

MOLOKAI PLANNING COMMISSION

REGULAR MEETING
SEPTEMBER 24, 2003

The regular meeting of the Molokai Planning Commission was called to order by Chairperson Malia Akutagawa on Wednesday, September 24, 2003 at 1:15 p.m. at the Mitchell Pauole Center, Kaunakakai, Molokai, Hawaii.

A. CALL TO ORDER

A quorum of the commission members was in attendance (see record of attendance)

Ms. Akutagawa: I've been asked by staff to rearrange the agenda a little. The staff person that's presenting communications item number one, the Barbara Mueller requesting off site parking approval will be arriving shortly from Honolulu. So, I've been asked to switch communications to below the item D, orientation workshop. In orientation workshop have the presentation on Chapter 343, the EIS/EA process moved to the beginning of the agenda for the workshop portion. Is that agreeable to the commission?

MOTION: TO AMEND THE AGENDA AS MENTIONED BY CHAIR MALIA AKUTAGAWA.

MOVED: COMMISSIONER DEGRAY VANDERBILT

SECOND: COMMISSIONER LORI BUCHANAN

MOTION UNANIMOUSLY APPROVED.

B. ORIENTATION WORKSHOP II

Ms. Akutagawa: I just wanted to raise some questions and issues that Commissioner Vanderbilt approached me about. He stated that it would've been more helpful to receive the orientation packet earlier. I guess in the future if you guys could do that. He stated that the Maui Planning Commission had a representative from Office of Environmental Quality Control come in and explain the EA/EIS process and he believes, and I believe as well that it would be helpful to have them come if we have any kind of follow up questions on the process. I would like to add personally that in reviewing the items that would be discussed for the orientation workshop, I would like to bring the commissions attention to a recent case that came up, the Hokulia, it's called Kelly vs. Ocean side. It's the case in Kona and the reason why I know about this case is I was one of the attorney's representing the Hawaiian group, Protect Keopuka Ohana and wrote the first brief on the agricultural issue. But basically if we could have Corporation Counsel follow up and just do a little summary on that case because it is important in terms of this commission in reviewing special use permit applications which require both approval by the commission and the State Land Use Commission. It has to do with what is permissible on agricultural zoned lands and what isn't. We as a commission, we issue special use permits for ag lands less than 15 acres. So if Corporation Counsel

could do some kind of presentation at the next meeting on the Hokulia case, a summary and what kind of criteria this commission needs to follow so that we too can avoid any kind of law suit of countinghouse issues involving agricultural lands. With that we have the orientation. My understanding is that the public may testify on any issue that's on the agenda. Corporation Counsel has confirmed that.

Ms. Caigoy: Good afternoon my name is Kivette, I'm a staff planner for the Planning Department. I'm going to be providing the training workshop on Chapter 343. What I've asked is for Corp. Counsel to give a brief summary of the Malama Maui vs. the Planning Department case or the whole reason we're here before you today.

Ms. Young: Good afternoon Chair and commissioners. Recently there was a case entitled Malama Maui which involved several requested actions in order for the Upcountry Town Center to receive approval and those approvals included a district boundary amendment which exceeded 15 acres so that was before the Land Use Commission, the State land use commission, it involved a community plan amendment and it also involved a change in zoning. Factually in that case the environmental assessment that was required under chapter 343 went to the Planning Department. The Planning Department issued a finding of no significant impact or FONSI which was challenged. The court in that case, Judge August, ruled that the Planning Department was not the correct entity to accept the environmental assessment and so the court ruled that the land use commission was the appropriate authority because it had the discretionary authority over basically the first entitlement upon which every other entitlement follows. Basically without the land use commission's boundary amendment approval the project could not go forward. Subsequent to that ruling our office was asked by the Planning Department to review how environmental assessments and environmental impact statement, who is the appropriate accepting authority for those documents, for those informational documents. We're still in the process of issuing a written opinion but we have consulted with, the Planning Department has consulted with us and we've been doing this on an (inaudible) basis at this point and time in determining who is the appropriate accepting authority for environmental assessments and environmental impact statements.

Ms. Akutagawa: So it didn't go specifically to the planning commissions having that authority, only as to the Land Use Commission was supposed to be the appropriate authority?

Ms. Young: That particular opinion did address whether in those circumstances the planning commission was the appropriate authority and the judge in that case ruled no that the planning commission in that particular circumstance would not be the appropriate approving authority. However the court also acknowledged that in other scenario's the planning commission could be the appropriate accepting authority in other case law with the Hawaii Supreme Court, the court in

another situation had ruled that the planning commission was the appropriate accepting authority in those circumstances where there was I believe a community plan amendment and use of county land. The court in that case felt that the commission was the appropriate agency even though they were only a recommending agency where the community plan ultimately goes to the county council. In that case the commission is a recommending agency that under HRS 343 is an approving authority according to the definition of agency which includes commissions, does not include legislative bodies and includes agencies that recommend action whose recommendation is required under law. So we believe that, for example, if there's only a community plan amendment and that's the only approval being sought by a developer than in that case the commission would be the appropriate body to accept the environmental assessment.

Ms. Akutagawa: In that light, I have some questions. In terms of this commission's powers, I would like er on the side of caution and in looking at the Molokai Ranch application for Hale O Lono site to build a huge subdivision and what essentially happened was that the Planning Department issued a letter saying that it anticipated finding of no significant impact meaning that an EIS would not be required, which is a higher standard of environmental review and this is just to educate the new commissioners here, it was something that was so contentious and it did, in my opinion require community input, because this community does not like to be misled or have something come to them as a surprise, they don't want to be surprised, they want to always be informed, well informed. So, with that, my question is, can this commission take its own action in its rule making process to determine what types of environmental assessments it should be reviewing and making recommendations to for acceptance or approval? On some of those issues that I think that this commission especially should have personal reviewing is anything that affects the SMA area, even though we do give, issue SMA permits, I think to have that larger scope of environmental review is also important. Anything that has to do with agricultural lands since we issue special use permits, in addition to community plan amendments. So if corporation counsel can answer that or staff?

Ms. Loudermilk: I'd just like to make a general comment. Why don't we let Kivette go through the presentation because we're going to be talking about the law itself because there are certain triggers that set forth the EA process and than after let's entertain those types of questions in relationship to, we can keep those questions in mind as we go through what the law is and than take it from there.

Ms. Akutagawa: O.K. so long there is a return to that question.

Ms. Loudermilk: We should definitely because some of what's in the presentation may answer your question or it may not. But let's give a background to everybody on chapter 343 itself, what are the triggers, meaning when can an environmental assessment, what does it require and so forth.

Ms. Akutagawa: O.K. thanks.

Mr. Vanderbilt: One quick question. Before we get started just for our commission is are we going to be getting the same presentation as the Maui Planning Commission received?

Mr. Boteilho: Madam Chair, no. I guess from experience the Maui Planning Commission took three hours to complete this training. So we've taken the liberty of cutting it down a bit and maybe she can finish and we'll take it from there if Commissioner Vanderbilt has any questions and we can deal with that. We'd like to get the basic training in.

Ms. Caigoy: With that I have a power point presentation prepared and if I can turn your attention to the back wall. The agenda for today's workshop, I'm going to go over several items. The first will be to provide you a brief over view of the Chapter 343 process and than we'll discuss the scoping process or the preliminary consultation phase of the draft EA. We'll than go over the content requirement for the draft EA and final EA and the EIS. The bulk of this presentation will be on that fourth item, reviewing and evaluating these documents. As Corp. Counsel has already provided a summary of the recent ruling, I'll skip over that slide. We'll conclude with the processing procedures when Molokai Planning Commission is identified as the accepting authority.

It's an overview, Hawaii's Environmental Impact Statement law it's found in the Hawaii Revised Statutes Chapter 343 and was adopted in 1974. The law requires basically a preparation of environmental assessments and environmental impact statement for many development projects. Not all of the development projects trigger this Chapter 343 process. It also requires that the government give a systematic consideration to the environmental, social and economic consequences of the proposed development projects before granting permits that allow construction to begin. The law assures the public the right to participate in the planning projects that may affect the community. It is the Office of Environmental Quality Control that implements this law in the state.

This is a very simple slide schematic of the EA and EIS process. Basically the environmental review process begins with the preparation of the draft environmental assessment. An environmental assessment is an informational document prepared by the proposing agency or the private applicant and used to evaluate the possible environmental affects of a proposed action and determines if an EIS is required. The EA must give a detailed description of the proposed action or project and evaluate direct, indirect and cumulative impacts. The document discusses alternative to the proposed project and describes any measures proposed to minimize potential impact. Upon publication of the draft EA the public has a 30 day time period to review and comment on the draft EA. Following that comment period the final EA is prepared which incorporates all public comments as well as agency comments. The applicant is required to prepare to respond to all those comments received and

incorporate those responses as well as the comments into the final EA. The approving agency then reviews the final EA and determines if any significant impacts are anticipated. If the agency does determine that the project will not have a significant environmental impact it can issue an acceptance for the findings of no significant impacts or FONSI. This determination then allows the project to proceed without further study and within 30 days of this finding the public may challenge an agency's determination by filing in circuit court and this would complete the EA process. If the agency however determines that the action may have a significant impact then a more detailed environmental impact statement must be prepared. The EA and EIS are similar in structure but the EIS is a more detailed document which includes a detailed analysis of alternatives and mitigative measures. It also should be noted that the decision to prepare an EIS can be made either after reviewing an EA or at the inception of the project. For example there are some projects where significant impact can be identified immediately and as a result the applicant will choose to begin preparing an EIS without going through the EA process first. So an EIS then assesses the proposed project through research, discussion, and review. It must at a minimum identify environmental concerns, obtain various relevant data, conduct necessary studies, receive public input, evaluate alternatives, and propose measures for minimizing adverse impacts. The EIS must be structured to disclose information in a concise manner using understandable terms and the accepting authority must determine the acceptability of a final EIS. After the final EIS is accepted the project may proceed. From the date of publication a 60 day period is initiated where by an agreed party may challenge its determination by filing suit.

