

MOLOKAI PLANNING COMMISSION

REGULAR MEETING  
DECEMBER 10, 2003

The regular meeting of the Molokai Planning Commission was called to order by Chairperson Malia Akutagawa on Wednesday, December 10, 2003 at 1:07 p.m. at the Hawaiian Homes Conference Room, Kulana Oiwi, Kalamaula, Molokai, Hawaii.

A. CALL TO ORDER

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

Ms. Akutagawa: The Castanera's from the Neighborhood Store are here today and we ask that we have Chairperson's report at the top to address their issue of, their request to transfer a conditional permit for the Neighborhood Store. Is that O.K. with the commission?

MOTION: TO AMEND THE AGENDA TO INCLUDE DISCUSSION OF THE NEIGHBORHOOD STORE AND TO MOVE THE CHAIRPERSON'S REPORT UP.

MOVED: COMMISSIONER KIP DUNBAR

SECOND: COMMISSIONER JANICE KALANIHUIA

MOTION UNANIMOUSLY APPROVED.

B. CHAIRPERSON'S REPORT

Mr. Boteilho: First of all I'd like to ask Robin if she can give us a brief over view of the project. I guess the applicant wanted to introduce themselves.

Ms. Castanera: My name is Pauline Castanera and I'm the president of the Neighborhood Store and Counter at Puko'o, Molokai. I'd like to introduce my husband, Samuel Castanera and also the new owner, Mia Merickel. I think you folks have received a copy of a letter that I sent to the Planning Department in September and if there's any questions regarding that I'd be happy to answer but we'd like to transfer our existing license to Mia Merickel.

Mr. Boteilho: Is there any particular questions that you have that you want to find out?

Ms. Castanera: At this time I just want to know where we stand, what we have to do to do this transfer.

Mr. Boteilho: O.K. I'd like to ask Robin just briefly go over what the process is.

Ms. Loudermilk: I don't know what has been passed out to you and what's in your agenda.

Mr. Boteilho: Just give a status of the application.

Ms. Loudermilk: Briefly based upon the request, I had some questions regarding the transfer of the permit since the conditional permit expressively said that the permit cannot be transferred. When I had an opportunity to review the request I contacted our Corp. Counsel Cindy to look at the three different scenario's that we have. One, that the request for the conditional permit to be transferred cannot be transferred we'd have to get a new conditional permit. The second scenario is that there is a provision in the zoning code that allows for amendments to terms and conditions of the conditional permit. However since Council explicitly put a condition on saying that this permit shall not be transferrable, how do they relate to each other. Lastly, if the business entity itself, Castanera Inc. was purchased by Ms. Merickel, technically the department views it as a business transaction, the permit holder is essentially the same there are no proposed changes to the store will the permit still be valid. Lastly in discussions with Mia and Diane Swenson, and than Pauline and Skip, the purchase of the business was ruled out by them. So that's the two scenario's. Whether a new conditional permit would be required or if we can amend the existing conditional permit. I sent a letter out last week to the Castanera's, Mia and Diane Swenson informing them of those different scenario's and that we have made the request to the Corporation Counsel's Office. At this time the Corporation Counsel is still researching the matter. The point of contention is with the conditional permit, the transferability. Not with the Land Use Commission Special Use Permit as there is a condition in there indicating that with the approval of this commission it could be transferred. What we are further researching is the conditional permit. Both the Castanera's and Ms. Merickel, they want to go about it the right way and that's where we're at at this point and time.

Mr. Vanderbilt: Robin the Land Use permit, this letter was received on September 29 and now there's a letter going out that still needs to be some study done. On the Land Use permit, can this be scheduled before this commission for the next meeting?

Ms. Loudermilk: It could, however the operation would not be in compliance because they need both permits.

Mr. Vanderbilt: But what I don't want to see is that Pauline has been put in an awkward position because its been delayed so much. Is there any concurrent processing of the two?

Ms. Loudermilk: We recommend doing it concurrently.

Mr. Vanderbilt: O.K. was that in this letter? Well o.k. concurrently. Now if the conditional permit, can it be amended at the Council level, can the Council amend a condition on their on conditional permit, would that be quicker?

Ms. Loudermilk: That is part of the two scenario's that we have asked Corporation Counsel. Because Council cannot do it on their own. Either we find out that a request can be made for an amendment and it has to come through this body.

Mr. Vanderbilt: So there won't be much time saving either way?

Ms. Loudermilk: No.

Mr. Vanderbilt: So can we go one way that we know can happen instead of waiting a month or another two months?

Ms. Loudermilk: I gotta do the scenario's with the Castanera's and the Merickel's so I didn't want to answer that question because I did not want to put words into their mouth. They know the different scenario's, they have the different options, and I'm deferring to them what they would like to do.

Mr. Vanderbilt: Well I think the Castanera's and Ms. Merickel are here because they just want to get this thing resolved. So I'm saying and your advice to them is to go with the quickest way because they're in a business situation and I don't know how....

Ms. Loudermilk: Excuse me I didn't say to have them pick the quickest way. What I'm saying is that we proposed the different options to them and they are waiting, they are awaiting Corp. Counsel response then we can advise them, this is what happens if you go this way, this is what happens if you go that way.

Mr. Vanderbilt: If you get o.k. from Corp. Counsel that they can go one of two ways and they concurrently process these two, what are we looking at in a time frame before they might have it resolved?

Ms. Loudermilk: It depends on the different scenario's. One if they have to do a new conditional permit we have notification requirements, so we're talking several months. If it's an amendment than it's much quicker. Again it depends on the different scenario's.

Mr. Vanderbilt: Earlier I asked you and you said there wasn't much time difference between...

Ms. Loudermilk: No you asked me between the State Land Use Commission special use permit and the conditional use permit, concurrent processing.

Mr. Vanderbilt: So the fastest one is probably the Council amending their...

Ms. Loudermilk: We did not say that.

Mr. Boteilho: I think we getting away from the intent. It's supposed to be an update on their application. We're not discussing the item to take action. My understanding that this is going to be scheduled next month?.

Ms. Loudermilk: This is not going to be scheduled. I have sent a letter to the Castanera's, to Diane, and to Corporation Counsel, we have these different scenario's. Based upon the answers that we get from Corporation Counsel we can further advise them which way to go. It would be moot at this point to discuss anything else until we get the scenario's, we present it to the Castanera's and Ms. Mia and they can determine which way they want to go.

Mr. Boteilho: Madam Chair we are working with the applicant and if we can get it next month we might.

Ms. Loudermilk: I have been in contact with these people so this is nothing new to them. I'm happy to brief the commission on what has been happening, that's where we're at at this point and time. Anything else is not a consideration at this point until we get the legal opinion from our Corporation Counsel regarding the appropriate method for the conditional permit and the transfer of that conditional permit.

Mr. Vanderbilt: Madam Chair just one more question. The December 1 letter that was sent by the planning department to Ms. Castanera said that the department will expedite the review time to allow this item to be put on the January 28 Molokai Planning Commission agenda. Is that what's going to happen?

Ms. Akutagawa: Wayne already answered your question. More than likely it'll be on the January agenda, they are working closely with the applicant. I don't know how much more we can get out of this. Can we have Janice talk first, she's been waiting and than I'll have Robin.

Ms. Kalanihuia: Pauline, why did you come today?

Ms. Castanera: I just wanted to know where we stand. We're at a stand still and we need to make a decision because she's here and she's ready to go. We understood and during the summer time when I first called the Planning Department was that all we needed was to have this on communication, the transfer on communication with the Molokai Planning Commission. So at that

time we were told that everything was fine and so we went ahead. We didn't hear from the Planning Department, until December 1, when we just wanted to know what was happening because we weren't on the Molokai Planning Commission's agenda. So that's why we're here because I know we're not on the agenda again and I appreciate the commissioner's bringing it on the agenda and bringing it up to date because we need to make a decision, we need to do something. We're still waiting for Corp. Counsel to decide or let us know what's happening so we know what to do. Thank you.

Ms. Akutagawa: Given that Cindy, how soon do you think Corp. Counsel will come up with an answer?

Ms. Young: I think I can address this issue now. Primarily what we were looking at before was the issue of whether or not, if Castanera Inc. was sold as a business entity, from one owner to another. Whether that would require some action by the commission and by Council. That's not the case here. The case is that it's being sold from one business entity, total different business entity and in that case you would have to go back to the commission and the Council as an amendment, as to the owner, because there's a non-transferability, so you couldn't do an administrative transfer, you have to go back to Council.

Ms. Akutagawa: County Council?

Ms. Young: Yes. And the commission.

Ms. Akutagawa: Can we just go ahead and put it on the agenda ourselves and start that process?

Ms. Young: Yes.

