."

Ms. Buchanan: From the letter, Exhibit 9, it says— Let me change back the page. In the letter of 9a, no. 11, it says, "Prior to making changes," blah, blah, blah, blah. It does not say that in no. 10, project specific conditions.

Chair Pescaia: It does, actually. It says Sprint shall notify MPD of system expansion, changes to broadcast – "prior to these changes being made to ensure that there is no potential degradation."

Ms. Buchanan: . . . (inaudible) . . .

Ms. McPherson: If you would like Project Specific Condition 10 to be replaced by Item 11 with the change of 1,900 megahertz band, we could do that. No? Okay.

Chair Pescaia: Yeah, because 10 and 11 are kind of – I know they sound similar, but they're – it's kinda addressing two different actions: one is the operating frequency, the other one is the actual hardware. If moving it, if the location of the antenna interferes – is causing a problem, they're gonna address it. If the frequency is – they're gonna tweak it. Ten is about the operating frequency. The other one is about the location and where things are.

Ms. McPherson: We could renumber them if the order would help.

Chair Pescaia: No, I don't think it'll matter.

Ms. Buchanan: Okay. You know on no. 11, strike the word, "co-location with other wireless carriers at this site."

Ms. McPherson: I'm sorry. Can you say that again?

Ms. Buchanan: For 11, otherwise, you'd be in conflict with your own self because we talked about co-location. And you said inside this it said that you couldn't co-locate, but in no. 11, it's saying it has about changes or co-location with other wireless carriers at this site.

Ms. McPherson: Well, basically, they'd also have to come in to the Planning Commission again if they were gonna do any of these things. So no. 11 is where we should say, "Sprint Nextel Hawaii shall submit amendments," you know, but I think they know that. I mean, Keoni is pretty clear on that, I think. We just can't change consultants again. He'd have to be the last one.

Chair Pescaia: Ready? Okay.

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

It was moved by Ms. Kalanihulia, seconded by Mr. Sprinzel, then

VOTED: ***To amend the permit terms and conditions as stated retaining the original June 30, 2015-validation date, and amending the last portion in regards to the provisions of Chapter 19.530.030 as per Corp. Counsel.***

(Assenting: J. Kalanihulia, J. Sprinzel, D. Kelly, M. Pescaia)

(Dissenting: L. Buchanan)

(Excused: N. Bacon, R. Davis)

(Absent: Z. Dudoit)

Chair Pescaia: So four affirmative; one opposition. Motion fails.

Ms. Buchanan: Chair, you can state the question again—the motion?

Chair Pescaia: Okay, the motion is to – well, now we need a new motion because we just voted. Okay. So the new motion can be whatever you want it to be now.

Ms. Buchanan: What was the old motion? I should've just called for a clarification.

Chair Pescaia: Okay, so the old motion was to accept the recommendations for this special use permit—

Ms. McPherson: To amend the permit terms and conditions.

Chair Pescaia: To amend the permit terms and conditions as stated retaining the original June 30th 2015 validation date, and amending the last portion in regards to the provisions of Chapter 19.530.030 as per Corp. Counsel.

Ms. Buchanan: Okay, based on that clarification, I will rescind my negative vote and vote in the affirmative.

Chair Pescaia: Okay, could some – okay, call for a motion to reconsider the vote.

Ms. Buchanan: Call for a motion to reconsider.

Chair Pescaia: Motion by Commissioner Buchanan. Second? Commissioner Kelly. Discussion? Somebody can just make one other motion to – make a new motion, please.

Ms. Kelly: . . . (inaudible) . . .

Chair Pescaia: So Commissioner Kelly is proposing to – the same motion previously stated. There's a second by Commissioner Kalanihuia. Discussion?

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

It was moved by Ms. Kelly, seconded by Ms. Kalanihuia, then unanimously

VOTED: ***To amend the permit terms and conditions as stated retaining the original June 30, 2015-validation date, and amending the last portion in regards to the provisions of Chapter 19.530.030 as per Corp. Counsel.***

Chair Pescaia: Motion carried. Thank you. Okay, that is for the special use permit. Now, we have an SMA minor permit to consider.