So the scoping process, the purpose of this step, which is one of the very first step in the whole EA process is to define in detail the scope of the EA with the intention of streamlining the review process. This training workshop is going to focus primarily on environmental assessment. But a lot of it can be transferred over when you're reviewing EIS's. For many proposed actions there'll be expected impact. For example if you have a new manufacturing plant proposed in an industrial area you can anticipate noise impacts, water quality and air quality impacts. For say a new restaurant in a retail area, you may anticipate traffic and water quality impact. Construction related work you can anticipate noise impact, air, water, traffic. For work in sand dunes, you can anticipate a cultural impact. For work along the shoreline or proposed action along the shoreline you can anticipate water quality impacts or beach processes or scenic views. Golf courses you can anticipate water usage as well as water quality impacts. Historical use on the property may identify additional impacts of concerns, for example, if you're in an industrial area where there's many gas stations that used to use underground storage tanks, it might identify a potential impact from those underground storage tanks. Conversely some impacts may be briefly summarized based on the type of proposed action. For example if you have a proposed project along the shoreline, it's not likely there's going to be an impact to traffic. This stage of the process will be coordinated by the applicant with the planning department staff and other commenting agencies. We'd just like to note that staff does have diverse

background and the resources as well as experience to review these projects and the experience to identify anticipated impact from a proposed action. This process will also rely on that experience as well as input from other commenting agencies and the community. So the planning department will encourage the applicant or the applicant's consultant to reach out to the community and get their input before drafting the draft EA.

The contents of the draft EA and these are minimum contents should include a summary section. The summary section should identify the applicant or the proposing agency, the approving agency, provide an anticipated determination like a FONSI, also list individuals, community groups and agencies consulted in the preparation of the draft EA and other useful information such as the tax map key number, land use classification and special designation. The Body of the document should include a project description, this is the action's technical, economic, social and environmental characteristics and also include the time frame and sources. If for example buildings are proposed then you would want to see floor plans, site plans, photo's or drawings of the final appearance. You'll also want to see an indicated start or anticipated start and end date of the project and any amount of state or county funds involved are disclosed in the document. The body should also describe the affected environment. If the project is located in or near a sensitive area, than you'll want to see a discussion of the impacts of the project on the area as well as the mitigation measures planned to prevent, lessen or counteract these impacts. A discussion of flora and fauna, archaeological and historical sites and the habitat should also be included. Maps can be provided or graphics, what ever is useful in providing that visual picture of the project. At a minimum though regional sites and location maps should be included The body also should identify and summarize the positive and negative major impacts of the proposed action. Should discuss the impacts of concern on the surrounding environment. Once those impacts are identified than a description of the proposed mitigation measures, which measures those action use to prevent, lessen or counteract potential impacts, those should be provided in the draft EA as well. The body should also include a discussion of the alternative methods of the proposed action, provide an explanation and validation of an expected determination whether it's an anticipated FONSI or a preparation of an EIS. It should also list all permits, variances and approvals required and a status of each and include correspondence with the contact made during the preparation of the draft EA. This correspondence would come during the pre-consultation phase when the applicant or proposing agency solicits information from the agency's or the community.

After reviewing the draft EA the accepting authority than makes a determination on the document which would be an anticipated findings of no significant impact or FONSI or that an EIS is required.

The contents of the final EA includes any additional information which would be any new or better information required from the public or agency comments. This information should be added into

the final EA. This could include changes to text, additional figures, additional maps or tables. After reviewing those comments received the document must then discuss, the final EA must discuss the findings and reasons that support the determination of the FONSI on the EA in consideration of the significance criteria. The approving agency would then make a determination of accepting the FONSI or again, the determination might be that an EIS would still be required.

Now the contents of the environmental impact statement are similar to that as an environmental assessment. However the difference is that the EIS would contain more detail and will often include additional technical studies not commonly included in the EA document. The EIS also requires a discussion of sustain ability analysis, unavoidable impacts and unresolved issues. So a minimum, the EIS document should include the following. A concise summary and table of contents, a statement of the purpose of the project, a detailed project description including maps, technical data, economic and cultural effects and historical perspective. An analysis of alternative to the proposed project and an explanation as to why the alternatives were rejected. A description of the environmental study, a statement of the relationship of the proposed action to land use plans, policies and controls for the affected area. A description of the probable impacts of the project including the direct, indirect and cumulative impacts as well as impacts on both natural and human environment. A description of the relationship between short term uses of environmental resources and long term productivity or what is called to or referred to sustain ability analysis. A statement of unavoidable environmental impacts caused by the project and a rationale for proceeding with the project in light of these impacts. A consideration of all mitigation measures proposed to avoid minimized rectified or reduce the projects adverse impacts. A summary of unresolved issues and a discussion of how such issues will be resolved. A listing of all agencies, organizations and individuals consulted during the preparation of the document. Again these are the minimum requirements of the draft EIS and this will be circulated to agencies for comments. Based on the agency comments the draft EIS is then revised into the final EIS. Again the applicant is required to prepare a response to all those comments received and incorporate those into the final EIS.

So now I'll move into the meat of the presentation which is how to review and evaluate these documents. Basically reviewing and evaluating these documents is very similar for the EA and the EIS except that given the EIS is a more detailed document, it also involves a more detailed analysis. You're going to have more technical studies provided in the document which will require additional analysis. In reviewing an EA a determination is made as to whether there are any significant impacts. If adverse impacts are identified and more information is required than an EIS is required and reviewed to determine its acceptance. So given that the goal of this section would be to provide that guidance on reviewing new documents and it'll include the discussion of the different types of impacts to consider. For example, primary and secondary effects short and long term effects, cumulative impacts and regional and sites specific impacts. Once these impacts are identified than

we'll discuss how to determine if they will have a significant affect on the environment and what mitigative measures are proposed to lessen that impact. We'll also go into discussion the different types of alternatives that should be included in the document. As I go through this I will be providing hypothetical, just note that they are hypothetical.

First of all when you're evaluating an EA you want to consider every phase of the development, or every phase of the proposed action. For instance if an action involves constructing a new commercial structure, than you'd want to review the impacts associated with the actual construction phase of the project as well as the impacts from the development, from the finish commercial center. So you'll want to take into count that a primary and secondary consequences, again, cumulative impacts, specific impacts and short/long term effects. These impacts should than be considered and evaluated in relation to the significance criteria which I'll discuss a little later and this is used in determining whether a proposed action would have an impact on the environment. If the proposed action again does not meet any of the significance criteria, than the commission can make a determination of anticipated FONSI in the case of a draft EA or a FONSI in the case of the final EA. Adverse impacts are identified and if the commission feels that more information is needed in order to make that determination or in order to make a decision on the action, than the commission could require that an EIS be prepared. It's also important to note that there may be unresolved issues in evaluating a potential impact. For example I don't know, I'm sure many of you are aware of the traffic issues that we have on Maui on the Pali, any new large development on West Maui will likely add to this problem. However it's an unresolved issue and will likely remain unresolved until the state addresses the problem and takes action. That's just an example of what type of unresolved issues might be present during a project.

First we'll discuss our primary consequences. These are the effects which are caused by the action and occur at the same time and place. They are often referred to as primary impacts or effect or direct impacts or effects. For example, again going to our new commercial retail center proposed and a new large parking lot in an undeveloped area. The direct effect of this action would include those impacts to like existing flora and fauna or impacts to the cultural or historical sites located in the area. The next is our secondary consequences. These are those affects which are caused by the action and are later in time are farther removed a distance but are still reasonably foreseeable. Again these are referred to as either secondary impact or effects or indirect impacts or effect. These might include your gross inducing effects and other effects related to induced changes in the patter of land use, population density or growth rate or any related effects on air and water and other natural systems. So again our new commercial retail center with a large parking lot and now we have this large parking lot where you have many cars parked in there daily so as they're parked sometimes they're not all maintained to the best, they're dripping used oil onto your paved parking service so over time this used oil or anti-freeze accumulates on this paved service and some of it may be grade

from exposure to the element, however to get a heavy rain that rain will pick up some of those contaminants and carry it with it down into your drainage system which again the Kihei area on Maui, the coastal areas, that drainage system often discharges directly into the ocean. So now you're introducing this man made pollutant into your coastal waters. That's an example of a secondary impact. Another example might be when you have existing, mature tree's and then you propose a parking lot in this same area, would the construction of the parking lot, you now have an impervious service. So that means less, if the trees aren't properly irrigated than that means less moisture, less water to the tree root system and eventually that tree might die. Again that's an example of a secondary impact.