Ms. Loudermilk: I would want that in writing. Because I did not advise the Castanera's during the summer time so they were told one thing and by the time it got to me I had all these questions and no one in the department could answer them correctly or to my satisfaction. That's why we're at the point we are in now. So if Corporation Counsel is saying that we can do an amendment to the permit holder that's what we will do. We can do that and we can get that scheduled in January. There will be no notification requirements at this point and time. In terms of the conditions, the conditions have been complied with previously so I do not feel that, the only two departments we would ask to provide comments to confirm compliance is the Department of Health because they have an individual wastewater system on the property and Ralph's department, Department of Public Works and Environmental Management. With that we could probably get them on the second agenda. But that's where we're at now, unfortunately there was conflicting results, I did not advise them in terms

of the conditional permit and the Land Use Commission Special Use Permit. I got to it when I was able to do it, I had these questions and now with Cindy's answer I know we can go forward.

Ms. Young: Let me just add that my comments are based on the understanding that this is consistent with how the department has handled similar situations in the past. With the same non-transferability language and with the same type of situation where the property goes from one owner to the another, in those similar types of situations. That is how the department has interpreted it and acted and has agenda these items. We are looking at that interpretation and that past practice as well.

Mr. Boteilho: So I guess Madam Chair the bottom line is yes we're looking to schedule it on January 28, we'll do our best but you know we have some things we need to clarify more.

Ms. Akutagawa: Commissioner Dunbar?

Mr. Dunbar: I guess my statement would be, we approve the special use, we recommend conditional use. So, the agenda item that will be on the 14 or 28 after Corp. Counsel decides would be we would approve or we would be looking to making a decision of the transfer of the special use and recommend an amendment.

Ms. Loudermilk: That's my understanding. We'll be looking at both permits.

Mr. Dunbar: So we would be recommending an amendment on the conditional use.

Ms. Loudermilk: Either yes or no on the proposed amendment for the conditional use permit.

Mr. Dunbar: So whether there's notification or what ever...

Ms. Loudermilk: There will be no notification requirements.

Mr. Dunbar: Thank you.

Ms. Akutagawa: One more question and let's move on.

Mr. Vanderbilt: With regard to future correspondence I notice your December 1 letter from the planning department to the Castanera's copies was sent to various people within the planning department, Corp. Counsel, Danny Mateo, a realtor and I was just asked for our information that this commission gets copies of correspondence too so we know at least what's happening for our information purposes.

Mr. Boteilho: Madam Chair that is something I gotta take back and look because that's not the normal way that it's usually done. If I understand correctly, that every time for every project we would send a copy of the correspondence to all the commissioner's...

Mr. Vanderbilt: That's the only reason I ask because the desire from Ms. Castanera, Pauline, was a copy to the Molokai Planning Commission, we never got a copy of it. I don't know why it wasn't distributed to us because maybe it would have languished in there for 90 or 120 days if we had known it was coming down because they're in a business you know. But you know it's like a long time to make a decision on a transfer.

Mr. Boteilho: That's kind of what I'm saying too because the Molokai Planning Department was just titled wrong. I don't know, I'm not sure where it went myself, it could have gone to Danny Mateo.

Ms. Akutagawa: I guess as a follow up at our last meeting we had agreed that we would have files here on Molokai, has that be done or is it still working progress?

Mr. Boteilho: Still a working progress.

Ms. Akutagawa: Let's move. The only thing I neglected to say also was that Mr. Feeter conveys his apologies that he can't be here today. He's off island and he sent me a letter to that effect. So I just wanted to let the commission know that he wanted to be here today.

Ms. Castanera: I just wanted to thank all the commissioner's and everybody else for their time. Please help us do this to expedite things, thank you.

Ms. Buchanan: Malia I have to make a disclosure. We going discuss the Molokai General Hospital issue now? O.K. I need to disclose that I am the President and owner of Molokai Mortuary Inc. and we have a rental space at the Molokai General Hospital which Molokai Mortuary rents out for use. I already conveyed that to Corp. Counsel who has suggested that I excuse myself from voting on this issue but than I might reserve the right to questioning as a commissioner.

Ms. Akutagawa: Cindy why is it a conflict? It seems kind of tenuous that just because they rent space, little parking space at the hospital that they would have some direct benefit. I just want to hear your rationale.

Ms. Young: Because they're with the financial interest, although it be small and therefore for that reason we would recommend recusal.

Ms. Kalanihulia: I would like to disclose that I need to recuse myself being the administrator of Molokai General Hospital.

Ms. Akutagawa: Yeah you most definitely. O.K. now we have four commissioner's that can vote.

Mr. Dunbar: I also have to disclose that I don't have to recuse myself but I'm a member of the Board of Trustee's for the Molokai General Hospital.

Ms. Akutagawa: Cindy there's no conflict because there's no financial benefit?

Mr. Dunbar: Absolutely no financial benefit.

Ms. Young: Since there's no financial interest involved, Commissioner Dunbar would not have to recuse himself unless that position would some what influence his decision making. Other than that he's free to vote on this matter.

Ms. Akutagawa: You going recuse yourself too Degray?

Mr. Vanderbilt: I'm a patient. I would like to suggest that this commission consider maybe taking Corp. Counsel's recommendation regarding Commissioner Buchanan, taking that in, the consideration but we consider voting to allow her to participate in this vote as I think we did on the college road situation. It was a situation where two commissioner's were suggested that they recuse themselves and the commission went ahead and said no, this vote was needed and they came back on. So I think the financial interest, I mean, I just don't know what the financial interest or gain is unless she's paying market rent. It's not like somebody getting a free rent or anything else.

Mr. Boteilho: Madam Chair my understanding is that even though you recuse yourself you can still participate and ask questions. Council members have done it in the past.

Mr. Vanderbilt: But we over rode the counsel's recommendation that two people recuse themselves and the commission voted to allow them to vote on the college road issue, if anybody here recalls that.

Ms. Akutagawa: I don't recall that.

Mr. Vanderbilt: Otherwise, we got a letter from, we missed this at one meeting and we got a letter from the Director that said there's some time lines involved, there's a lot of funding on this thing and I think whatever small risk, and I don't know what the risk would be, if we vote on this and it goes



through and maybe Corp. Counsel can explain but I for one would hope that the commission consider voting to allow Commissioner Buchanan to participate in this situation so we can move this on and we're dealing with \$13 million dollars worth of funding here.

Ms. Akutagawa: Given that Degray I understand the need to make a decision on this application. But as a Chair I would like to insulate its members from any potential litigation and if it turns out that our acts are unauthorized and invalid I tend to rely on Corporation Counsel to keep this commission in check in terms of procedures. I feel it's up to Lori because she may be held personally liable for a decision she makes. Although we can act on disagreement with Corporation Counsel from time to time and that's our prerogative as a commission. I think this is something that may rest individual members on the commission and that I don't want to see happen. So I really think it's up to Commissioner Buchanan to make that call based on the advice given by Corporation Counsel and what the commission members had stated.

Ms. Buchanan: Yeah and I would still go on the advice from Corp. Counsel and choose to recuse myself but reserve my right to question.

Mr. Boteilho: Madam Chair, Commissioner Ribao notified us that he will be late today but he expects to come unless he's paid by the hospital.

Ms. Akutagawa: Perhaps one of the commissioner's would like to make a motion to move this kind of down the agenda in the hopes that Commissioner Ribao comes in time.

MOTION: I MOVE THAT WE MOVE THIS DOWN ON THE AGENDA.

MOVED: COMMISSIONER KIP DUNBAR

SECOND: COMMISSIONER DEGRAY VANDERBILT

MOTION UNANIMOUSLY APPROVED.

C. PUBLIC HEARINGS (Action to be taken after each public hearing item)(continued from November 12, 2003 due to lack of a voting quorum) (Commissioners: Please bring your materials with you)

1. **MR HAROLD EDWARDS, Senior Vice-President of MOLOKAI PROPERTIES LIMITED dba MOLOKAI RANCH** requesting a State Land Use District Boundary Reclassification from State Agricultural District to State Urban

District on 0.799 acres of land for the Maunaloa Manager's Row Subdivision at TMK: 5-1-002: por of 025 and por. of 029, Maunaloa, Island of Molokai. (DBA 20030001) (R. Loudermilk)

- A. Public Hearing
- B. Action

2. **MR. HAROLD EDWARDS, Senior Vice-President of MOLOKAI PROPERTIES LIMITED dba MOLOKAI RANCH** requesting a change in zoning from County Agricultural District to R-3 Residential District encompassing 0.799 acres at TMK: 5-1-002: portion of 025 and portion of 029 and from Interim District to R-3 Residential District for 4.163 acres for the Maunaloa Manager's row Subdivision an 8-lot subdivision at TMK: 5-1-002; portion of 025, Maunaloa, Island of Molokai. (CIZ 20030002) (R. Loudermilk)

- A. Public Hearing
- B. Action

Ms. Loudermilk: Good afternoon Commissioner's. We have a request before you for a district boundary amendment from agricultural to urban in this particular area. We have a change in zoning request from agricultural to R-3, from interim to R-3. Currently this particular portion of the property or both portions of the property are community plan single-family. This is the existing Maunaloa Road Manager's subdivision. With the exception of one lot there are structures and people living in the different houses. It's basically a housekeeping measure. Once the district boundary amendment and the change in zoning occur Molokai Ranch will be coming in to subdivide the property. From agency review there is really no outstanding issues. The property is sewerred, privately. One comment that did come in from the Office of State Planning encouraged Molokai Ranch to offer the house and lot packages, to Molokai residents first and than open it up to whom ever else wanted to purchase. People living in the houses right now are employee's of Molokai Ranch. That basically concludes my report.