Ms. McPherson: That's on page 5 of your recommendations. And there is only one condition. We have found that– I read those conclusions of law previously to you that full compliance with all other applicable government requirements shall be rendered. But this is your opportunity to submit additional conditions if you feel the need to protect the environment, to fulfill the goals and objectives of Chapter 205A. So please try to stick to that. We have the use covered now with the County special use permit. So now this is regarding development in the SMA, which is changing some antennas and a little bit other stuff. And that's it. Do we have to change any of this enforcement language here also, Mike? “The conditions of this special management area use permit shall be–” I should – “minor permit.”

Mr. Hopper: I could check. I just knew the other stuff. But in the future, it might be a good idea to just say, "in accordance with the rules," or something, because these citations will change often. So why don't you just say, "in accordance with the rules," because that's how it's going to work anyway? Sometimes you wanna give the applicant notice of where that rule is, so I could see citing it, but it could change over time.

Ms. McPherson: So I should just take out the specific citations. That's all I really have to do.

Chair Pescaia: Yeah, let's remove those, then.

Ms. McPherson: So we're talking about, "The conditions of this special management area minor permit shall be enforced in accordance with the special management area rules for the Molokai Planning Commission."

Chair Pescaia: I shall entertain a motion.

Mr. Sprinzel: So proposed.

Chair Pescaia: There's a motion by Commissioner Sprinzel. Do we have a second? Second by Commissioner Kelly. Alright, discussion?

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

It was moved by Mr. Sprinzel, seconded by Ms. Kelly, then unanimously

VOTED: To approve the special management area minor permit as discussed.

Chair Pescaia: Unanimously carried. Thank you.

Ms. McPherson: Maikai.

Chair Pescaia: Do we need a brief recess? Oh, well, our next order of business is our workshop with Ms. Stacy Crivello, who is a Member of the Maui County Charter Commission, who will be reviewing with us the Charter Commission process, and the proposed amendments that fall within our purview. Do we you need a break or you guys ready to roll? Roll? Okay.

D. Workshop with Molokai Resident Stacy Crivello, a member of the Maui County Charter Commission on the Charter Commission Process and proposed charter amendments within the purview of the Molokai Planning Commission

Chair Pescaia: Thank you for coming, Auntie Stacy.

Ms. Stacy Crivello: Thank you for the invite. Aloha, Planning Commissioner Pescaia and all you dedicated people. Mahalo. I'm here at your invite, but I need to make a clarification, first of all. I'm not here on behalf of the Maui County Charter Commission that's in the process of working on the amendments for next year's ballots. I'm here at your invite as an individual, and not as— I cannot say, "We, the Commission." I would just say what I am.

So according to the invite I had from Planner McPherson, it was to just give a briefing on what the charter is about, and then open up for questions, and how some of the processes may affect Molokai as well as the Molokai Planning Commission.

So as you may or may not be aware, the charter as revised establishes the structure and organization of the government of the County of Maui. So it's our government's – you know, like a constitution for our local government. So when we think local for us, Molokai, we think what's just here on our island, but it's – our local government, as we all know is all of Maui County. And it's drafted at the will of people because at the end, whatever we go through is decided by the people.

So we started – our appointment was in April. There's 11 of us on the Commission from basically, all areas. Molokai has a representative, myself, as well as Lanai. And the others come from the different districts on Maui. Then we started to listen to proposals that came from the public that started off I think in May. And we have a time table that we need to meet to get the proposals, or amendments, or whether it's additions or amendments to the existing charter for the 2012 election. And in that process, the public and everyone else that has an opinion, or a contribution, or want to testify is open to do so through a written proposal, or testifying before the Commission as a whole. We meet twice a month and it's just a one-year set up for us. And I think we have to, if I recall, from May till November, we discuss all the different proposals that come before us. And then early on, we had a first round of community meetings. And I have to congratulate Molokai because I think it's the best turnout. Molokai and Lanai had the best turnouts. Then we come around for a second round of community meetings. And tentatively, for Molokai, it's scheduled for December 7th. And then we have to finalize our report, or amendments, or additions to the charter by April of 2012. And then it gets reported to the Council. And the Council has 30 days to make whatever changes. And then we receive it back for recommendation or whatever rejected proposals may be. So it's a process that is in my personal opinion, just crash, crash, crash, and bring it together.