Cumulative impacts are those impacts on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative impacts could be both indirect and direct. For example a direct cumulative impact would be traffic, impacts on traffic from new proposed commercial centers or subdivisions. Another example might be that if you have a lot of new residential development proposed, an impact might be those that require additional public facilities. That might be, if you have a subdivision, after subdivision going in, what is the cumulative impact on our public facilities.

Regional and site specific impacts. When reviewing a proposed action relative to these types of impacts it would often depend on the type of the proposed action and will often be determined by experience. For example if you have a new project district proposed, you'll want to see a discussion of the regional impacts like from traffic and then if you have like an addition or expansion of an existing building than you might want to just focus on the sites specific impacts. It's not likely a 300 foot addition to an existing building is gonna have a regional impact for like West Maui for example. But, there are always exceptions to the rule. When I was saying exception to the rule that popped to my mind was I spent about a year working down in American Samoa with a local environmental protection agency and down in American Samoa, I don't know how many of you have ever been down there on the main island there's only one post office and if you want to receive mail in American Samoa you have to have a post office box. They don't have mail carriers that come to your house. Because this post office is located in the heart of town and right next door to the post office is one of three banks located on the island. Which doesn't seem like a big deal except for when you consider that planes only come into American Samoa two times a week, Monday's and Friday's. So you can imagine pay day being Friday and the mail comes in on Friday and these two small buildings are probably total like 2,000 square feet, you can imagine the traffic that comes into this area. So that might be an example, that's an exception to the rule, right there, that's a regional impact because the traffic coming in is bad.

Short and long term effects. The other impacts we just discussed the primary, secondary, cumulative, regional and site specific, now these all can have short and long term effects. The short term impacts again occur immediately and long term would occur over a given period of time. Example would be say a new golf course. A direct effect on the golf course, a direct effect of the golf course would be the impact on water usage. So I identified a direct effect. The short term effect on water usage would be those impacts related to construction activity and a long term effect on water usage would be impacts related or posed by the regular maintenance or irrigation of the golf course. That's an example of a direct impact with the short/long term effects. Now an indirect impact or secondary impact of the golf course would include, might include an impact on the water quality. So a short term effect on the water quality would be impacts associated with the construction activity. For example soil erosion you'd want to see best management practices and to protect the nearby stream. Long term effect on water quality would be impacts from regular maintenance activities, might be regular maintenance activities because sometimes those activities involve the usage of pesticides or bulk storage. If these pesticides are improperly applied or managed than you have a potential non-point source pollution problem by these types of pesticides being introduced into your nearby streams or coastal water. So when you're reviewing these different types of potential impacts you should be reviewing them in relation to the significance criteria. If you find that, and use this significance criteria met, and you'll want to see mitigative measures. I'll just briefly go through these and a lot of these probably look familiar because they're very similar to the SMA significance criteria. One that involves an irrevocable commitment to loss or destruction of any natural or cultural resources; curtails the range of beneficial uses of the environment; conflicts with the state's long term environmental policies or goals and guidelines; substantially affects the economic or social welfare of the community or state; substantially affects public health; involves substantial secondary impacts, such as population changes or effects on public facilities. You'll see that I've underlined or highlighted those key words, irrevocable, destruction, substantial which I'll go over after I've finished going through this thing, that's why I've highlighted those. Significance criteria also includes does the action involve a substantial degradation of environmental quality; is the individual limited, cumulatively has considerable effect upon the environment or involves a commitment for larger action; does it substantially affect a rare, threatened, or endangered species or its habitat; does it detrimentally affects air or water quality or ambient noise level; does it affect or is it likely to suffer damage by being located in an environmentally sensitive area; does it substantially affect scenic vistas and view planes identified in county or state plans for studies; or does it require substantial energy consumption. The project impacts in relation to each of these criteria should be discussed in detail. It is not sufficient to simply state that the project does not have any significant impacts or to restate each criteria in the negative form. So as I noted earlier, each of these significance criteria has one of these key type words. So how do you define what is substantial or what is detrimental. In some cases this can be quantified numerically. For example, the department and EPA have established guidelines. If these levels are

exceeded than you have an error or you have a water quality problem and these can often be measured in parts per million or parts per billion. On the other hand for traffic, these can be quantified using what is an acceptable level of service which is usually considered level service C or D as acceptable. So anything greater than C or D would indicate a significant impact. Noise can also be quantified, and any types of actions required that a permit be obtained from the Department of Health. However there are those areas where they're not so easily quantified and they may have to be reviewed on a case by case basis. One example are view corridors or scenic vistas of our oceans and mountains. In this situation you may want to consider the immediate surroundings of the proposed action and you may find that it is more desirable to re-site a building or maybe reduce the height of the building in order to create or preserve a scenic vista. Another example might be impacts related to the rare or threatened or endangered species or habitats. It may be determined that any destruction to these remaining habitat is a significant impact but in this case it's important that the different rare, threatened and endangered species, the different definition could be each considered because it should be defined differently.

So once those impacts are identified, mitigative measures should be proposed. Measures planned to prevent, lessen or counteract potential impacts. There might be only one mitigative measure needed or there might a series of measures or several alternatives listed that could be used or applied in order to counteract a potential impact. These should be discussed in the document and not just simply stated that they'll be applied as appropriate. Often mitigative measures will be identified through agency comments. Some examples of mitigative measures might include best management practices, BMP's to mitigate air, water quality impacts. These could include the construction of silt fences on construction sites to help manage sediments of storm water or using like mufflers or filters on construction equipment to help manage air quality. BMP's could also include a spill prevention measure if hazardous or regulated materials are used on the construction site. Going back to traffic, if you have an intersection where, with the proposed action it is identified that there be a level of service at the worst level. Mitigative measure might involve, providing right or left turn lanes, this might help lessen the potential impact to the level of service C. For mitigation at historic sites, the EA should include copies of the preservation plan prepared for and approved by the State Historic Preservation Division or could include a statement of commitment to preserving identified sites. Mitigative measures could prevent a potential impact from qualifying as a significant impact. This could be sufficient enough so as not to require the preparation of an environmental impact statement. Because those proposed mitigative measures have lessen the degree of the potential impact.

The environmental assessment should also identify and discuss alternative methods considered for a proposed action. Each alternative should provide a summary of potential impacts and any mitigative measures proposed to lessen those impacts. The alternative with the least detrimental effect on environment should be selected as the preferred alternative. The level of analysis of the

alternative should focus on the preferred alternative. The identification of the preferred alternative may occur by natural fall out of analysis. For example, if you have a new proposed residential development on a property that's partially like a wetland or a wetland type area, it's also located within this property, the preferred alternative may be that the development is sided and concentrated in that area where as the sensitive habitat or wetland is not located so you can preserve that sensitive area and still maintain that sensitive area. The alternative analysis should include from the community, often times the community members are aware of concerns and impacts that make particular alternative more or less desirable and you can see where this could be, where this could be particularly beneficial. For example, say you have an Oahu or mainland consulting firm preparing an EA for a project located here on Molokai, as you said, the community likes to be involved so the consultant or applicant should seek benefit from the community. The alternative analysis can also identify beneficial uses of the property not originally considered. For example, a few years back there were regulations, deadlines, underground storage tank regulations that require all these old existing tanks be upgraded and a lot of people couldn't make those upgrades so a lot of gas stations started closing down. So a beneficial use that might be identified during this alternative analysis would be that you should just redevelop or reuse these existing buildings that are vacant for whatever retail center instead of constructing maybe a new, a whole new building. If a development proposed along the shoreline that during the alternative analysis by residing the project or maybe decreasing the density or height of the building you're able to preserve your scenic vista or maybe establish a view corridor to your coastal areas. At a minimum the types of alternatives to consider and be discussed in the document would include relocating the proposed project to a different site or a different location. This might include another site on the same property or be in a completely different property location. For example say a 5 million gallon new 5 million gallon water storage tank is proposed, it might find that by residing or relocating it and using the natural topography you might be able to help shield the water tank and therefore prevent or protect or preserve your mountain view plane, your mountain vista.

Alternatives to be discussed should also include alternatives with less density or intensity. Again say for example you had a multi family project proposed and several significant impacts have been identified it might find that by lessening the use like say instead of multi family, single family, that most of the impacts may be mitigated. There's also like I've already discussed, the alternatives to residing or redesigning the project. If you had a proposed action in the area where there's been flora or fauna identified or cultural or historical sites identified, an alternative to discuss in the EA should include that alternative how to site the project so as to preserve the sensitive items.

Lastly, the alternative considered should include maintaining the property as is or that there's no project. And as you can imagine this alternative is not usually the most popular and, but it should be included in your alternative analysis.