In terms of the subdivision they'll be meeting all the subdivision standards and requirements. Other than that no really outstanding issues. I have Mr. Harold Edwards here to answer any questions. If you have clarification or any information I'm available to answer any questions.

Mr. Vanderbilt: I just had a question for Harold if possible. This project was part of sort of another project that was withdrawn back in 2000. At that time it said that if you subdivided then the existing Manager Road dwelling will continue to be used for Molokai Ranch housing. Is that still the

intention or is the intention basically to sell the units?

Mr. Edwards: The intention is to sell them over time. At this point it's really hard to say whether we would rush to put them all on market today after subdivision got done or offer them the market slowly as we didn't need them for employee housing. I think the intent is to sell them sooner rather than later.

Mr. Vanderbilt: The employee's that are in those houses are they aware of this subdivision going through and that it might be available on the market?

Mr. Edwards: Frankly the employee's that are there are on Molokai because of their employment. If their employment with the Ranch or with Sheraton ended they would probably move off the island. So while the state and the Land Use Commission or OSP, whoever made the recommendation was happy to accommodate us I don't know if we have a pool of fires from the people that are currently there because their occupancy in those houses is the function of having a job with the Ranch.

Mr. Vanderbilt: In response to OSP and offering it to Molokai residents first, has there been any idea on what these lots might sell for?

Mr. Edwards: We haven't even come close to prices at this point.

Mr. Vanderbilt: Thank you.

Mr. Edwards: Madam Chair can I offer one clarification? This map that was originally prepared to try to show the need to do the urban boundary around here was we wanted to show that we had existing structures that didn't get properly, the boundary didn't get set so that the boundary was far enough behind the structures that we didn't have an encroachment issue or a setback issue, the structures were built prior to the urban, ag, land classification been put into place. They're all basically back in the 50's or earlier. When we got ready to do the subdivision we realized that the line wasn't exactly in the right spot. There's one little triangle that this map doesn't cover which why I'm sure Robin missed it, but right in here there's a little chunk, if I can flip the page to so it a little more clearly, right here and this map is upside down, is also in the ag area now and needs to get moved into urban so that when we subdivide this lot it'll all have the proper zoning for it. So we got that little chunk there that is 0.12 acres, this being .787 acres for a total of less than one acre that's in the urban boundary amendment. I'll be happy to answer any questions, but that's our application. Thank you.

Ms. Akutagawa: Any more questions? Anybody in the public wishing to testify? At this time we'll

close public testimony.

Ms. Loudermilk presented the staff recommendations.

Ms. Akutagawa: Anyone want to make a motion?

MOTION: I MOVE THAT WE ACCEPT THE PLANNING DEPARTMENT'S RECOMMENDATION TO RECLASSIFY THE DISTRICT BOUNDARY CLASSIFICATION FROM STATE AGRICULTURAL DISTRICT TO STATE URBAN DISTRICT ON 0.799 ACRES OF LAND FOR THE MAUNALOA MANAGER'S ROW SUBDIVISION AT TMK: 5-1-002: PORTION OF 025 AND PORTION OF 029, MAUNALOA, ISLAND OF MOLOKAI. ALSO THE CHANGE IN ZONING FROM COUNTY AGRICULTURAL DISTRICT T OF R-3 RESIDENTIAL DISTRICT ENCOMPASSING 0.799 ACRES AT TMK: 5-1-002 PORTION OF 025 AND PORTION OF 029 AND FROM INTERIM DISTRICT TO R-3 RESIDENTIAL DISTRICT FOR 4.163 ACRES.

MOVED: COMMISSIONER JANICE KALANIHUIA

SECOND: COMMISSIONER KIP DUNBAR

Mr. Vanderbilt: The R-3 zoning allows for a minimum lot size of what? Minimum, maximum?

Ms. Loudermilk: The minimum lot size is 10,000 square feet. There is no maximum.

Mr. Vanderbilt: Thank you. For discussion purposes I would like to say that I would be supporting the motion but I would like to propose an amendment that was suggested by the Office of State Planning that these properties be made available to the Molokai residents at a reasonable, you know, advance time frame before they're put on the open market.

Ms. Loudermilk: I would like to address that to Corporation Counsel regarding the applicability of such a condition.

Ms. Young: A similar condition has been reviewed by our office for the proposed Puunoa Project and our office issued an opinion dated December 9 of this year, yesterday, that, and parts of that opinion addressed having conditions by a governmental entity that or conditions that are proposed by a private entity that was supported by a governmental entity that opened up housing in a certain preferential order. That particular order was somewhat different in a sense that it was much more, there were different categories. For example West Maui residents living in West Maui was higher

up and they had more categories of preferences. In this particular case we believe that that would be a violation of the right to travel which is a constitutional, which would be a violation of our US constitution. We believe that it would also, it would violate the equal protection provision of our constitution and for that we would strongly advise against recommending such a condition.

Mr. Vanderbilt: Madam Chair I am familiar with that Puunoa Project which is, the co-developer is a state agency, government agency so there's some type of public involvement. But on Maui there has been several, there has been several projects and I think this would be probably funded with private money and no government involvement, maybe I'm wrong on that, maybe Harold can clear that up. On Maui there has been several projects where a land owner whether it be Maui Land and Pine or some of the restaurants that develop real estate and lend it to their employee's. So I don't see why a private development by Molokai Ranch can't be made available to the Molokai residents first and if maybe Corp. Counsel can clear that up. I'm glad I asked the question to put that condition on but I think that when a state agency suggest something in the staff recommendation or in the staff report there ought to be something in there as to why it's not included in there as a recommendation on the approval.

Ms. Akutagawa: Cindy?

Ms. Young: Thank you Madam Chair. It is a different situation from Puunoa. However it is a different situation where the applicant is proposing to have the condition. This is a situation where the commission would be recommending to the Council and if the Council takes that recommendation and agrees with it, this will be a government imposed condition and that is, it's clear in the law that where the government takes that kind of condition that it would come under the rationale of our decision. It would be a government condition even though only private monies will be used, it is still a government action that mandates that the developer open up the properties to Molokai residents first and therefore we stand by our strong recommendation not to place that condition on the recommendation.

Ms. Akutagawa: Then again as you reiterate that by going against Corporation Counsel's advice we also expose ourselves to be personally liable should we decide to impose that condition and have it challenged.

Mr. Edwards: Maybe I can clarify this thing. If I'm not mistaken the condition came from the Department of Business Economic Development and Tourism. The statement that they made was that the environmental states that 6 existing homes are currently used for employee housing as they have been for several generations. Although not legally required, we recommend that the applicant, Molokai Properties Ltd., limit these homes to current tenants first and if you look at exhibit 24 in

your packet which is our response to that we have said, if our zone change request and subdivision are approved MPL will offer the residences to current occupants at market value before making it generally available. So, to the extent of the making it correct, what the comment was from the public agency which was DBED, we've already gone on record saying that we will make the houses available first to current tenants. As I mentioned earlier our effort to full disclosure, my guess is there's not going to be takers for the houses but we're happy to make that, comply with that requirement as we stated so in exhibit 24 in the application. There's one other clarification, correction that I would like to make. I just now noticed and I picked up on it when Janice read her recommendation, the land area was noted as .779 acres, it's actually a typo, we're asking for .799 acres in the two parcels. I don't know if we can make that correction that would be helpful, thank you.

Mr. Boteilho: Madam Chair I would like to request that, if there's no objection, staff can have the lee way to make the changes based on a little housekeeping type of thing.

Ms. Akutagawa: Follow up question to Corp. Counsel. The worry is that it might be used for some other purpose. Can a condition be imposed that the permit is conditioned upon the specified uses in an application. So you're saying that the tenants will have first, priority, it's for this housing purposes, that the application, that the permit be limited to the criteria as specified in the application.

Ms. Young: We stand by what, I stand by what I previously stated with respect to the condition of Molokai residents. However you could condition the zoning upon certain types of uses and I would also like to add that we haven't (inaudible) as to whether or not Molokai Ranch can place those conditions upon, can sell their property to Molokai residents first, whether they can impose that kind of preferential system. We have only made that determination that this commission cannot make that condition but if Molokai Ranch wants to have that kind of system in place that's something that we haven't looked into.

Ms. Akutagawa: I think what I was kind of getting at, for instance we're looking at the Neighborhood Store application and the reason why we have that non-transferability clauses is this kind of fear that with a new owner would they impose different uses than what was originally visioned in the permit. So with that same kind of rational, can we state that this permit is approved on condition that the uses specified in the application will be maintained and not altered? Just a broad thing, it doesn't hold into will residents have first priority. The character and intent of the project will remain the same. Is there any, is that at all inappropriate?