But before you open for some questions, there is different approaches to submit initiatives or proposals. You know, there is through the Council, public makes proposals. In 2006 and 2010 I think the Council submitted proposals and put it on the ballot. So we've had some amendments. And a lot of it, too, is housekeeping. So we had quite a few. In fact, just in Monday's meeting that we started to digest or tried to colonize what we will consider heavy, active proposals that we will generalize into one. Or what we will kinda like defer, but not take it off the table because it comes from the public, and it's always allowed to come forth.

So for your information, the Planning Commission on Molokai was – had quite a bit of proposals. And I'd just like to run it by you, and then we'll open up for questions. Of course, we all know that one of the most heated discussion or proposal is the – I call it the front burner of the district voting. And that will play an important role I think for all of Maui. And again, I have to say me and not necessarily the Commission.

So some of the proposals that was put on our matrix for discussion was to amend Section – and that's part of our charter, which is this, you can get it, or you can get it online, is to allow outgoing Board Members of the Molokai Planning Commission to retain their membership on the Board until their terms expire or their replacement Member is confirmed, whichever is later.

The other was to amend Section 8.1 to reduce the number of Commissioners for the Molokai and Lanai Planning Commissions from nine to seven Members. In all fairness, some of the explanation for that was that it's difficult for the Administration or the Council themselves to come up with Members who are so willing to volunteer to serve on the Molokai and Lanai Planning Commissions.

The other proposal that came forth is to amend Section 8.4 to expand the jurisdiction and powers of the Molokai Planning Commission. And that would be so that it would have all the powers of the Board of Variances and Appeals for Molokai to grant permits, SMA, building, business, etc. And provide that appeals from any variance granted shall be heard and determined by the Maui County Council provided that a two-thirds vote would be required to overturn any variance granted within 30 days. Also, there's a proposal to make no changes. And that's as a whole with all of the different proposals for the Planning Commission.

And we don't have a Hana Planning Commission. There's a proposal to add a section to establish a Hana Planning Commission, as well as a proposal to retain Hana Advisory Committee, and make no changes to that particular Chapter 8 for the Department of Planning.

So specifically, these are proposals that have come forth specifically, for Planning, as well as more important, for your interest would be the Molokai Planning Commission.

So what happens to these proposals? It comes out to our discussion like it did on Monday. And we make a decision if we wanted it to be put on hold, or to have it to be all generalized into a general discussion where it would be still actively – an active proposal. It did not make the active list, but it does not mean it's off the table. So the active list means that the Commission will have decided that the active list of proposals will be what we will basically be dealing with as priorities. And of course, that doesn't stop us from receiving new proposals, or if the public says, you know what? We wanna have further discussion on this proposal, and maybe we need to word it such and such.

So that being said, I was told that I have to make myself available for questions, and not so much walaau, and shift my mouth in gear, but whatever that I may be able to help you. If not – I cannot answer your question, I'll be sure to take it to the experts and see if I can give you a more definitive explanation.

Chair Pescaia: So up until the end of November, you can receive proposals for consideration?

Ms. Crivello: Right, but that doesn't stop us when we're going through it because, you know, it's the public who has the voice. It's no different from the process you folks go through as the Planning Commission.

Mr. Sprinzel: The nine Members to seven Members, was that from here or from Maui?

Ms. Crivello: Oh, that's the same question I asked. It actually came from Maui.

Mr. Sprinzel: And what did they propose to be a quorum?

Ms. Crivello: What did they propose to what?

Mr. Sprinzel: To be a quorum.

Ms. Crivello: Oh, that wasn't further discussed, but if it's seven, then, you know, you would just take the majority.

Chair Pescaia: Four. It has to be four, yeah, per Hopper. That's State law.

Mr. Sprinzel: Thank you.

Ms. Crivello: And the rationale was behind that was the difficulty of getting Molokai people to step up to the plate to serve for the individual who made that proposal.

Mr. Sprinzel: But we always seemed to have managed to get nine in the past. I mean—

Chair Pescaia: Even if we gotta recycle, yeah.

Mr. Sprinzel: I mean, we sometimes have a problem getting a quorum of five, but we manage mostly to get nine Members. I don't see that that's something we'd approve of, if we're asked.