Corporation Counsel is already provided a summary of the Malama Maui ruling and I'm going to skip over that. I'm going to conclude this part of the workshop with the processing procedure of the EA document. When Molokai Planning Commission is identified as the accepting authority. I've developed a flow chart and to simplify the flow chart you'll see that on the far left here we have those actions connected by the applicant or the consultant. In the middle here, there's a red line here separating, it's kind of hard to see. The middle here we have the activities conducted by the Planning Department and then on the far right we have those activities completed by the Molokai Planning Commission. So the first step in the EA process is the preliminary consultation. This is what I discussed earlier as the scoping process. This activity will be conducted between the applicant and the planning department. The applicant will submit a request to the department for preliminary review and this is where the department will scope the contents of the EA. It's the planning department's intent to provide a more detailed scope and encourage the applicant or the consultant to reach out to the community and get their input before the draft EA is even prepared. Once this stuff is completed the applicant will then prepare a draft EA and that draft EA will be filed with the department. Once the draft EA has been received by the department the staff will review the document, the staff will concurrently transmit the draft EA to commenting agencies, to the Molokai Planning Commission and to the Office of Environmental Quality Control. When staff transmits the draft EA to the OEQC, they'll list, they'll provide a determination, whether it be an anticipated FONSI, or that an EIS would be required. This initiates the public comment period, the publication of the draft EA will initiate the 30 day public comment period. This step when we transmit it to OEQC, that will be conducted by the staff on behalf of the Molokai Planning Commission. The Molokai Planning Commission will still receive the draft EA. They'll review the document or you'll review the document and have an opportunity to comment on the draft EA. Once the planning department receives those comments from the commission as well as other commenting agencies and the public, those comments will then be transmitted to the applicant. The applicant is required to prepare a response to all comments received and the applicant is then required to incorporate those comments and responses in the final EA. So at this stage the final EA is prepared and the final EA has been filed with the Planning Department. Once the department receives the final EA, staff reviews it and transmits the final EA to the commission.

Ms. Akutagawa: Can I ask a quick question. The comment period for the planning commission takes place simultaneously with the official public comment period, is that correct?

Ms. Caigoy: What I've prepared after this slide is a time frame schematic so it shows you the time allotted. But basically yes it would all happen concurrently.

So once that final EA is transmitted to the commission then the commission will review the final EA and make a determination whether they'll accept the FONSI or that an EIS will be required. The

commission might find that more information is needed in order to make this determination. In this case it'll be sent back to the applicant, the applicant will then revise the final EA and resubmit that document to the planning department and then come back up here and follow the flow chart.

If the commission finds that more information is needed, then that determination will be filed with OEQC by the planning department whether that is an accepted FONSI or that an EIS will be required. Following that publication it'll initiate the appeal period.

Here's the time schedule. Let me note real quick that this time schedule doesn't take into account the time that is required by the applicant because we can't determine that. Depending on the scope of the project it might take the applicant 6 months to complete the EA document or two weeks. That is noted by these yellow diamonds here.

What I've done, over here on the far left I've listed if it's the planning department, applicant or Molokai Planning Commission activity and I've listed out all the different activities that I just went through on the flow chart. Here I have the estimated number of days to complete each activity broken down to 10, 20, 30, 40 so on days. So we anticipate that the preliminary consultation phase between the applicant and the department would take 30 days. The time required by the applicant to draft an EA or to complete the draft EA we can't determine that so it's noted by the yellow diamond. The next four actions are for the department and this is where the department reviews, once the draft EA has been submitted, the staff reviews the draft EA, we transmit the draft EA to the agencies, we transmit it to the Molokai Planning Commission and we transmit it to OEQC. We anticipate that it could be done in 30 days. So once staff transmits it out the commission will be asked to comment on it at the same time. So that is noted here. When it is transmitted to OEQC and published in the public comment period that's the 30 days. So we note that this will all be conducted within 30 days. When the department receives the agency comments and the commission comments we'll transfer those to the applicant. Some agencies provide their comments right a way, within a week or two weeks. Some agencies take a little longer to comment, maybe the full 30 days. So that's why we've allotted 45 days here. Following the receipt of all the comments the applicant will then prepare the final EA and submit that to the department where again we don't know, that time frame could vary. Once that final EA is received by the department the staff will review and transmit to the commission within 30 days and again within that same 30 day time frame the commission will be asked to review it and make a determination on the final EA. Once that determination is made the department will then transmit the final EA to OEQC, OEQC with a determination and this is 45 days because when, for publication we're required to submit it to OEQC like 10 days before the publication date. So that might vary depending on when the publication date is and when Molokai Planning Commission actually reviews it and makes a determination. So this could be less than 45 days. So once that final EA is published and you have initiated the 30 day period, so it's in the best

case scenario if we're able to do it all within these designated time frames. The total processing from the Planning Department and a commission standpoint is 160 days. That actually completes my portion of the workshop if you want to open it up for questions.

Ms. Akutagawa: Any questions?

Ms. Loudermilk: Maybe before you guys go up I did note that this presentation did not identify what triggers environmental assessment and that was one of the questions that Commissioner Akutagawa had. Now it's part of my orientation workshop that is a component but I think since we're focusing right now on the Chapter 343 I'd like to throw it out to the commission if you'd like me just to go through that portion at this point and time.

Ms. Akutagawa: If you can do that, I notice too that there was a presentation on the cultural impacts? I know there are guidelines presented by OEQC on cultural impacts....

Ms. Loudermilk: No actually that's part of the Chapter 343 law and we have not as part of the presentation got into the different components of the law itself. It's just a brief over view and maybe as the commission meetings, we go further along we can come back and touch upon different areas if you want some more such as the cultural impact assessment component. Because right now what Kivette which is giving an over view of the processing that, general idea of what the processing is for the, under Chapter 343, one of the questions was in terms of when this commission can require or ask whether a project is required or can be made required to go through this assessment. But, I basically, Kivette's presentation didn't let you folks know what triggers this process because there are specific criteria's in the state law in which this process is triggered. If it doesn't meet any of those criteria's than the process is not triggered.

Ms. Akutagawa: O.k. but I'm to understand that basically the planning commission will be reviewing environmental assessments that come down the pipe that's affecting Molokai, am I correct?

Ms. Loudermilk: That's correct.

Ms. Akutagawa: I think than the most important thing that the commissioner's need to have and I think in writing would be the significance criteria, I think there's like 12 different criteria and that will help the commission in reviewing whether an EA, a project in draft EA form would be significant to warrant an EIS. I think that is what's needed by this commission and a write up on what exactly are the cultural impact guidelines assessment. Because another new law has passed on cultural impact assessment. So it makes those guidelines much more important in the commission's review to Chapter 343. So if the commissioner's can have written copies of those criteria's that

would be great.

Ms. Kalanihulia: Could we also have copy of what Kivette read other than what was on this power point? That would be helpful, it was good. Thank you.

Ms. Caigoy: Yes I can do copies.

Ms. Akutagawa: Thank you Kivette.

After a short break the meeting was reconvened.

Ms. Akutagawa: I notice there is people in the audience and I did state earlier that people in the public can testify on any agenda item so what I'll do is open up some question and answer period on this EIS, Chapter 343 process and than have the public ask any questions it may have and proceed with the rest of the orientation. Any questions from the commissioner's?

Mr. Ribao: Can I make a suggestion that since we have people waiting here and I gotta leave at a certain time today if we can have them do their presentation.

Ms. Akutagawa: Did you guys want to ask questions on the, or is this for the other matter on the agenda? O.K. you know what, what I'll do than is, if it's o.k. with the commission have the issue on communications, Barbara Mueller, property Manager of Watamull Properties Corp., requesting off site parking approval, have them come up and do their presentation and have staff do the presentation. We do need the votes. This is an action item and once we contend with that go back to the orientation. Is that O.K. with the commissioner's? O.K. do we need to reamend the agenda again, Cindy?

MOTION: I MAKE A MOTION TO AMEND THE AGENDA TO TAKE ITEM ONE AND TWO UNDER COMMUNICATIONS AND THAN WE'LL CONTINUE WITH ITEM D, ORIENTATION WORKSHOP.

MOVED: COMMISSIONER ROBERT RIBAO

SECOND: COMMISSIONER JANICE KALANIHUIA

MOTION UNANIMOUSLY APPROVED.

Ms. Akutagawa: I also noticed that we, I neglected to have us approve the minutes. So let's get that

out of the way.

C. APPROVAL OF MINUTES OF JUNE 12, 2003

MOTION: APPROVE THE MINUTES AS CIRCULATED

MOVED: COMMISSIONER DEGRAY VANDERBILT

SECOND: COMMISSIONER LORI BUCHANAN

MOTION UNANIMOUSLY APPROVED

D. COMMUNICATIONS

1. MS. BARBARA MUELLER, Property Manager of WATAMULL PROPERTIES, CORP. on behalf of GULSONS LLC requesting off-site parking approval in order to provide eleven (11) additional required parking stalls at TMK: 5-3-001: 076 for the Kahua Center located on the adjacent property at 15 Kaunakakai Place, TMK: 5-3-001:077, Kaunakakai, Island of Molokai. (OSP 2003/0003) (S. Bosco)

Ms. Bosco presented the staff report.

Ms. Akutagawa: Any questions of staff?

Mr. Vanderbilt: With regard to the analysis it says that the proposed project qualifies for development less than \$125,000. Did you get a break down of the project?

Ms. Bosco: No I did not.

Mr. Vanderbilt: Is it under the law that they're supposed to provide from a certified architect?

Ms. Bosco: I'm sorry, I apologize. An architect submitted that estimate.

Mr. Vanderbilt: And what was the valuation?

Ms. Bosco: I believe it was \$40,000

Mr. Vanderbilt: \$40,000 for all the work and when you're determining the value, what components

do you look at? Do you look at engineering work, architect fee's, construction?

Ms. Bosco: Construction, building cost. Building or development cost I should say.

Mr. Vanderbilt: And what's included in the development cost?

Ms. Bosco: That would include side prep, the actual materials that may be involved, materials including landscaping, pavement. The lighting if you're going to go with the proposed lighting that's actually already there.