Ms. Loudermilk: Generally when we talking about zoning and conditional zoning we first look at the uses. We are talking about the uses and the existing uses R-3 and there are a variety of other uses

that are allowed in R-3. When you are talking about the character of a place the, we don't have any designed type of standard. If somebody want to break down these houses and rebuild them as residences, they could. At this point and time they could.

Ms. Akutagawa: If it's a change to urban could they break down the houses and put a little shopping center, my question?

Ms. Loudermilk: R-3 residents, the zoning does not allow for that. The zoning is strictly related to residential use. There may be some allowable special uses to review such as a day care facility where 6 children or less, a home occupation in which you live in that particular house, but and there's always somebody can come before this body such as the Neighborhood Store has to establish a particular use that is not out right permitted. But with the R-3 zoning the primary purpose is for the residential use of the property. But again as I indicated, I don't have title 19 right here with me to list what those other uses are. If turns out an individual, if they wanted to come in and try to establish a use, first of all they have to say that they're in a residential zone, what are you doing. It's the residents first, everything else may or may not be allowed.

Ms. Akutagawa: Degray one more and than we'll call for the question.

Mr. Vanderbilt: You asked a question Madam Chair about other permitted uses. In my understanding the only permitted use is single family residence in R-3?

Ms. Loudermilk: I cannot say without having Title 19 in front of me.

Mr. Vanderbilt: Does Corp. Counsel have...?

Ms. Loudermilk: Permitted uses, single family dwellings, green houses, flowers and truck gardens and nursery's provided that there shall be no retailing or transaction on the property. Parks and play grounds that are non commercial. Certain commercial, amusement and refreshment sells activities may be permitted while under the supervision of the government agency in charge of the park or play ground. Schools, elementary, intermediate, high and colleges, publically or privately owned which may include on campus dormitory's. Building or premises used by the federal, state or county governments for public purposes. Accessory building located on the same lot. The work is customary and incidental, usual and necessary to the other main dwelling, for example a detached garage or a storage structure. An accessory dwelling may be permitted where the lot area of the lot in which the main house is located is 7,500 square feet of floor or more. Day care, nursery's, kindergarten, nursery school, child care homes, day care homes, day care centers, nursery, pre-schools, kindergarten, baby sitting services, and other like facilities located in private homes used

for child care services. These facilities shall serve 6 or fewer children at any one time on lot sizes of less than 7,500 square feet serving 8 or fewer children at any one time on lots of 7,500 or more square feet but less than 10,000 square feet or serving 12 or fewer children at any one time on lots of 10,000 or more square feet. In this particular situation the lots will be greater than 10,000 square feet so they would be allowed, those services will be allowed to have 12 or fewer children. The last permitted use is bed and breakfast homes. We have special uses in which they gotta come before you folks, that'll be churches with accessory buildings, the day care nursery's that I talked about greater than with 12 people. Hospitals provided with written consent of 75% of the property owners within 500 feet from the property to be used for such purposes has been obtained. Housing for the aging operated by governmental or non profits. Housing for low or moderate income families operated by government or non profit organizations. Public utilities sub stations and certain domestic type businesses such as baking and sewing. So those are the permitted uses and those uses which, when they come before this commission may be approved for that use. Those are the types of uses we're looking at for the residential standards.

Ms. Akutagawa: Thanks Robin. Anybody else wants to say anything? Let's just call for the question.

Mr. Vanderbilt: I would like to make an amendment to the motion.

Ms. Young: There could be an amendment to the motion that would have to be seconded and voted upon than you would be back to the main motion.

Mr. Vanderbilt: I'm not even going to propose an amendment here because Harold's had to wait a long time on this. But I want to point out, Madam Chair, we have a community plan and when we said single family I remember at the CAC meetings it was because it was already existing single family and everyone concurred that this should stay single family. The problem with the zoning laws that really need to be changed in Maui County, they have all these pyramid uses so when the community thinks they have single family or they have hotel or something else, in the community plan people can come in and do so many other uses unless we as a commission conditional zone it which we have. Based on the intent the best we can determine of our community plan of what somebody put hotel or why they put single family there or multi family, we can approve zoning and I believe, with conditions on it, so that it's only to certain permitted uses. So I would hope that we would look at that in the future when these things come up and hopefully, Madam Chair, Corp. Counsel may get us an opinion on whether anybody developing a subdivision on Molokai can make it available, if it's a private subdivision, for Molokai residents first because that's what's happening on Maui. A lot of off island people are coming in and buying up all the subdivision land. So it would be something good to know if that could be done legally. Thank you.



Ms. Akutagawa: Thank you Commissioner Vanderbilt.

THOSE IN FAVOR: COMMISSIONER'S JANICE KALANIHUIA, KIP DUNBAR, DEGRAY VANDERBILT, CHARLOTTE SEALES AND MALIA AKUTAGAWA

ABSTAIN: COMMISSIONER LORI BUCHANAN

Ms. Akutagawa: I was just informed that Commissioner Ribao can not make it.

Mr. Boteilho: Madam Chair if I may offer an option. The purpose of this matter today is to get the comments on the draft environmental assessment. It would be cleaner if you voted, in my mind, because you would have to, it would be much stronger. But, I think if the members give their comments we would take it very, very seriously. I don't see why the members could not offer comments.

Ms. Akutagawa: If that's the case Wayne I wanted to ask you, is it necessary for the commission as a body to approve the environmental assessment or is the intent to gather comments from this commission?

Mr. Boteilho: At this stage on the draft assessment is comments.

Ms. Akutagawa: Not just for this issue alone but for any environmental assessment that we review, it's the individual comments of the commissioner's themselves rather than coming to agreement by vote that these are our comments right?

Mr. Boteilho: No actually I would recommend that you vote. But in this case, under the circumstances I think it would be o.k. for the members to offer comments. That we will take into serious consideration.

Ms. Akutagawa: Is the commission open to that?

Mr. Vanderbilt: Madam Chair is that o.k. with Corp. Counsel?

Ms. Young: My understanding is that this is at the preliminary stage of the environmental assessment, that these are preliminary comments and that there will be a future comment period.

Ms. Caigoy: This is actually the draft EA. The preliminary stage of the process has already been completed. So this is the draft EA phase and we're asking for comments, any comments from the

commission would than be incorporated into the final EA. The final EA will be reviewed again by this commission for a final determination. So the commission will have a chance to see it again. Right now it's just a draft EA. This project has come in to the department during this full transitional period so it was first submitted before we established the processing procedure. So we begin processing it, the procedures set forth in the department and now we're transitioning into this new procedures with the Molokai Planning Commission and the different agencies. We are working in trying to work with time and finding constraints so if we can get comments now.

Ms. Young: There has been circumstances in the past where the commission had only approved the final EA and not the draft EA and under these particular circumstances, the ideal would be to have this commission vote on the draft EA. However it's our opinion that the department as this commission's staff can take those comments and work on getting the EA to final stage. So this would be an appropriate affect.

Mr. Boteilho: Madam Chair I would concur, I guess the point I'm trying to make is that we're waiving our own rules. So in this case with the facts that we have we would be willing to do that if the commission concurs.

Ms. Akutagawa: I guess we should just go ahead and get what ever comments on the record.

Mr. Vanderbilt: Are we the approving agency on this?

Ms. Caigoy: Yes you are the approving agency. That should be in the draft EA document.

Mr. Vanderbilt: I was looking at page two, right after the table of contents. The approving agency is the County of Maui.

Ms. Caigoy: Yes the County of Maui, Department of Planning, that should say the Molokai Planning Commission. So we can make that corrections.

Ms. Akutagawa: Any other comments from the commission.

Ms. Caigoy: Would you like me to run through a presentation or if you had a chance to review it and provide comments now?

Ms. Akutagawa: I think the presentation would be helpful.

D. COMMUNICATIONS

1. MR. RANDY LITE, of the MOLOKAI GENERAL HOSPITAL, requesting comments on the draft Environmental Assessment prepared in support of the Special Management Area Use Permit application for the Molokai General Hospital Renovation and Expansion located at Puali Place, TMK: 5-3-009: 017, Kaunakakai, Island of Molokai. (SM12003/0009) (EA 2003/0004) (K. Caigoy)

Ms. Caigoy: The draft EA was prepared for this project for Molokai General Hospital which is a renovation and expansion project. It was triggered because it involved the use of state and county funds. The subject property described on the tax map says 5-3-009: parcel 17 at 280 Puali Street in Kaunakakai. The property measures approximately 10 acres in size and is access by Puali Street. This site plan up here gives you a birds eye view of the property. Basically what we have here, here's Puali Street and the western portion of the property up this way is primarily vacant with the exception of these three buildings here. The draft EA states that two of these three buildings are planned to be demolished, that would be these two here. However Randy Lite from Molokai General Hospital has informed me that actually only one will be demolished and it's the medical service building so these two will remain.