Ms. Buchanan: Stacy, so this past meeting, you guys had to kinda separate through the — this huge list of mountain of stuff you get. And some was put on hold. And then some moved on to one active list. So I'm assuming that this active list in process is internal. Is it internal?

Ms. Crivello: It's internal to make the decision. The Commissioners will have the discussion. It goes back and forth, and make the decision if it will be submitted to the public for consideration to be put on the ballot. But it's not in closed chambers. The internal part is where we do the discussion and do the final decision, but it's still opened up to the public.

Ms. Buchanan: So if we were to take a look at this active list, and wanna intervene before the next meeting, we could get one list?

Ms. Crivello: I can get one for you, but it's also available on — it should be available before our next meeting through the minutes. That's available on the website.

Ms. Buchanan: And you said none of our proposals made the active list?

Ms. Crivello: Well, maybe not specifically, but Planning Commission as a whole will be put into an active general discussion. So some proposals are specific that we're gonna have that wording in there and try to deal with it, but some are so redundant that we'll just put it in general. So let's say Planning Department, we may discuss it for a general discussion as a whole, and this may come up again. But these proposals can still come up for an active discussion or they'll be a time where it will be removed from the discussion completely.

Let me back up a bit. We have for us — the County has contracted where the Commission has hired Attorney, Sherry Broder, and Jon Van Dyke as the legal analyst who puts together all of the proposals, and we call that a matrix. And that's basically what you'd like

to look at as a whole. If you want just the active, you can look at that, or you can have all of the proposals that we're talking.

Ms. Buchanan: I guess, too, maybe the education part for us is I guess like what type of actions or considerations are appropriate for a ballot vote to the general public as opposed to trying to change things internally by rule amendment, and ordinance, and all that kinda stuff.

Ms. Crivello: All these amendments come forth to the public before it gets on the ballot.

Ms. Buchanan: Okay, off the record, I going ask you, because we had one meeting on Molokai. And I was at the one meeting. And I asked at that one meeting when was the second time they was going come to Molokai because this Commission is currently, we can all give input, but I don't think we knew the scope of what we could – what the Charter Commission is actually gonna put on the ballot, because you cannot have 150 things on the ballot, because nobody going understand. So big things like Commissioner DeLeon was saying, and Warren, whatever his name is on the Planning Commission, is to do away with the Molokai Planning Commission, put one Member from Molokai onto one general Maui Planning Commission, all that kind of talk, which is not well received by this community, you know, cutting this down because we get problems with finding people to serve. It's not so much sometimes finding people to serve as to if they off, get them off, and get the next guy on. We have that problem right now. We went months without having somebody in that position because we couldn't get one resignation. So that's simple rule change kind stuff. But at that one meeting, I told Commissioner DeLeon we never appreciate that kind stuff coming from the Charter Commission Members offering up suggestions that had to deal with Molokai. So how are you as one Commission Member finding participating on the Board? Is it difficult? Do we need to be more active or? When you meeting? Twice a month?

Ms. Crivello: Twice a month. It's the first Monday and the fourth Monday of each month. Written testimonies are good. The website is very – pretty much detailed. I found – my personal was after the participation from just that one meeting, people felt the passion of the Molokai community – Commissioners did. And you know, no final decisions are made, or some people have not come up to the plate and say, you know, I support this or what. But there's that constant discussion. But I think Molokai itself can continue to send written whether or not you for one or against one. It's just having the voice be heard, because personally, when I've gone to the different districts on Maui, it's the same people that are there that are pushing what they believe is correct in their mind. But if Commissioners can say, well, we went to Maui and Molokai, and you had about 50 people there. And you had this many testimonies that said this and said that. So I think, too, with the Planning Commission and the discussion that came out forth – in other words, you know, there was a situation where a proposal came from making Kalawao County part of Maui County. Who

are we to make that decision? But – and no one spoke to the Kalawao residents. So those are the kind of stand that I take as well as if Molokai feels that seven will justify it, let's hear what Molokai has to say, likewise Lanai, you know. We just have to be a stronger voice. And there are many people on Maui who support what will benefit all of Maui County, and that includes Molokai and Lanai.