Mr. Vanderbilt: But you don't have to include engineering fee's or consultant fee's?

Ms. Bosco: We don't.

Mr. Vanderbilt: The other thing is on the analysis it talks about on page 6, paragraph two it says a consolidation will require and than it's blank.

Ms. Bosco: I'm sorry I was rushing to finish this report, I'm glad you brought that to my attention, I wanted to explain that. It requires a change in zoning, community plan amendment, the process to consolidate these two lots is, well I'm gonna have to look, probably why it's not finish is because I realized when I was writing this the process is pretty extensive to consolidate the off site parking approval is far better alternative to consolidation. The reason for that is that the project is located within the SMA area and we have different zoning and community plan designations on the two properties. So there would need to be amendments to make those designations consistent with each other.

Mr. Vanderbilt: So the applicant is not planning to consolidate these lots?

Ms. Bosco: Not at this time, no.

Mr. Vanderbilt: As far as, and maybe this is a question for the applicant, but as far as the existing tenants who went into this shopping center in good faith that they would get new leasing tenants that would need the parking requirements, not put in another restaurant or something like this that would incur other development cost, are the existing tenants going to be charged anything in the common area of maintenance fees or higher rents or anything for the cost and maintenance of this development or any higher property taxes that result from it?

Ms. Bosco: That is entirely up to the property manager and owner.

Mr. Vanderbilt: So that's a question we should ask the applicant? Thank you.

Ms. Akutagawa: Any more questions? We'll have the applicant come up and do a presentation and be open to questions.

Ms. Mueller: Good afternoon my name is Barbara Mueller and I represent Watamull Properties as the property manager for the Kahua Center.

Ms. Akutagawa: Would you like to add to the staff presentation or you're just open to question from the commission?

Ms. Mueller: I don't think there's any issue. We're pretty much in agreement with her presentation.

Ms. Akutagawa: Are there any questions from the commissioner's for Barabara?

Mr. Ribao: I have a couple of questions. On the side where the parking lot is going to be, right next to the building I see a pathway, is that going to be like a walk way?

Ms. Mueller: You're talking about the length of the building?

Mr. Ribao: You know in the back on the ocean side you guys gonna make a walk way and than the parking lot, that's what this thing is here?

Ms. Bosco: No that will not be developed as a walkway. What you're looking at alongside the south western elevation of the building, that's still on that side. That's still on the Kahua Center property and currently that has a landscaping planting. As you approach the property line there's actual a curb. So at this point you've got landscaped areas up along that area, actually on the other side of the property line and as you look at the parking lot, the parking lot will be flushed with the property line.

Mr. Ribao: So that area that space in-between, however wide it is, it's just going to be a void, kind of put plants and stuff like that, it's not going to be paved. Now my question that I have what separating the parking lot from that void? Is there going to be a barrier there? So it's going to be paved, if I look at this correctly, approximately, almost 40 feet, right, little less than that.

Ms. Bosco: Correct.

Mr. Ribao: As far as the pavement, will that be black top or concrete?

Ms. Bosco: Black top.

Mr. Ribao: So it'll be paved from 18 + 24 feet, all the way back from where that little space is.

Ms. Bosco: Right.

Mr. Ribao: Thank you.

Ms. Akutagawa: Any more questions?

Mr. Vanderbilt: I asked a question earlier, as far as the cost of this additional capital improvement project and the continuing maintenance of that area as well as increased property taxes on that site once this additional development is done, will any of those cost be assessed to the existing tenants in the?

Ms. Mueller: Yes some of those cost will be and I think it's also because we are improving the property, not just for who ever moves in but also the lighting and the parking lot which they use now. The additional cost on taxes and improvement, yes. The cost on janitorial, I don't believe it's going to be that much more additional. On the capital improvement, I haven't done the budget yet for next year and I need to check with the landlord as we've just done this in the last two weeks on what is going to be brought down to the tenants but some of it is yes.

Mr. Vanderbilt: Well as far as the tenants, have you met with the tenants, I mean nobody's here today, did you let them know about this meeting or did you discuss what you were going to do and the fact that you might increase their rent further or their common area and maintenance charges? Have you discussed this with the existing tenants?

Ms. Mueller: In that manner no.

Mr. Vanderbilt: Well already they're paying really high rents over there and maybe I'm missing the point but when they went into this project they assumed that you would lease out the remaining spaces based on the approved parking spaces and now you go out and get another tenant and then I'm reading this letter that you're saying that the Planning Department is all fouled up as far as the permits and everything when you guys should have known that you couldn't lease it to this coffee shop without getting this resolved. So I don't know, the coffee shop is operating, aren't they? This is another after-the-fact permit. You guy's are the landlords, you guy's are supposed to know the law.

Ms. Mueller: It's also up to the tenants to do their homework on when they rent. When I lease the property I don't have to know all of the laws regarding the parking. What I need to know is what is in, how it affects, I don't even know how many parking spaces had used, when you're asking about the tenants and their knowledge of the parking, the other tenants are quite aware of the parking limitations. It has been vacant for quite a while and finding tenants that would be able to utilize this space as it is and this issue would have come up at any point, I think, as soon as we found a tenant and now we have found a tenant we are addressing the issue and we are in agreement with the planning commission on what has been required and how they would like us to address that.

Mr. Vanderbilt: So you're really asking the existing tenants to kick in extra to help make your marketing effort a little easier and get what ever type of tenant you want even though that doesn't meet the number of spaces that were there with the original tenant. Like Napa was in there, there was some other office spaces in there, I don't know why they all left?

Ms. Mueller: I don't know when the parking requirement came into effect. I know that even when they had Napa there it was not an issue with the parking, I'm sorry I've only been with the management company for two years.

Mr. Vanderbilt: Well I guess that's all I have, I guess we can.

Ms. Mueller: When you talked to the tenants, because two of the tenants have asked for our assistance in getting this the third tenant would be Sean Connely and he's quite aware of the parking requirements and he's aware of what we're doing. I think if they did have large concerns regarding this they would be here to say that they would be....

Mr. Vanderbilt: Just for your information I would think that they would be here too but they would have no way of knowing that this meeting was unless they happened to look on the bulletin board and if it had been identified as the shopping center where Molokai Pizza was and everything fine. Then maybe some other people could have told them. But this is an SMA minor permit and they're not required to be notified by the planning department or this commission or anybody. Which I think isn't appropriate. I think there should be some courtesy notice. Other than that, you mentioned that you haven't discussed this with them as far as increasing, I think if you have gone to them and you just said we're planning this and we're going to increase either your rents or your cam charge which is, I think they would have been out here because they're not making tons of money and than you're going to hit them with some more monthly payments and it's not going to increase Molokai Pizza's business, I would think. But anyway that's just...

Ms. Mueller: I believe that it will.

Mr. Vanderbilt: You believe that it will? So maybe their cam charges could be assessed on increase visits, they don't have to pay it if they don't get the increase business.

Ms. Mueller: Well I'll ask my boss.

Mr. Vanderbilt: Well your boss should have been here if you gotta ask him. But anyway, thank you for coming.

Ms. Akutagawa: Commissioner Kalanihūia?

Ms. Kalanihūia: When I look at this map I see there's access to this center from the back, sort of by the "L" shape and around the front will there be a way for people to walk from this parking lot, will there be a walk way or they'll have to walk on, because it's kind of dirt and close to the road.

Ms. Mueller: there's also a ramp in the back that goes back down.

Ms. Kalanihūia: From the end of the Pizza Café? O.K., thank you.

Mr. Ribao: Couple more questions. That space between the building and parking lot, I have some concern there because if a car should run, is there a curb there which would stop the car? Now between that curb where the parking lot, from the curb to the parking, the curb to the building, about how wide is that space, approximate?

Ms. Bosco: Four or five feet.

Mr. Ribao: The reason I asked that is because I've been back there and they have different pieces of equipment there, I think some air condition and stuff and maybe a propane tank, I'm not too sure, safety concerns I would, because the tire is going to hit, the bumper going over and it might hit that air condition unit or the propane tank, I'm not sure what's back there, is there any precautions that you're going to take for that like maybe put a pipe up or something of that nature?

Mr. Young: My name is Rich Young and I'm the architect for the applicant. I don't know if you had a chance to see this particular photo but let me pass this down. Currently I think you'll see in the photo that the Kahua Center has put in the bollard barriers to prevent the car from running into the air conditioning unit and at this point the parking as described in the packet is, we were planning on running the paving to that small wall that runs along there and of course you have to have a wheel stop barrier and I think that's the minimum at this point that we'll have that would stop the cars projection. So based on, I think at this point unless the commission has some other further

requirement of holding us back and providing further planting there the intent was to let the bollards do what their job was, to protect the run away car and the typical wheel stop. It's kind of an incline there which is a good thing for the, anyway I feel, for the parking surface because we want that water to travel away from Kahua Center and into this proposed gravel. It's a drainage field and we're going to try and maintain all that water on site and try and divert it out to the road way. There's protective measures that's already been done. It's as good as it gets as far as the air conditioning units are concerned.

Mr. Ribao: So you're going to put some sort of wheel stop there also, some kind of concrete barrier or what ever.

Mr. Young: Yes, correct.

Mr. Ribao: My next question is about lighting. There's two entrances going in, one around the Pizza Café side and the one that goes in that little walk way and goes to the coffee shop. You said you have sensor lighting out there.