The north east quadrant of the property, this section here, the existing hospital building is located in this section. The south east quadrant which is this section here is currently vacant. This is were the proposed expansion will take place. So basically the project involves, it's going to involve the renovation of the existing structure here and the addition of this expansion.

Just to give you a little bit of background, the hospital was originally constructed in 1962. During the last 40 years there been only minor changes. They propose to do this in two phases. The first phase will be the addition. Once that is completed then they'll work on the renovation of the existing building. The addition is proposed to add 11, 193 square feet and that's a correction of what was stated in the draft EA. I believe the services to be included in this addition is the emergency service, acute care, labor and delivery, imaging and laboratory services. Phase II or the renovation of the existing structure will measure approximately 26,256 square feet. Within this area the services to be included would be the Women's Health Clinic, Support Services, Food Services, Business and Finance, Administration and Human Resources, Physical Therapy, Special Procedures and on treatment services. The department as far as procedural matters such as stated earlier, these were submitted to us before this commission established the process. So this department has transmitted documents out to county agencies already and we received the comments and the applicant's already drafted most of the response. We transmitted to OEQC with an anticipated findings and impacts for the project and that was published in the bulletin on November 8 with a 30 day total comment period and deadline which was this past Monday, December 8. Speaking with Randy yesterday he didn't

receive any public comments.

Ms. Caigoy went over the draft EA with the commission.

Ms. Caigoy: So in conclusion the department is requesting concurrence from the commission on the filing of the draft EA with the anticipated findings and no significant impacts and we also ask you for comments right now. Any comments received today the applicant will respond and will be incorporated in the final EA document. Mr. Randy Lite from Molokai Hospital is here to answer any questions you might have.

Ms. Akutagawa: Any questions or comments?

Mr. Vanderbilt: In the table of contents, who prepared the draft EA?

Ms. Caigoy: Mr. Randy Lite from Molokai Hospital proposed the draft EA.

Mr. Lite: I'm Randy Lite from Molokai General Hospital, that would be myself and the person I had hired to help me was an architect from Seattle.

Mr. Vanderbilt: I wanted to congratulate you. Usually they have someone from somewhere else do it and it was a very thorough report. I just had a few comments on it. I guess my question is, if we make comments then it's up to you how fast they get responded to and how fast you get that final EA into. You're sort of in charge of your own destiny as far as timing. You don't have any outside forces that you have to rely on?

Ms. Caigoy: We talked about this yesterday because we're trying to do the final EA and the SMA application. We've already received all the agency comments and Randy drafted the response. So basically we're just taking comments from this commission, drafting those responses and putting the final document together. What we were looking at is putting the final EA on the commission's agenda at the first meeting in January.

Mr. Vanderbilt: Then the SMA can come in after that?

Ms. Caigoy: Following that meeting in January, the turn around is the 45 day notification.

Mr. Vanderbilt: Thank you.

Ms. Akutagawa: Nina make sure Nobu and Robert can come that day or we'll have the same

problem with quorum. Even if we have to twist their arm. Any other question or comments?

Ms. Buchanan: For the EA, it says the proposed project will stand a three and one half year period. The current schedule is 12 months for design, 12 months for phase I construction and 18 months for selective demolition. The 12 months for phase I construction, will that be like active construction going on for the whole year at the site?

Mr. Lite: That's correct. Currently we're trying to start towards the latter part of March so that we don't run into problems with our funding first and that would go on for one year.

Ms. Buchanan: I have some other questions of concerns which was very, as a user of Molokai General Hospital facility, the road up to the main facility where the physician building is at right now, will there be any improvements to that general area as far as when you come over that hill because the piping is so close. Is that parking going to stay there or is it going to be removed? Where the biggest green circle is. Before that when you drive up and you run right into the parking lot area of the physician's building, for me it is a problem as a driver. Coming up on that parking area. Is that going to stay the same or is it going to change?

Mr. Lite: That area actually will stay the same, however, we have redone the layout of this first parking area. Right now it is currently pull in and pull out, it's big enough fortunately that you can turn your car around while you're in there and get around. We've proposed to turn this into a loop where you enter here and exit out this way so that the problem will not be as severe as it is now. It could be a little bit of an issue but, we had a real problem in getting the necessary amount of parking spaces based on county codes and this is about the best that we can do. In fact we have a letter in to the Molokai Planning Commission, Molokai Planning Department in asking for a deviation from, asking for permission to use a certain part of Maui County Code which would allow us to grass up to 25% of our required parking. We're waiting for a response. If they say yes than these areas and a couple of stalls right here would be certified parking stalls grassed instead of paved. We're doing that because we have a parking study that we've done over the past several years that showed that we really only need 75 stalls to meet our future demands and the county code requires 108 so the parking stalls will be there but there'll just be grassed because we don't think anybody would use them and so we'd rather not spend our funding on it.

Ms. Buchanan: The other one I notice was for security. I read the comments from the surrounding residents from the area and one comment is exactly the same thought I had in mind is, is that that area on the east side where the residents are, Ranch Camp, if that's going to be parking the concern was is there going to be a fence or a wall to separate the hospital parking area from the residents area?

Mr. Lite: Good question and actually there is a fence because it is required by code. The fence is from here to here. We had originally thought about asking for a variance because we didn't want to spend money on the fence when there's already kind of like a wall and a couple of properties already have a chained like fence. So we decided to kind of take the approach of combining the code rather than asking for a variance.

Ms. Buchanan: Will that fence run all the way down to the MOC Center and run across to the road coming up?

Mr. Lite: No. The fence stops right about here and the reason why the fence is there is because there's a distance requirement between public parking or a parking lot or a residential lot or houses and we didn't meet the distant requirement. Where the fence is not required down here we haven't put one in.

Ms. Buchanan: So parking along that area will be landscaping and grass, it'll be open all the way to the MOC center, Rehab.

Mr. Lite: That's correct.

Ms. Buchanan: Well I guess my thing would be because the Rehab is primarily frequented or it's a work place for people with physical and mentally handicapped people would be a concern of mine. For them to be wondering from one area to the next area without it being fenced in for security purposes. That's a concern. Mostly I was wondering about the children, you know, from house to house if they want to get to them, that's why I wanted the fencing because if a car was backing up and the kids would be coming through without the fencing I would be worried about kids going into the parking lot and people being there.

I think most of my other questions will be probably directed to Commissioner Kalanihuia. Does the hospital anticipate any helicopter operations in the future? Coming in and out of the new facility?

Ms. Kalanihuia: I think there's very much confusion upon whether the county actually has a helicopter in place, we're waiting for that to happen. If it does I don't think it will be frequent because there are some really strict guidelines in terms of who will be able to be transported by that helicopter, what sorts of problems would be able to be called for that kind of transportation.

Mr. Lite: And in the eventuality that the county does come through with their plan our phase II shows a helicopter landing pad in the place the Women's Health Center is now.

Ms. Buchanan: I noticed, I just wanted to touch a little bit on the solid waste. I didn't notice anything in here about having in place radio active material waste, x-ray, waste water and that kind of stuff. How is that going to change with the new facility or what's the status on that?

Mr. Lite: Well the first part is there will be no change. We're not offering new services. We're just offering the same services in a different location on our same property. We will be putting in new reclamation tanks for our x-ray process and it kind of makes sense to do so since we're building an x-ray department. Hazardous waste processing will remain the same as we do today with DOH compliance.

Ms. Buchanan: Thank you. I also notice from lot 55, from the resident of lot 55 there is a view obstruction due to the new placement of the hospital. Has that resident been notified of that view obstruction or any comments?

Mr. Lite: Actually all the residents that are within a 500 foot boundary received a letter from us asking for comments and I don't know if they're in the draft EA, I think they are. All the comments that we received from the public are in there. So, they did not comment, so the answer is yes and no. They did get a chance to make a comment and they did not.

Ms. Buchanan: This is me being niele. But I just heard, like Molokai people hear stuff, that I was advised that we're going to have a free hospital and I had no idea what they were talking about but I had remembered some time ago that people associated with the other health care facility on the island was talking about free health services for people who don't have health care. That has nothing to do with this new hospital plan or do you know anything about that, Commissioner Kalanihūia?

Ms. Kalanihūia: If you're referring to the community health center, there's a group here that received funding to build a community health center, to put together a community health center much like the community clinic of Maui, Kalihi Polama Health Center, those health centers are to target uninsured and underinsured folks. It would also affect patients with insurance. The group is a non-profit status who has not been in contact with MGH or any other health care provider on Molokai about their plans.

Ms. Buchanan: Apparently somebody went tell the community. Anyway, o.k., Randy is the current portable cat-scan machine thing still going be in the same...

Ms. Kalanihūia: It's out of there.

Mr. Lite: That's correct. Part of this project is that we're buying a new cat scanner and it will be

located inside the new addition. The old cat scanner we're trying to find a home for. We kind of told the people that we bought the new cat scanner from that if they can find a home for it we'll probably be willing to let another hospital have it.

Ms. Buchanan: Does the Molokai General Hospital currently have a working incinerator that will still be in function when this new facility is working?