So in answer to your question, complete participation, I would personally get for you the most recent matrix that we have together. And that would include all of the proposals that we're dealing with right now. And these proposals come from individuals, as well as we have proposals from our Executive Branch, you know, Council, everyone that you can think of.

Mr. Sprinzel: Is that abolishing our Planning Commission still on the table?

Ms. Crivello: I did not see that proposal come before us. I saw – what I saw was more not so much abolish it but – or what's been proposed was to have it be an elected position. And they have that kind of under the district voting process. Instead of having direct representation from your Council residency, turned it to like a township, or have the community of Molokai or Lanai as well elect their Commission – well, it won't necessarily be called the Planning Commission. That kind of proposal came forth.

Ms. Buchanan: Yeah, that was another Commissioner DeLeon suggestion pointing out in the Mainland the different types of organizations. That reapportionment is a separate issue.

Ms. Crivello: The State reapportionment is completely different, yeah. It determines our elected – according to the population and how they determine our districts. But go back to that with the district voting, there's always that attempt to try and measure it and, you know, lay it out somewhat same as how we have our State representation.

So tentatively, it's December 7th. And I've been accused of trying to get Molokai people to come out to our meetings and stack the deck. And I like that accusation because I would encourage – and this can go on record, I would encourage all of Molokai to turn out for the Charter Commission meetings. And, you know, it takes to do a little homework. And whatever I can do, too, as an individual to have the dialogue, you know, I'm more than willing to. It's just to be – to make informed decisions. That's exactly what we need to do is to make informed decisions.

Ms. Buchanan: Stacy, I wanted to thank you for stepping up to serve in that capacity to represent Molokai. I just feel so much better with you there.

Ms. Crivello: Thank you.

Ms. Buchanan: You noticed we not calling and everything because must be we not really worried because Stacy over there. She's on it.

Ms. Crivello: No, no, we need everyone, yeah.

Ms. Buchanan: I just wanted to thank you for—

Ms. Crivello: Well, thank you.

Ms. Buchanan: Thank you.

Ms. Crivello: Mahalo.

Mr. Sprinzel: I certainly would echo what Lori said. We do thank you. And just one small point: if there's a discussion ever about this having a representative on the Maui Planning Commission instead of having a Commission here, we have that situation on the Urban Design Review Board, and they haven't got the faintest idea what they're discussing. A recent decision they made had a plan of the Savings and Loan, I think it was. And they not only had the plan completely wrong with roads in the wrong place going in wrong directions, and they had down that it was a 16-foot road, and it was an 8-foot road in actual fact. They really made a decision – not they're bad because I was on the Urban Design Review Board, but they just had no idea of what they were voting on. So they voted on something which was blatantly wrong because nobody there knew anything about Molokai is what it amounted to. So we would be really upset if that was their solution to our planning. Thanks, anyway.

Ms. Crivello: Okay. You're very welcome. Thank you.

Chair Pescaia: I think those who came before us worked really hard to establish the Molokai Planning Commission and to bring more autonomy to the island. And we do have – we know this community. We know what's going on. And I think any effort we can make to preserve and even extend our scope of influence on our own projects and development on the island would be all for the better. But mahalo nui for taking the time to come out of your personal life. It really makes a lot more sense because all these people are coming up and expressing their thoughts and concerns. And, you know, there was one meeting, and we kinda don't know how to react to what the community was saying to us. And so now we have a little—

Ms. Crivello: I can assure you Molokai's voice was really heard. It made – it's having some Commissioners thinking twice specifically, like the district voting. I mean, we have an individual that even comes over to Maui and other issues, but there are things that – their proposal is to get rid of the Police Commission, the Fire Commission, the Liquor

Commission, etc., etc. But there are individuals who are from Molokai that does come up and contributes quite a lot. So it – we may not have the constitutionally rights to vote for our own representation because the Federal laws don't allow it because of our, you know, small population, but I think our voices are well respected and heard. Whether you can agree or disagree it's well heard.

Chair Pescaia: Awesome. I know, we have volunteers who are willing to do work that would cost the government millions of dollars to pay somebody to do, and we have people willing to come, and sort through, and do this kind of work on all the Commissions. They'd be silly to get rid of anybody who's backing them up right now and helping them get through stuff.