Ms. Mueller: I know she mentioned sensor lighting we have, I don't believe it's sensor lighting we have permanent lighting on a timer. Additional lighting is going to be required which at that point we more than likely will be adding more light, particularly for that area where you walk out towards the back because I know most of the light, currently are towards the Pizza Café side at their request. We put them there so that they could walk to the dumpster.

Mr. Ribao: So you intend to put more lighting in that back area including the walkway on the coffee shop side?

Ms. Mueller: Correct.

Mr. Ribao: O.K. thank you.

Ms. Akutagawa: Any more questions?

Ms. Seales: The existing tenants in there is about four I think, there's Solid Grounds, HUD, dentist and than the Pizza Café. So the parking stalls are two shy for their use, it that what it is? The existing stalls, is that too limited? That's why the additional parking, is this what it is or because it says in here that the project site for light industrial use so you folks propose to fill in the other spaces or eventually someday to add more things behind by that parking, the new parking lot request?

Ms. Mueller: Yes. The parking request was including a dining area for Solid Grounds and so they said you needed, first they told us you needed two stalls and than three stalls and than for employee's, I think at any given time there are open spaces there.

Ms. Seales: Yeah that fluctuates a lot because some times, depends if they're having a little birthday party or how ever it is so that fills up and sometimes it's empty, not really filled, but I think there's some kind of construction or grading taken place, I think they took some Kiawe tree's out, is that part of the project that's already going on, that's something else? That's the other kind. O.K. so this is just to, for the other spaces to be filled and there's this why we need the extra spaces?

Ms. Mueller: Yes.

Ms. Seales: Thank you.

Mr. Vanderbilt: If the existing, if Napa had stayed in there and you had filled the other spaces up with none restaurants, would there have been enough parking to handle all the existing tenants?

Ms. Bosco: Yes if the use proposed in the new units was not any, did not trigger any additional parking requirements. It would be depended upon the use that was proposed. As a commercial building there would have been adequate parking.

Mr. Vanderbilt: So this additional parking is the result of leasing it to an entity that requires more parking?

Ms. Bosco: Correct.

Mr. Vanderbilt: The other question is Ms. Mueller you wrote this letter July 16 to Mike Foley? You said that there had been a lot of confusion and it seems like this permit has been trapped in confusion over county departmental responsibility and promises to grant her a permit that did not materialize. Who promised to grant her a permit? That was a letter dated July 16.

Ms. Mueller: May I see the letter. Where are you reading?

Mr. Vanderbilt: Fourth paragraph from the first page, last sentence. It says you've gotten promises to grant her a permit that did not materialize. Was it from the planning department staff or somebody else?

Ms. Mueller: This is regarding another issue. This parking, this is the parking permit for Solid

Grounds.

Mr. Vanderbilt: Permit for Solid Grounds, right. But you're writing Mr. Foley and I was just asking because this was part of our package that, who are you referring to, to promise you to grant you a permit? Was it the Mayor?

Ms. Mueller: No. This is from the Department of Public Works and there was a lady named Sharon at, this is information from the tenant, Tammy Morlan that had applied and was very frustrating and called me and said you need this letter and when you send this letter we will get this permit. I would do this, stop everything, fax it over and then they would say oh well that's not going to be right. I don't want to cause a scene on how the department finds what jurisdiction over what. I just found out that if it's something internally it should be something that stays internally, not something that's out there for the confusion of the public.

Mr. Vanderbilt: Than in the last paragraph of that letter you said that in order to help Solid Grounds out you would take 2,324 square feet off the market to free up 4.6 cars parking space and then your next to the last paragraph, during this interim processing time we would like to use the additional 4.6 stalls fro the coffee shop so they can begin to have seating within their lease space. Was this granted?

Ms. Bosco: Yes it was. Let me explain for the rest of the commissioner's. Previous to the administration change there wasn't a problem, this is my understanding of it anyway, this is what I was told. There wasn't a problem with allowing a tenant to use, basically, unused parking stalls, meaning unleased, the stalls that would normally be allocated to a unit which at that point was unleased. So basically you have stalls not being used because you have a unit that is not leased. So previously this was not a problem and apparently it has become a problem. The 2,300 square feet of unleased space of the parking stalls which was to be used for that space were sitting there and the request was that the applicant could use it, the coffee store could use those units. How we normally handle these things is in case of a conflict the planning department would step in and make some kind of a determination or interpretation so it did come to us eventually in that the temporary use of the stalls was granted for the coffee shop until this off site parking approval could be obtained.

Mr. Vanderbilt: And that was a written permit, a temporary permit.

Ms. Bosco: That was a written letter.

Mr. Vanderbilt: And that wasn't part of our.

Ms. Bosco: No it was not. This is, I don't know why you got this actually.

Mr. Vanderbilt: Well, you don't understand why we got this letter?

Ms. Bosco: I didn't include this in the packet to you. However it's o.k. that you have it.

Mr. Vanderbilt: Well that's a subject for another time. Selective processing of what we get and what we don't get. So you're telling me now that if they just took the 2,300 square feet off the market forever there'd be enough parking spaces for the coffee shop and the existing tenants.

Ms. Bosco: That's true. If you were to propose not using that 2,300 square feet of unit space, yes, that could be. I don't think we would want an indefinite use of those stalls for that reason. Usually it's done until an off site parking approval is granted. That's my understanding.

Mr. Vanderbilt: Again I get back to the existing tenants. They go in there they know the square footage, they know the type of tenants and now they're going to be hit with additional charges only because a higher parking requirements is required from a different user, coffee shop versus a retail store. Let me ask one question Ms. Mueller. What do you charge per square foot on rent right now?

Ms. Mueller: I'm not going to quote leases. If you're asking me what the asking rents would be.

Mr. Vanderbilt: If I wanted to rent from you 2,300 square feet or a 1000 square feet.

Ms. Mueller: That would be asking rents of \$1.25.

Mr. Vanderbilt: How about cam charges are they prorated evenly over the square footage?

Ms. Mueller: Yes.

Mr. Vanderbilt: What is the cam charge per square foot?

Ms. Mueller: One moment.

Mr. Vanderbilt: That's all the questions I have.

Ms. Young: If I could just make a brief comment. The rent of the property is really a private relationship and is not part of the criteria of an off site parking approval.

Mr. Vanderbilt: Excuse me Corp. Counsel you're saying that the asking rents for vacant space isn't something that this commission could know about? I'm talking about the existing tenant lease. I'm talking about what they're asking for.

Ms. Young: I'm just making a general comment that the rental agreement including the amount of monthly rent is private relationship between the landlord and tenant is not part of the criteria of an off site parking.

Mr. Vanderbilt: Let me just say that in her letter she says we are all painfully aware of the economic prices on Molokai and here they're coming in with a new development and they're going to put more cost on the existing tenants which are just getting by and I think that's something, especially if this thing was part of our packet, that we should try to find out what the impact on the existing tenants are because in the SMA law and what we just went over it says impacts include the economic impacts on the community and the community is the existing tenants. So I would think that since it was brought up in a letter that we should be able to at least focus on this. I'm not, right now for approving this thing if it's going to cost the existing tenants anything.

Mr. Boteilho: Madam Chair if I may, I think Corp. Counsel is trying to say is that what we have before us is a request for off site parking approval in order to provide 11 additional required parking stalls adjacent, at the Kahua Center. So the questions should be focused to that, to the action that is requested. Just if we could keep it focus on the application and what you need to know to vote on the application.

Mr. Vanderbilt: Are you telling me Wayne that the economic impacts of a project on the community is not something we should be concerned about?

Mr. Boteilho: No, what I'm saying is try to keep your questions focused on the application at hand.

Mr. Vanderbilt: Isn't that one of the criteria we're supposed to evaluate, the economic impacts on the community?

Ms. Akutagawa: O.K. if the threshold question is that leases and how much, what is the lease cost, that's a private issue and we need to move on. I understand Commissioner Vanderbilt's arguments but I don't want this to be a back and forth argument thing so let's move on.

Ms. Buchanan: I have a question for staff, who own's the property South of the proposed parking lot area?

Ms. Bosco: This is on the other side?

Ms. Buchanan: That would be the wharf side. If you were to drive down the wharf, your parking lot is right there on your left, where Boswell is moving now, who's the landowner?

Ms. Bosco: Boswell is moving there, my understanding.

Ms. Buchanan: But who's the land owner?

Ms. Bosco: I don't know.

Ms. Buchanan: I'm just wondering because your drainage now you're going to pave the area and you said it has a slight slope and I'm looking at this and I see a 9.9 degree slope, you said it's going to have a natural runoff and it's going to naturally run off into the next person's property is what I'm wondering about. That's why I'm asking that question. I'm just wondering who's land is that and if they're aware, they might have a concern that your runoff from your property is going to runoff onto their property.

Ms. Bosco: I have the applicant here to address that question.