Mr. Lite: No, we have not have an incinerator for quite a few years now. We voluntarily tore it down because it's not code compliance. We use gravity steam sterilization to treat our biohazardous waste (inaudible) and that will continue to be in operation.

Ms. Buchanan: On the long term care issue, in the past, first of all I gotta stop and say good job Janice and Randy for even, for Molokai even operating any type of medical facility.

Ms. Kalanihulia: Thank you. People don't say that much to us.

Ms. Buchanan: Well good job and long term in the past, when I talk about past administration they said the only thing that kept Molokai General Hospital operating was its long term care patients. I notice in these plans they're not going to have long term care facilities or patients pending hopeful that some other facility will open on the island or residential care. What was, why did you decide not to keep any long term patients?

Ms. Kalanihulia: In April 2002 the Molokai General Hospital Board adopted a service plan model going forward that did not include long term care. The reason for that was threefold. The first reason was that we were losing one million dollars a year being in long term care business. We were relatively willing to accept that. Second problem was there's a huge shortage of licensed personnel and across the country, Honolulu hit's hard and we are currently being hit as hard. We weren't anticipating being able to have the licensed personnel to care for those folks and that actually is a reality as we speak. The third piece of that is that we sent a survey out to every household on Molokai and we asked them a lot of questions about health care and the type of usage that they have for the system and then we asked them a question, what's most important, if you could put Molokai General Hospital together what service would you like us to provide and it is pretty much a no brainy, it was the emergency room, lab and x-ray, acute care, birthing services and long term care was at the bottom of the list. I think community health services was one notch lower. So we made the decision that we couldn't do both businesses and that we really need emergency room, acute care, birthing facility on the island and we needed to focus on our ever dwindling resources on that. But, Queen's Health Systems has made a commitment to help us find solutions because we're not the only community across the country with problems finding long term care. Not just the elders, but



disabled people. So we are working with Queen's Health Systems. Right now we're looking at foster homes for elderly. We have four homes lined up. Three are ready to go and we're going to see if that works. It's a state program and Queen's currently administers some of them on Oahu. So (inaudible) with them, we're seeing how it works.

Mr. Dunbar: A comment to that as sitting on the Board of Trustee's, we struggled with that question. We struggled with it. It was not an easy decision to make, to say we have to give up long term care. We had meetings, after meetings, after meetings and it just kept coming back that it was basically, one, we couldn't find the personal and two, we couldn't commit the dollars to tend to patients when we could have 1,000 patients our door steps. So it was just, with that in mind that we had to make a decision to moving it, to have a better facility, not forsake those that were already there, no one is going to get kicked out of the hospital. What it was, it was not an easy decision.

Ms. Buchanan: Randy I notice you're going to have new security intakes, what is that going to be?

Mr. Lite: We currently don't have outside security camera's that work, so at the entrances to the additions, we'll have security camera's at the emergency entrance for the ambulance, the front entrance and the rear entrance for the mid-wives. Those will remain lock at all times except the front doors for business hours, they'll be open and we'll have camera's monitoring them. Also in the ER it's kind of developed like a suite, so there are two ER observation rooms, two trauma rooms and a nurses station and that section of the facility will be locked down with internal locks as well and only staff can enter with patients in that area.

Ms. Buchanan: I know that was a problem for you guys and when I saw that security design I was curious as to what that was. Is Queen's Health System for future funding for this new facility, I guess I'm asking there's a new competition of a supposedly free clinic for under insured and uninsured people as well as the general public, does Queen's Health System see this as a problem for future funding and how are you going to keep this facility in place and up in running when we can barely keep the facility we have now running?

Ms. Kalanihulia: That's an excellent question Lori. Queen's is committed to Molokai. They made that clear. I'm not sure, they currently provide us with 1.5 million dollars a year in subsidy, in addition to the \$700,000 a year we receive from the state. The Queen's 1.5 mill is we easy, we send a letter and they give us the money. The \$700,000 that we have to get from the legislature is, I age 10 years every January through May, running up and down stairs in that building and begging for that \$700,000. Every year I have to make a (inaudible) plan because I believe that I'm not going to get it. I don't know what it's going to do. I think that there will soon be, if it hasn't already been, there's \$600,000 in this community for health care. The original discussion that I was a part of back

in January of '02 was that we would use that to sure up the system and mainly for mental health and for dental and that's not the plan to date. The plan as it sits now is to provide, will be competition for Molokai General Hospital and more importantly for the other health care providers on the island, subsidized competition. So I don't know what's going to happen. My hope is that it will be a change of heart and we will have some discussion to make this a win, win, win across the board because that's an awful lot of money to throw into this community and not have it work.

Mr. Lite: If I can add to that too, there are also operational efficiencies built into this new addition. Currently our staff has to traverse from this area of the building all the way down to here and all the way out to here to offer services that now they will be able to traverse, I believe if my memory is right, no more than 88 feet from their central point of the nurses station to any given sites where they would offer care inside this building. So that's another way we kind of planned the phase that's going to compete into the future. Designing operational efficiencies is not where there is many to achieve.

Mr. Dunbar: True question is whether a hospital on Molokai makes sense where there will be profit is one point. It certainly hasn't been profitable to date. The question is do you not have a hospital here and fly everybody off the island? I don't think that that's the proper answer. So with the redesign, it certainly built in operation efficiencies that Randy talks about, but the second phase there's hope that some of the obsolescence has gone with that old structure that has been banded and patched and epoxied and amended back over because less of a maintenance burden. The idea is whether or not, any competition coming to the island, yes, it may cause some problems but with admitting to the hospital whether the doctor's on staff, you're not just working from 9 until 4, you're open 7 days a week, 24 hours a day, half the comfort zone.

Ms. Seales: I guess this is just great to have. I left in 1961, I reading this and it brought me up with history. It is very much needed and I'm just wondering with all this new facility and everything, is there something that's going to be worked out with MCC, how do we encourage the people on the island to want to get into the field of nursing and so forth. Because with all this new facilities, is it going to attract people from off island to move in, you know, if that happens, that happens, but is there something that we can encourage people on the island to go into that field and to have some type of thing at MCC you know to encourage. Is the out patient building still going to be there? O.K. but I think this is really wonderful, we desperately need it and at least we don't get turned away when we go up there even if you don't have insurance or not. But we still have to deal with the bills that come afterwards. Getting to back what Lori had said, there is a flyer at the Drug Store and it's called the Ohana Community Center. But I don't think it's free, I think they're going to try and work out something where people still have to be, there's a funding. It doesn't say free. There is something that still has to be worked out and it's wonderful to have that place in our community

because there are so many that may not have that insurance. But a very wonderful report. Very informative and a great need. Hopefully we can, with this new facility and new machines coming in and not like sometimes when you've gone over to Honolulu and with these reports, sometimes the doctor's there cannot read it and they know that it's an ancient machines. But the thing is, time is such an essence and for people to be stabilized and flown out, I just hope with all of this that's going to be here that we bring, we have personal here that are able to handle the trauma's and we're able to do it here and to bring back I think or to have in the community establish a sense of security. Of, I don't have to go off island I can staff here, bring that confidence here on the island that we live. It's really my goal too. One more thing, MOC, do they have a comment in here as far as a reply or does that new thing come up to their boundaries by the trailers, was there a response in there or I didn't see it?

Mr. Lite; Yeah the MOC, I spoke to them a couple of times but they did not give us a written reply. They did receive the letters because their property is within 500 feet of the project. I've spoken to Camille several times because we're trying to work out a way to substitute some of the landscape plans that are identified in there with native and she's got one of the Native Hawaiian nursery's on the island. She's aware of what we're doing but she didn't comment on the EA. You see these buffers right here, those are those trailers.

Ms. Seales: Wonderful improvements and we're human beings like everyone else in the world and sometimes with medical situations they cannot live on this island because of the need and they have to go else where even though this may be their home. So I'm looking forward to it, I'm sure as a community for all of this. But than again we need staff because if that was one of the reasons that we don't have licensed people, or however it is, that's supposed to be something and I don't know if that's the kuleana of the hospital that would encourage people to go into this field for people that live. Mahalo.

Mr. Vanderbilt: I had some comments. On page two it says the applicant is Molokai General Hospital, County of Maui, what does, is it Molokai General Hospital? Page two, after the table of contents?

Mr. Lite: The applicant is Molokai General Hospital.

Mr. Vanderbilt: O.K.

Mr. Lite: We reside in the County of Maui, I'll take that out if it's too confusing.

Mr. Vanderbilt: On page 11, if you could exclude after Kalaupapa, in parentheses, the leper

settlement. On page 13, it says a meeting with the neighborhood residents was conducted, I would just put, I would assume that's the November 7 meeting, on page 13? Third paragraph.

Mr. Lite: That's correct, that's the November 7 meeting that nobody showed up to.

Mr. Vanderbilt: I would put that in, that November 7, that nobody showed up. On the findings and conclusions of that meeting are attached to this report. Were there weren't any findings from that meeting, just letters that were attached that came in later.