Ms. Crivello: Yeah, it's commitment that comes from – like you folks, you know.

Mr. Sprinzel: And talking of Molokai's voice, I've sat here, and there have been 150 or more people, animated, local people here when there's been a contentious thing in front of us. And they've really made their opinions heard and affected the outcome. They're not gonna do it on Maui. I mean, they're not gonna really afford to go to Maui, so I think it's very important that the voice stays here.

Ms. Crivello: So you can continue your voice by if you can't go to Maui, send in a written proposal, e-mail, or just those little bit–

Mr. Sprinzel: Yeah, but an e-mail doesn't show the passion that we've seen in front of this Commission.

Ms. Crivello: No, I agree with you, but I'm just being specific about the Charter Commission. I would encourage you and all of your contacts to be informed, and send in your thoughts. Thank you.

Chair Pescaia: Mahalo nui. Okay, that was very enlightening for me. Okay, on to our agenda, we have Item no. E, our Chairperson's report. Ooh, that's me. Status of the Commission's subcommittee on rule changes report. Clayton, have we heard back from the Department?

E. CHAIRPERSON'S REPORT

1. Status of the Commission's Subcommittee on Rule Changes Report

- a. Rules of Practice and Procedure**
- b. Special Management Rules**

- c. **Rules Regarding Special Uses in the State Agricultural and Rural Districts**
- d. **Shoreline Area Rules**

Mr. Yoshida: We have no change in status to report.

Chair Pescaia: Thank you. On to Item F, that's you, Director's report.

F. DIRECTOR'S REPORT

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

Mr. Yoshida: Thank you, Madam Chair. We've circulated our list of pending and closed Molokai applications. If the Members have any questions on that?

Ms. Buchanan: I have some questions for Clayton. On the page 1 of 3, Jerald Johnson, construct covered patio/parking/Molokai CTB, what is it?

Mr. Yoshida: Oh, again, the – that Lucy Wilhelm Building is in the zone B-CT as we just know – we know, and so they need– Well, I guess it's outside Lanai.

Ms. McPherson: Yeah, you know how they have that temporary stuff over there?

Ms. Buchanan: Yeah, what about the temporary stuff? Where the permanent stuff?

Ms. McPherson: Well, you know, they never get one SMA assessment anyway, but – so now they're coming in and they're proposing a permanent roof. No, but I do – I have an SMA assessment, and the next step, though, is they have to go to UDRB. And now that there's no tenant there, you know, it's kinda slowing things down.

Ms. Buchanan: UDRB? What is it? Isn't it two separate TMKs and don't you need a boundary amendment?

Ms. McPherson: No, what they did was they consolidated. And there was an SMA assessment done for this. And they had two separate parcels, but they finally figured out they had to consolidate them. And then they had to do a dedication for road-widening like a couple of other folks have had to do. I don't know. Mike's scratching his head over there. But anyway, the – yeah, it's okay. It's gonna be okay, Lori.

Ms. Buchanan: I not panicking. As long as they no come in for 18 extra–

Ms. McPherson: And it will be coming before you.

Ms. Buchanan: So you know right down from that, the Chopra Hale Condo, is that—?

Ms. McPherson: Chopra.

Ms. Buchanan: Chopra. First name?

Ms. McPherson: I don't know if it's Deepak or not.

Ms. Buchanan: That's what I was told. I was just wondering if it was him, because they're amending it from single family to multi family.

Ms. McPherson: Well, I should find that out. Yeah, it's two apartment buildings there at Lower Manilla Camp. And it's going through the process. They need an EA, and we're kinda waiting for the EA process right now. It's in Chapter 343, environmental review.

Ms. Buchanan: And then Elizabeth Jackson on the page 2 of 3, the four-lot subdivision, two times? She's CIZ, interim. So she changing – she just subdividing four times and what else is she doing?

Ms. McPherson: They have to change from interim because you can't subdivide interim zoning. And they're requesting R-3 which is single family. So that's also getting reviewed.

Ms. Buchanan: Okay. And then I just wanted to know what is "AUA" for permits?

Ms. McPherson: Where is that?