Mr. Young: The reason for the proposed drainage field is based on what my civil engineer consultant and I have tossed around, back and forth on what would be the best mitigation for the drainage from this new pavement. At one point we discussed grassed parking and infiltrator systems and the third alternative was the gravel. We didn't go to the gravel because it's economical, it's really the first shot but the fact that the high water table in this area, we felt that we were not going to get as much pecculation by taking the water underground and bringing it closer to the water table. So from that I understand my civil consultant is that by having a gravel bed over this, it would be about 7 or 8,000 square feet, it's larger then the actual pavement. We're going to be able to get that water that falls on that surface, to be able to go through, it's a much better pecculation field to go through gravel than it is grass. Grass actually let's the water flow. So really we're going to be breaking the flow of that water in a more proactive way and allow it to absorb into the ground. I think it's going to be in a much better or controlled environment than what's currently there. I'm not sure, actually on the side I kind of like to know whether Boswell came to you for permission to do what they're doing on their lot. But anyway, I don't know who the owner is. But I think this measure was done or at least suggested on our part as a good mitigative way to treat that water, deal with that water and keep it on site. I hope that answers...

Ms. Buchanan: I was just wondering if the adjacent land owner would agree with what your civil

engineer had suggested to you about drainage because without us actually physically going out there to do a look and a walk I cannot say whether, oh yeah I can see that the water is going to run there. Common sense gonna tell me the slope is gonna go there and there's a hole over there the water is gonna go there. I know gravel is the most economic way to go and I don't know exactly what the slope is because I'm not an engineer and I'm not standing there right now but I was just trying to be concerned for the adjacent landowners because the water is going to flow that way and I'm just wondering if it's going to end up flowing into their property because we know Kaunakakai is a flood zone. You can look at the baseball park when it rains and you're not going to use that park for the next three weeks when it rains. So that's a concern that I have besides the motion. If I did make a motion to approve this I would insist on additional lighting because I cannot see my kupuna's going all the way around the Pizza Café and trying to walk all the way around in the dark because we just did floats there, there was no lighting. We had to take additional lighting. So no tell me get lighting. My other concern is the walkway. There is only one walkway in the back accessible from the back parking lot which is right by the proposed Solid Ground, will that door be open at all times? What is the, I know in the past it has been locked and only the user of the place but I would think for emergency purposes that would have to stay open 24 hours as a walkway, is the door going to be removed or what?

Ms. Mueller: Yes and if they need to put on a fire door on there that can be also done.

Ms. Buchanan: Well that's my concern, just looking. O.K. we going in pave this and we going put stoppers for the cars in and that's good. The property in the back is not being used but you gotta do it in a way that it's safe. As a property owner you don't want to be sued later on. I don't want my kids to get hurt. I don't want the Boswell's to be floating out down when they just moving into their property, that's just common sense kind of stuff that I thinking about. Thank you.

Mr. Young: Rich Young again, I think it's important, just a little prospective on the idea that my research showed me that this particular developer purchased this building, he did not build this building and very typically I find that developers in the past, more than in the current, the commission's have been much better at getting to the bottom of what will be the type of uses and what would be the parking required of a particular developer. But at the time this particular person developing this lot did a one per 500 square feet evaluation which would be a typical office space type of parking and therefore that enabled him to build a little larger building. I think as our town's grow, so does the parking needs and I think in this particular case that it's an advantage that this particular developer has both parcels and is willing to increase his parking 15 new stalls to enable him to rent the balance of the building and enable the current tenants to have that back up parking. So I think it really is a plus. There's some very interesting points brought up today about the economics of this but I think as far as the actual, concerning ourselves with the use and the use

ability for that facility provided the right, safety is done for the people back there with the lighting. I really don't see any problem there because we have an existing building that we can add more lights to. The water is there, the landscaping I think, a more proactive landscape is going to make that look much better and I think we will all benefit by going there on the activities that we do visit that building. We do at least now have that back up parking space if it is the commission's wish. I think this is a big advantage and a big plus to that facility. So I think we're kind of making a corrective measure, at least the developers are willing to make that measure at this point and I think it's what's going to make it good for the tenants in there now and there will be a buffer for additional tenants that go in there which I think is really as good as it can be. So it would now be able to be used for a much higher use as we know, dental offices, doctor offices and restaurants do require more parking and I think that is going to help those of us who use the facility realize, once you realize that there is that additional parking that feel, like oh gosh I can't go there, if you only had the parking for Bank of Hawaii and American Savings on the street only we would have a difficult time. But thank goodness they have plenty of parking in the back and I think once you know that you'll never have a worry, I'm gonna go find a place. So I think in the same regard this will be a really good use and not add density if we were in here for a building request we would have a whole other factor. So anyway, this is going to alleviate some congestion on a positive level, that's my thoughts.

Ms. Akutagawa: Before any commissioner speaks I just want to interject that staff needs to leave at four. I'm looking at the only thing that can be possible cast or rejected is this item that we have on the agenda now. I'm looking that we're gonna have to defer the orientation workshop. We also have this Director's Report on the status of pending projects and status of Wayde Lee's letter which I'd like to hear so talking about time management, we still have the public to testify and staff to make a recommendation and action to be taken. So, given that, commissioner's use your judgement. Are there any other questions before we have public testimony?

Mr. Vanderbilt: One quick question. As far as the parking and safety, in the front of Pizza Café there's a walkway so you can walk out any of those offices in front of the cars and get in. This way people are gonna have to walk out at the end of the line of cars and walk behind, kids and everything else. That's very dangerous and I'm wondering why they couldn't put a sidewalk. Is there any plans for more development of that site do you know that restricts that from being done?

Ms. Mueller: No.

Mr. Vanderbilt: O.K. thank you.

Ms. Akutagawa: O.K. any more questions before we open it up to public testimony? At this time we'll have public testimony, is there anyone in the public wishing to testify?

Ms. Caparida: My name is Judy Caparida and I know that place good. When I first read it it said Kahua Place and I said where is this, I've never heard of this place. But it's the pizza parlor. Over there when it rains it floods, I know that. But in the back there we do need a sidewalk, we have to be safe or not you going get sued so you might as well do something good so that you have no pilikia later. So I feel that we do need a sidewalk, it is dark there. Thank you.

Ms. Akutagawa: Are there any questions of Ms. Caparida? Any other from the public wishing to testify? I'll close public testimony now and have staff recommendations.

Ms. Bosco presented the staff recommendations.

Ms. Buchanan: Just a question, if we approve this as recommended and there's a problem with drainage, what happens than? They have to just go back and fix the problem?

Ms. Bosco: The condition which addressed, the number one condition would kick in and it becomes an enforcement issue as well. Number one of the SMA minor, that appropriate measures should be taken to mitigate the short term impact of the project relative to soil erosion, from wind, rain and noise levels. So drainage, yes they would come back in and address that problem.

Ms. Buchanan: O.K. Thank you.

Ms. Akutagawa: Any more questions before we have a motion?

MOTION: I MOVE THAT WE APPROVE THE PROJECT AS RECOMMENDED BY THE PLANNING DEPARTMENT.

MOVED: COMMISSIONER DEGRAY VANDERBILT

SECOND: COMMISSIONER ROBERT RIBAO

Ms. Seales: Can I just say this? If we approve this motion but is this a time that we can put conditions on there with that approval? Is this the time?

Ms. Akutagawa: Well discussion could include amendments that you would like to see and than who ever made the motion can try to amend that motion.

Ms. Seales: I'd like to, what was said here to have a sidewalk wrapped around from the front where the umbrellas used to be or if it's still there I'm not sure but as a safety issue and more like be added

and then we could be informed that this is going to be part of the plan and if it's in place so that it can be reported back to the commissioner's that this is going to take place because we need to take care of that safety issue. So that it becomes a circle where there's access from the front of, facing the airport, you know that short part, it runs right around in the back, however it runs to that little entrance that come around and to the existing side walk. In other words it's a wrap around, that people have that access with safety steps, maybe there's one or two steps you have to take down to get to the level. Because you guys will also have large pots out there as well. Just like Kupuna had said to have sidewalk in the back. But have it wrapped around where it's all adjacent so that there's no breaking up of, somebody has to step down and get up to another one. You know I don't know if that's possible or not, a wrap around, right around that whole facility. Not the one way in the back by Solid Grounds but the larger one where Pizza Café is and the dentist.

Ms. Bosco: So we're talking about improvements to the Kahua Center site, is that correct? Corp. Counsel can we do that on an off site parking approval?

Ms. Buchanan: Let me show you what we talking about. I hope I'm talking for everybody. But, this is the Pizza Parlor, this is what's happening now. Everybody is parking their car in the front here because there's no additional parking, nobody wants to park in the back because you cannot walk in the back. Except for this one handicapped parking. What we don't want is we don't want children and people walking in the back of the cars next to the highway to get to the parking lot. We know that's what's going to happen. Unless there's no parking here.

Ms. Bosco: I understand the issue and I understand the safety and my question is more for Corp. Counsel, is if this is possible. O.K. Because we have two sites here for off site parking and it's for one site and the proposal for improvements is to the other.

Ms. Buchanan: The applicant owns the off site parking site, is that correct?

Ms. Bosco: Yes.

Ms. Buchanan: Than in that case it would be a requirement of the off site approval. It would be a requirement of the site, for safety. Legally you cannot park where everybody parking right now anyway, legally. What they should do is some kind of planting or barrier or something because there's no off street parking over there. But people are using it as parking now. That poses a safety issue.

Ms. Akutagawa: Just a technical question, if this improvements are made as conditions and it's and the price increases such that an SMA major permit is triggered, will that occur or we're just looking

at the valuation of it now and any improvements that are made conditions to just merge into the minor permit, is that correct?