Mr. Lite; That's correct.

Mr. Vanderbilt: You might just put that in, doesn't hurt to say it like it is. These letters that were sent out to the property owners, was there a return receipt requested? You said you didn't get a response from a couple of them.

Mr. Lite: I don't recall and I don't think so because I usually keep those, my portion and I don't think that we did.

Mr. Vanderbilt: Just in the future I think that's the normal practice.

Mr. Lite: The 500 foot radius is what you're talking about?

Mr. Vanderbilt: Normally those are set with return receipts so you can make sure that somebody doesn't come back and say they never got it.

Mr. Lite: I can go back and check.

Ms. Caigoy: I just want to provide a comment, the 500 foot radius is for a special management area use permit application. If you sent this out this is the preliminary consultation for the EA. It would probably be in your best interest to do the return receipt but it's not a requirement.

Mr. Vanderbilt: Page 22, I just didn't understand the comment on population. The first response you had, the improvements to Molokai General Hospital will not produce any significant incentives for people to make Molokai their home. I just don't know what it's in there. I just didn't know why it was in there. I think with a new medical facility that's an incentive for local residents and anybody thinking of moving to Molokai. I just didn't know why it was in there.

Mr. Lite: In writing this we had, thought in our minds that what we're looking to point out is the

significant impacts and we felt that this addition to the hospital would not create such a significant impact that we would see a major influx of population. That's what we were meaning to say.

Mr. Vanderbilt: Thank you. On page 23 it says, the second paragraph, the figures are substantially lower than the occupancy figures of 8% on Maui, I think the occupancy figures are a little higher than 8%, aren't they? Isn't like 80 something percent.

Mr. Lite: I can double check.

Mr. Vanderbilt: It says the hospital is considering several options. It may allow for local workers to participate in some of the phase II construction. Do you have any options that you have identified now that you can put in there, such as?

Mr. Lite: That's a good question, it's really hard to answer and I'll tell you why. The reason why is because, because of all of the funding sources are governmental except for the Queen's Health systems which are unrestricted so, they have requirements of insurability of contractors so a lot of these sub contract that go out is going to be dollar amount contracts and it's going to not exclude local businesses if they can show that type of insurance. But the vast majority of them are not going to be able to. So to the extent which is possible within the guidelines of the grantors, and the funding sources the hospital itself will contract individually outside the main contractor for the job for small little pieces of the work. But it's totally going to be up to these funding sources to approve that. So at this point we can't really say yes, we're going to give a bunch of jobs locally but to the best extent that's possible we're going to try.

Mr. Vanderbilt: People will take the final EA to make comments so if you don't have something there you might consider either taking it out, I don't know. Now the other thing regards to what one of the other commissioner's mentioned about the hospital and local workers and everything, how many people are at the hospital, it doesn't really say how many people are at the hospital and how many of those people are Molokai residents verses say contract people?

Mr. Lite: You mean employee's?

Mr. Vanderbilt: Yes.

Mr. Lite: I believe we're less than 100 but not very much less than a 100. Currently there's a new law that went into effect and if you have a 100 or more employee's it's difficult to run your business. You have to meet compliance in certain areas where if you're less than a 100 you don't. We've been able to operate pretty efficiently with just less than a 100.

Mr. Vanderbilt: You may want to put in, I don't know if there's anything to put in about the employee's. The last sentence says the project will have a neutral impact on the number of medical jobs available on Molokai. With this expansion you're not anticipating any additional jobs?

Ms. Kalanihulia: May I? Actually we're not. The reason is even if we're busier, it's a lot more efficient building. Right now we have the emergency room one wing and the nurses station up on the other, so we actually have to staff two separate areas sometimes for very, very few patients. It's extremely inefficient and this will have rooms around a central nurses station and it'll be a far more efficient. So we don't expect to have less staff but we don't expect to have any more. In terms of contracted workers we are in desperate need of a Rad/Tech, an x-ray tech so anyone who has family that wants to go to school and do something, a two year course at KCC, (inaudible) about a year and a half, folks wanting to do that for us and I think we have one registered nurse, contract registered nurse and I think the rest is Molokai residents. There's about 95 bodies right now.

Mr. Vanderbilt: Thank you. Randy with regard to the waste management on 25, you said everything, you've been up in compliance with all your waste management and everything because it's certified, have you had any violations, you got a pretty good record right?

Mr. Lite: That's correct. No violations but for quite a while every facility on this island that has a commercial kitchen had to come into compliance with the grease receptacle.

Mr. Vanderbilt: I mean on the, I'm talking about, it says we'll incorporate and improve waste management and it says current methods or storing waste on the site will also be improved. I would just sort of make that a little bit more positive, that you have a good track record, it's even going to be better or something, rather than leaving open the question of how bad is it now or how will it be approved. That's a small comment, we're being asked to make comments and that's a question that I had, is it really that bad right now because it doesn't sound like it is.

Ms. Caigoy: Another note, comments that came back from public was, requested a solid waste management plan. Randy's already put that together,.

Mr. Vanderbilt: Thank you. I guess on the water system, that's all right. Now on the, it says that on the project of the waste water systems on 27, you said that the project is expected to reduce the waste waster system demand generated by the hospital but you don't say why. When you see that you can increase the use of water but you're going to reduce the waste so I would just explain that.

Mr. Lite: That's a good call. OEQC caught that one too, that was one of their comments that I need to address.

Mr. Vanderbilt: Than as part of the, page 29, it talks about, although the proposed project is anticipated to have no adverse impacts on coastal recreational opportunities available to the public a SMA study and report are being prepared for review as a part of the regulatory compliance package. An SMA study and report, actually you'll be getting an SMA permit. The others was just comments that I would ask the Department of Water Supply, they just didn't clarify some things but it's no big thing.

Ms. Caigoy: The draft EA and the application was sent to the Department of Water Supply and their comments would incorporated into the final EA.

Mr. Vanderbilt: On the sewage treatment plant, if you could find out what the capacity is now.

Ms. Caigoy: That's also provided in the public works comments in the draft EA.

Ms. Akutagawa: Any more comments? Is there anyone in the public wishing to make comments? Being none let's move on to the Director's Report.

#### E. DIRECTOR'S REPORT

1. Letter dated November 17, 2003 to Mr. Wayde Lee from Michael W. Foley, Planning Director, regarding Issues Relating to the Moloka'i Planning Commission.

Mr. Boteilho: Thank you Madam Chair. Earlier when they brought up about free hospital I almost moved to Molokai. Director's report today I have only one thing. At the last meeting the commission requested a written response to Mr. Wayde Lee. That response, I promise that it would be written that week and I kept my word and it was written on Saturday of that week. It's attached for your information. Quickly I would like to go over the status of issues. Molokai Ranch agricultural subdivision, nothing really is happening. The landowner told me that they haven't pulled the permits yet but really they are not doing anything with that.

Hale O Lono , that really is a long term.

Halawa Valley Tours, there's one company that has actually applied for their permit. I forget the name of that company, I getting little bit makule. They have applied and sent out for agency comments. Further enforcement, we are contingent, we haven't come to Molokai yet. It's an SMA assessment application and we would assess what type of SMA they would need. I think earlier the opinion from planning was that now we could require an SMA.

Ms. Akutagawa: In that sense too can you contact DLNR if a CDUT is required?

Ms. Loudermilk: DLNR is one of the agency that we sent the application and information. We've also submitted it to Ralph's office on engineering because of the roadway and also to the Department of Health, Maui office. So we'll be waiting for their comments to come back to make a determination regarding the SMA issue and as Wayne has indicated because they in a conservation district doesn't mean they require a special management area use permit, but at this point and time the information we've been gathering to make that assumption.

Mr. Vanderbilt: How many tour operators are there? You mentioned the other tour operator's, how many?

Mr. Boteilho: I think there's about two or three. Not including the ones that applied.

Ms. Akutagawa: So those guys are still in non-compliance and not submitting an application. So you can communicate to the other agencies that a violation has taken place and let them initiate their own procedures in terms of enforcement.

Mr. Boteilho: Right now we're going on the internet trying to find these tours. What we plan to do like we did the first time actually send the inspector on the tour, the inspector he had a hard time because he was calling Molokai too and he couldn't get very far. Then he went on vacation.

Ms. Loudermilk: On the enforcement side of the issue myself and Kivette, we don't handle that hands on. We work with the zoning administration division. So in terms of the, we would let them know that that should be part of their investigation as well in terms of contacting these other agencies regarding whether they have permission to do the types of activities they are doing, do they need permission, those types of things. So I just wanted to get that clarified that myself or Kivette are one of the planners but not necessarily be doing that but we'll get that information to our zoning people and they can use that to assist in their further investigation.

Ms. Akutagawa: With that thought too, when John Min was the director we talked a lot about this bed and breakfast guys and there was 19 like on line and he was going to do some kind of survey. But I don't know what happened to that so if in the Director's Report if we can have some kind of update on this bed and breakfast issue and those

Ms. Loudermilk: Transient vacation rentals.