Ms. Buchanan: Well, it would be on page 1 of 2, the Linex Investments. I just was curious because I never saw an "AUA" before.

Ms. McPherson: Linex, oh.

Ms. Buchanan: Linex Investments.

Ms. McPherson: Good question.

Mr. Yoshida: Yeah, I guess we'll find out by the next meeting. It's done by our Zoning Division staff person.

Ms. McPherson: Accessory use application. That's a new one.

Mr. Yoshida: Any other questions on our open and closed?

3. Discussions with Maui Electric Company on liability for power pole installations on private property. (N. McPherson)

Mr. Yoshida: With respect to Item 3, I don't think we have any change in status on the – regarding the MECO liability for power pole installations on private property.

Ms. Buchanan: But we do have a pending permit on page 3 of 3, yeah, for Michael Spalding?

Mr. Yoshida: Yes.

Ms. Buchanan: It says, "Install electric pole and meter/Molokai."

Ms. McPherson: Yes. And so before that comes before you, we will definitely get an answer from Molokai Electric. We will maybe perhaps even get a representative to be here at the meeting. I will just have to get Mr. Spalding to help me do that, evidently.

4. Status of the Molokai Planning Commission vacancy

Mr. Yoshida: With respect to Item 4, the Mayor's Office did receive a letter of resignation from Commissioner Williams on September 16th, though the letter is dated in June. So they are looking for a replacement. And I guess Commissioner Davis is recovering from his surgery. So he'll be out at least for the next month and a half or so. So attendance is gonna be crucial because we have one vacancy now and we have Commissioner Davis that is recovering from his surgery.

5. 2011 Hawaii Congress of Planning Officials Conference - September 21-23, 2011 on Kauai

Mr. Yoshida: Okay, Item 5, we had the Hawaii Congress of Planning Officials Conference last week on Kauai. And I guess if any of the attendees want to report anything regarding highlights or whatever from the Commission.

Ms. Buchanan: We can share later on or John can share. I only – I going share one thing. They get 4,000 vacation rentals. And it's a mess. So don't feel bad or torn when you sit here as a Commissioner and you say no, because right now, it's a mess, and that's putting it nicely. Okay? It's causing a whole layer of another red tape bureaucracy when hiring staff and people to go out, and enforcement officers, and it's a mess. It is a total mess. And spatially, you can see when they go on the tax map key, and you can't see this until

you do it in GIS mapping. What happens is residential single family district areas, if you color it all in for TVRs, pretty soon you have a resort/hotel area, and you don't have a single family resident area anymore. That's what's happening on Kauai. That's one of the things I learned.

Mr. Sprinzel: It was a brilliant conference. I mean, there was so much. Lori and I split and went to different breakouts or whatever the term is. And it was still two each session, four a day, that we couldn't go to. So there was so much more to learn. It was really brilliant, I thought. And the food was good, too.

6. Agenda items for the October 12, 2011 meeting

Mr. Yoshida: Okay, our next meeting is on October 12th. We have scheduled the SMA assessment on page 3 of 3 for the Kamehameha Schools D&J Ocean Farms' after-the-fact improvements at Keawanui. Also, the – on page 1 of 3, Ke Nani Kai, the residual – the part that was deferred twice, previously, and the deferred John Comstock SMA assessment from today.

Chair Pescaia: Does anyone need to add anything to the agenda for the next meeting? It's good? Alright.

G NEXT MEETING DATE: OCTOBER 12, 2011

Chair Pescaia: So as announced, our meeting is October 12th. The meeting for September 28th is adjourned. Mahalo nui for your time.

H. ADJOURNMENT

There being no further business to come before the Commission, the meeting adjourned at 2:34 p.m.

Respectfully submitted by,

SUZETTE L. ESMERALDA
Secretary to Boards and Commissions

RECORD OF ATTENDANCE

Present

Mikiala Pescaia, Chairperson
John Sprinzel, Vice-Chairperson
Debra Kelly
Lori Buchanan
Janice Kalanihuia

Excused

Nathaniel Bacon
Ron Davis

Absent

Zhantell Dudoit

Others

Clayton Yoshida, Planning Program Administrator
Nancy McPherson, Staff Planner
Michael Hopper, Deputy Corporation Counsel