Ms. Bosco: We are going to require additional plans to show the new wrap around sidewalk and the valuation will be submitted and added to the existing valuation, yes, if it goes into a major than it's a major. If it stays within, under the limit, the seal is \$125,000.

Ms. Akutagawa: So will this come before the commission again?

Ms. Bosco: No it would not.

Ms. Akutagawa: Any further discussion?

Mr. Vanderbilt: Is this when we propose the amendments Madam Chair?

Ms. Akutagawa: I think so, that would be good.

Mr. Vanderbilt: Even if you're the maker of the motion?

Ms. Akutagawa: I think you can withdraw your motion and make an amended motion.

Ms. Young: You can do one of two ways. One, the maker of the motion amend and the person who seconded, seconds that amendment or another member could offer an amendment and that amendment be seconded and voted upon. Then you staff to the main motion as amended by that vote.

Mr. Vanderbilt: But than we can't discuss it if I withdraw my motion, right?

Mr. Boteilho: Well I would say, if there's no objections than you can proceed as the body wants. So he could amend his own motion.

Mr. Vanderbilt: I withdraw my motion.

Mr. Ribao: I withdraw my second.

Ms. Akutagawa: Now we starting from scratch. Anybody wants to make a motion?

MOTION: I MOVE THAT WE APPROVE THE MINOR SMA FOR THE PARKING LOT WITH

THE RECOMMENDATIONS FROM STAFF ALSO WITH OTHER CONDITIONS ATTACHED THAT A SIDEWALK BE IMPLEMENTED FOR SAFETY PURPOSES AND THAT THAT PLANS BE SUBMITTED TO THE PLANNING DEPARTMENT. ALSO THAT THE DOOR REMAINS OPEN FOR SAFETY PURPOSES AND ACCESS, EMERGENCY ACCESS AND AS WE DID WITH THE APPROVAL FOR THE YOUTH CENTER, WHERE THE BOARD OF WATER SUPPLY SUBMITTED A PLAN LIST OF APPROPRIATE PLANTING, SINCE THEY'RE GOING TO BE SPENDING SOME MONEY ON LANDSCAPING. I WOULD LIKE FOR THEM TO TRY AND INCORPORATE THAT INTO THEIR PLANS WITH NON-EVASIVE PLANTING AND TRY TO STAY WITH NATIVE BUT TO TAKE THAT LIST FROM THE BOARD OF WATER SUPPLY.

MOVED: COMMISSIONER LORI BUCHANAN

SECOND: COMMISSIONER JANICE KALANIHUIA

Mr. Vanderbilt: I would like to consider a further amendment, condition. That the cost of the capital improvement, maintenance thereon not be assessed to the existing tenants and either their rent or their cam charges which is common area maintenance. Because I feel that these and the applicant was reluctant to share the financial information on the economic impacts of this project and I know for a fact that they're paying pretty high rents for Molokai right now and I think this could escalate out of control and the only reason they're being subjected to these additional cost is because the land owners wanted more flexibility in leasing the space. Rather than finding tenants that would fit the existing parking. So I don't know think it's fair to put that on the existing tenants.

Ms. Buchanan: Madam Chair I will not amend my motion. But we can vote on my motion and if that is denied we can consider commissioner Vanderbilt's motion and if there's more discussion.

Ms. Akutagawa: Is there anybody else that wants to add to this discussion?

Mr. Vanderbilt: In light of Commissioner Buchanan's comment, I'll be voting against this amendment for the reasons, I think it's an unfair economic impact on the existing tenants, thank you.

IN FAVOR OF THE MOTION: COMMISSIONER'S LORI BUCHANAN, ROBERT RIBAO, JANICE KALANIHUIA, CHARLOTTE SEALES AND MALIA AKUTAGAWA.

OPPOSE: COMMISSIONER DEGRAY VANDERBILT

MOTION APPROVED.

2. Department of Public Works and Environmental Management providing an update and a status on the drainage system as stated in Condition No. 7 of the State Land Use Commission Special Use Permit for the Molokai Education Center at TMK: 5-3-003: portion of 001, Kaunakakai, Island of Molokai. (SUP98/0001) (J. Higa)

Mr. Boteilho: Number two, update on the drainage system for the Molokai Education Center, Public Works has asked to defer this, they're not ready. They asked to defer till the next meeting.

Ms. Akutagawa: If there's objections by the commissioner's I'd like to defer the remainder of this orientation workshop and move onto the Director's Report. I have nothing for Chairperson's report.

F. DIRECTOR'S REPORT

1. List of pending Molokai Projects
2. August 13, 2003 letter from Wayde Lee requesting the following:
 - a. Status of the Molokai Ranch Ag. Subdivision in southwest Molokai Halawa Valley Situation update
 - b. Reservation of 40 acres at Hale O Lono Harbor for public use of the Community
 - c. Status of the community plan implementation
3. Status report regarding the ecotourism cruise ship stopping on the north shore of Molokai.
4. Hawaii Congress of Planning Officials Conference, October 8-10, 2003, Westin Maui, Kaanapali, island of Maui and therefore cancellation of the October 8, 2003 Molokai Planning Commission meeting.

Mr. Boteilho: Thank you Madam Chair. Number one, under Director's Report we have the list of pending Molokai projects as was requested of the last meeting that has been provided for your information. Number two, letter from Wayde Lee requesting update on the following. Status of Molokai Ranch Ag. Subdivision in southwest Molokai, I passed out a packet that gives the latest status. Basically nothing's happening on that. But what we'll do is keep this in the Director's Report for the next meeting. You can look at the packet if you have any questions and we can talk about it than. The packet is dated the, the first letter is dated January 30, 2003. It was passed out to everyone. Halawa Valley, our inspector went out last week, he actually booked himself on the

tour. He got much more information about their operations, how they do it, exchanging of money and the tour operator has been advised to submit an application for an SMA assessment. The landowner has agreed. Reservation of 40 acres of Hale O Lono Harbor for public use, this matter the planning commission earlier said that they would not like to change the land use designation from Open Space to Park, and its been sent to the council, council has not acted on it yet, I don't think they will because status quo, if they don't act on it it still remains open space. Just practically speaking, I don't think these lands are going to be acquired by the county or state soon. One of the recommendations at the planning commission meeting was also that if there was some community effort they wanted to recommend certain things happen at that area like water or extra things like that that it could be brought up later. But in general, my impression was that we basically like to leave that place as is. Status of community plan implementation, I passed out a copy to each of you and again that's for your information and if you have questions you can ask at the next meeting and I'm open for questions now.

Ms. Akutagawa: The Halawa Valley one, is that the only operator that that inspector advised to submit an application or are there other operators that he still needs to investigate?

Mr. Boteilho: That is the only one. We're hoping that if one submits for an SMA than the others will follow. As we become to know more and more, if there's other operators than we'll investigate further.

Ms. Akutagawa: I think you should have him investigate the whole gamut of operations down there because example has shown that just because one goose go the rest don't follow. I think he needs to do a thorough investigation of all operations there, not just one.

Mr. Boteilho: Could the zoning enforcement division contact or could we contact you if you have any information about other tours?

Ms. Akutagawa: I don't know this, the inspector has to go down there and I don't know if any other commissioner's know who are the actual players. We need to be having a fix on that.

Mr. Boteilho: We'll do our best on that. Number three, status report regarding ecotourism cruise ship on North shore Molokai. On this we really haven't gotten to it yet. We're still trying to formulate a strategy in our mind. When you're dealing with the state on this kind of stuff we should get our ducks in order first. Also we're looking at other agencies maybe we could bring in. So we haven't done anything yet. We're formulating our strategy on that.

Ms. Akutagawa: Can you also contact Fish and Wildlife Services? I believe these cruise ships could

impact native species on native marine ecosystem if there's any introduction of invasive species from this cruise ship through their valance water or any water that they empty out from foreign ports. So if you guys can check with Fish and Wildlife.

Mr. Boteilho: O.K. Finally the Hawaii Congress of Planning Officials Conference, October 8-10, we have, Friday we have one session after the main conference and this session is to be held by the American Planning Association, that has been cancelled. We just had some problems with that. That was one extra anyway. This is just notification. If you were planning to leave later maybe you can leave earlier now. That's all we have Madam Chair.

Mr. Ribao: Can I make one comment before we adjourn. This orientation workshop, it's kind of intense, there's 13 items, we did one. Maybe it shouldn't be scheduled with our regular meeting because you know how our regular meetings go, something simple can be drawn out. So just a suggestion to the planning department.

Mr. Boteilho: Yeah, I'm in favor of that maybe I should be more clear when I talk to staff.

Ms. Akutagawa: Thanks Wayne.

G. NEXT REGULAR MEETING DATE: October 22, 2003

H. ADJOURNMENT

There being no further business before the Molokai Planning Commission the meeting was adjourned at 3:57 p.m.

RECORD OF ATTENDANCE

COMMISSIONER'S PRESENT:

1. M. AKUTAGAWA, CHAIR
2. L. BUCHANAN, VICE-CHAIR
3. J. KALANIHUIA
4. R. RIBAO
5. C. SEALES
6. D. VANDERBILT

ABSENT: 1. N. SHIMIZU
2. K. DUNBAR

STAFF: 1. W. BOTEILHO, DEPUTY DIRECTOR OF PLNG
2. R. LOUDERMILK, PLANNER
3. K. CAIGOY, PLANNER
4. C. YOUNG, CORPORATION COUNSEL