Ms. Akutagawa: Yes. Because as far as I know the only legal guy is Commissioner Dunbar on the



island of Molokai.

Ms. Loudermilk: Just to let the commission know that some applications have come in over the past two years and because of all of this if they're a true bed and breakfast according to the code we have been processing them because that's not the issue, as long as they meet the zoning requirements. The outstanding issues have been for those projects and properties located in the state rural and agricultural districts. The use is not an out right permitted use, they come in various shapes and forms and sizes and it's really, on the staff side the new administration has been working on several things in trying to address the illegal tvr's. We as a department have not really been given one particular avenue to pursue. Its been more of a case by case basis and for the most part if the properties are located in the rural and agricultural district, we have been holding off. There is talk about if you're in the rural district we may start going forward. The distinguish with agricultural rules, in agricultural you're supposed to have an agricultural use first before you have structure and other type of business. Where as when it's rural it is supposed to be a transition zone, your residential housing, those are out right permitted uses but the issue comes, the owner is not living in the house. It comes under the variety of, well I'm a part time resident and the times that I'm gone I want to rent it out and on Molokai those operations turn to be small at least the few application that have come in, any where from two to four rooms. There are just handful that are larger than that. From the staff perspective, I don't know what John Min folks had done from the previous time we were still working in house. But with the change in administration, the Mayor had a task force that was still working thing out in regarding to the code, if it's a true bed and breakfast in a residential district, you live in your house, you meet the code, we do processing but on Molokai we haven't had that type of application.

Ms. Akutagawa: If you can go on line like Wayne was saying about Halawa.

Ms. Loudermilk: It's interesting, for background information, some of you may remember several years ago the council had demanded that the planning department use their investigative power and skills and go on line and identify these operations and whether they were legal or not, a few months later we were at a case at the same council as doing a witch hunt. We'll take it back either to the director and we can tell you folks what has come in...

Ms. Akutagawa: It fall within our purview, regardless if the county is exercising its political will or not you have a responsibility to volunteers to this commission to make sure our rules are being administered. So I would think as a direct request by the commission and insulate us from the political whims of the County Council.

Mr. Boteilho: We will do that Madam Chair.

Mr. Vanderbilt: Madam Chair on Halawa, has that action been put on the project status report list? I know we don't have the Neighborhood Store on here.

Mr. Boteilho: No because this is not a project, it's an investigation. Excuse me you're talking about the SMA assessment?

Mr. Vanderbilt: Yes.

Mr. Boteilho: It should be there.

Mr. Vanderbilt: That brings up another point. We have on here 47 Molokai projects only one has, well none have been completed. 47 of them and they're all open and there's about 7 or 8 different planners. This is very hard. This was just run out on a computer and it has some Maui projects so, last meeting I thought we were gonna always have sort of a, at each meeting and then you said just keep the old one and it's kind of hard to see what's coming down the pipe. Like if that SMA assessment was on there, what ever or if there was some other SMA assessment for another project or what ever.

Mr. Boteilho: That list is supposed to be current. I'm gonna have to check, if it's not being done...

Mr. Vanderbilt: Well the Neighborhood Store isn't on there.

Ms. Kalanihulia: I'm wondering if we could get an updated list each time we have our meeting, if there's no additions then just note that but, I agree, that's difficult to follow, there are Maui projects, if there could be a spread sheet with the Molokai projects on there and if it could be updated.

Mr. Vanderbilt: I don't know if you have this on your computer but it's one line item and it says entry date and it says status open and it says the completion date. Maybe where it says completion date you could put most recent action or something.

Ms. Akutagawa: Or estimated time line.

Mr. Vanderbilt: Because some of these are two, three years old and they're still open and it's kind of confusing. A lot of them are bed and breakfast, I say 10 or 12 including one of our commissioner's.

Mr. Boteilho: Well let me say that a lot of things have to be corrected and also we are short staffed. I have calculated, in fact, going into community plan implementation, it's basically based on budget

and I'll have a better answer for you after the next budget session. But just to let you know the policy right now is that we need people more than equipment and studies. I would estimate that we are 9 people short just to do our level of work, not to do quality, but just to do minimum. That's things we can look at. KIVA's been a long timer and that's a big program thing, a county wide system.

Mr. Vanderbilt: Did anyone talk about getting a planner for Molokai? The only reason I say that, each meeting you send over one or two planners, they spend all day over there, sometimes we don't have quorum, it's a very expensive thing and when we have the plumbing posing open up he doesn't just do what a Maui plumbing inspector, he does enforcement, he does plan review, he does a lot of other jobs just to make his job justify. Maybe a planner on Molokai who is familiar with the community and our community plan and of course it just seems odd that here's Robin over here, she's an asset and they're here the whole day, that's a cost to the planning department. It may be not much of a cost but it might provide some real good consistency on this island so how do we go about maybe suggesting that?

Mr. Boteilho: There is talk to that. Just for clarification, you mean living on Molokai or just assigned to Molokai and living on Maui?

Mr. Vanderbilt: Well it all depends on what other jobs he could do that would help the planning department of land use and codes.

Mr. Boteilho: There is talk to that but job number one is to get the people in the first place. Because if you don't have the people than you don't have the options. I've been working with the council, the Mayor, and the union and we're taking it from there. We should know by next April. I guess finally, these microphones, I did mention to our audio consultant and he said he would call up Nina and try to get the microphone here, apparently he hasn't. I guess I didn't push him enough. Are there any questions?

Ms. Buchanan: Wayne I have a question, it's about the Castanera's. Why haven't you suggested to the new owners to maybe start the process of getting their own, instead of waiting till the end of January. That permit is granted based on the Castanera's themselves. So if you the new person running the business and you not inclined to vote in that way what is your other options?

Ms. Loudermilk: Those are part of the two options that we did advise them. Part of three different scenarios that we did advise them so now we are down to two. I have advised that even with the amendment there is no guarantee for any new condition, there is no guarantee. I leave it up to them to make a decision whether they want to go the amendment route or the new permit route. That's

where I really do want to leave it at. I don't want to try and second guess what this commission may or may not vote or discuss or recommend.

Ms. Buchanan: That 10 year extension thing that we did to the Castanera's bill will transfer to the new owners?

Ms. Loudermilk: Not necessarily. At this point and time the request is for the change in the owner but you come in for an amendment everything is fair game. For the special use permit as well as for the extension. They all coming in for just that one request.

Mr. Vanderbilt: So we can give them a two year like we did with Castanera initially and after they prove themselves we can extend it to 10.

Ms. Loudermilk: Yes you can, yes you can.

Ms. Seales: I have a question on the Hale O Lono issue. Would that be where we could get some letters from some of the residents that do go out there and use it on a regular basis or they form a committee or, because we have a few guys here that have those portable toilets, I don't know, is that what you may need as far as Hale O Lono to see that there's community or residents that want to keep the place pono?

Mr. Boteilho: When the commission took this up last time, they basically said kind of just leave it as it. Also they had recommended a citizen committee, however, it wasn't a planning department drilling committee. Degray's been working a little bit on that.

Mr. Vanderbilt: I think the thing on Hale O Lono Harbor, both our CAC and our Molokai Planning Commission wants that to be part in the community plan, not so much that it would be developed anything but it would be reserved for the public in the future, 40 acres or more. We wanted to put the general area in there is what we wanted to do but than there was lobbying from Molokai Ranch on not to do that and so there was some other wording put in the community plan. But everybody wanted to make sure that as more development happen there was a big area there reserved for the public. It couldn't be iced out of having really good access and use of that facility.

Mr. Boteilho: I think in our general plan process that will be taken up, early next season. We start the process early next season, we might come to Molokai in March, April or May.

Mr. Vanderbilt: In regard to that and I think you mentioned Bill 84, something, some where in all this stuff, Bill 84 didn't pass second reading, it's back to committee, there's been significant,

apparently a lot of changes and everything. Is it going to come back to the planning commission for one more look or should we make comments on it?

Mr. Boteilho: No, right now it's the property of the council. It went through the process, they have the final say now. The council may choose to send it back to the planning commissions but they don't have to. Let me say that Bill 84, we are just going to follow them anyway. We have written, basically written Bill 84 into our request for proposals for general plan contract. I'd just like to say Madam Chair that on behalf of the planning department and the county we would like to wish you, and the staff that has been with us the whole year we would like to wish you all a Merry Christmas.

F. NEXT REGULAR MEETING DATE: JANUARY 14, 2004

G. ADJOURNMENT

There being no further business before the Molokai Planning Commission the meeting was adjourned at 3:40 p.m.

#### RECORD OF ATTENDANCE

COMMISSIONER'S PRESENT:

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

ABSENT:

1. R. RIBAO
2. N. SHIMIZU

STAFF:

1. W. BOTEILHO, DEPUTY DIREC. OF PLANNING
2. K. CAIGOY, PLANNER
3. R. LOUDERMILK, PLANNER
4. C. YOUNG, CORPORATION COUNSEL
5. R. NAGAMINE, DSA

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