

MOLOKAI PLANNING COMMISSION

REGULAR MEETING

JANUARY 14, 2004

The regular meeting of the Molokai Planning Commission was called to order by Chairperson Malia Akutagawa on Wednesday January 14, 2004 at 1:08 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)

B. COMMUNICATIONS

1. MR. RANDY LITE of the MOLOKAI GENERAL HOSPITAL requesting an Environmental Assessment Determination on the final 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 2003/2004) (K. Caigoy)

Ms. Caigoy presented the staff report.

Ms. Caigoy: The comments that came from the commission at the last meeting were forwarded to the applicant, he responded to those which we then assembled the final EA which you all received a copy of. There's not too much though I can add about the project but I'll go through the summary letter, with the different types of actions that are available to you today. One you can accept the final EA and issue a findings of no significant impacts. Two, if you feel additional information is needed in order to make your determination we can return the final EA to the applicant and ask that he prepare that additional information. Or three, if you feel that there are significant environmental concerns in which would require a preparation of an EIS that would be your third choice. I'll conclude there if there are any questions for myself or Randy Lite with Molokai General Hospital is also here.

Mr. Vanderbilt: Question, Aloha Randy. The revised EA is really great. You did incorporate most everything that the commission wanted in there. My question is, since our last meeting did any agencies respond with any new information or is there any information from any of the agencies that may cause you some problems that may be this commission may want to address and if some conditions?

Mr. Lite: No. All of the correspondence was all of the various agencies have been incorporated in there. I haven't received any other comments other than those.

Mr. Vanderbilt: You have no problem with the comments made?

Mr. Lite: No.

Mr. Vanderbilt: Thank you.

Ms. Akutagawa: Is there anyone in the public wishing to testify on this matter? At this time I'll close public testimony and have staff recommendation.

Ms. Caigoy presented the staff recommendation.

MOTION: I MOVE WE ACCEPT THE FINAL EA AND ISSUE A FONSI AND FORWARD THE FINDINGS FOR PUBLICATION TO OEQC AS RECOMMENDED BY THE MAUI PLANNING DEPARTMENT

MOVED: COMMISSIONER DEGRAY VANDERBILT

SECOND: COMMISSIONER KIP DUNBAR

MOTION UNANIMOUSLY APPROVED.

2. WILLIAM & ELIZABETH PEPPER requesting a Special Management Area Minor Permit in order to construct an ohana dwelling at HC 01-245 Kamehameha V. Highway, TMK: 5-4-018: 016 Kawela, Island of Molokai. (SMX 2003/0775) (R. Loudermilk)

Ms. Loudermilk presented the staff report.

Ms. Akutagawa: Any questions of staff? Can the applicant come up?

Mr. Pepper: Good afternoon. Thank you for giving me the opportunity to speak here and I would feel more comfortable if I could speak without the microphone but if you can't hear me I'll use it. First, Vice-Chairperson I have a picture so that you can understand where it is.

Ms. Buchanan: I know exactly where it is right now, thanks.

Mr. Pepper: For other people who couldn't see the map could kind of get the idea of where it is. I guess I should give you a little explanation about the project and about myself and my wife. First and foremost I want to thank the commission for allowing us to testify, here, today on our behalf. This has been quite a process for us, it's a learning process and hopefully it's going to be a dream come true for us. I first came to Molokai in 1980. It has been a goal of ours to someday be able to

afford a home here. We had the good fortune of meeting a very kind local family and they helped us purchase our lot. I presently work for the U.S. Fish and Wildlife Service as a chief mate on board a research vessel which is operates in the waters of Alaska. Each year the boat ties up in the winter months, December, January and February which allows my wife and I the flexibility to come here and work on the project because as Robin explained, our purpose was to finish this in five years. This is the project that is affordable to us in stages. The first stage, maybe some of you know us, we've been camping on the property. We have a little pop up there and our tent has been there and we show up in the winter and kind of like some shore birds, maybe. The first two winters we camped on the property and put water in. This year if the special management area minor permit is approved I would approximately have a month and a half to put the foundation in to construct the ohana and probably order the materials once I get back on board ship, hopefully by the end of the summer months. I personally feel that my wife and I both come from a small community in Alaska, we've been up there for about 22 years and we feel that a single family dwellings are good, solid, small growth process and we kind of look at Molokai as a community similar to what we lived in. We're like a small community and the people are friendly and you can feel that you're in touch with the community and that was one of our choices why to come here. We feel that we won't have an impact on the community. If any it would be very slight and hopefully it would be beneficial to all, therefore I hope that you will take a look at this minor application permit and hopefully grant us approval so we can begin the second stage of our goal which is to someday have a home here. I thank you very much and if you have any questions.

Ms. Akutagawa: I believe you stated that you will be building a cottage as well as a regular house, curious what that cottage would be used for.

Mr. Pepper: Chances are it would be for my mother and father-in-law. They're both retired from the military and they live down the street from us in Alaska. They came up and now when we leave during the winter months Liz is without her parents. The ohana is 700 square feet and eventually when the other project got done they would probably be there.

Ms. Vanderbilt: Aloha William. You go by Bill or William?

Mr. Pepper: I use Billy. Bill always sounds like something that you got in the mail.

Mr. Vanderbilt: So you're not contemplating getting these permits for speculators as to use the cottage as a vacation rental?

Mr. Pepper: No.

Mr. Vanderbilt: Because there's a lot of speculation going on now. I don't know all the facts about

how long permits last or whatever or giving out permits. Somebody buys land and then they come in for a house and a cottage and say they're going to get it constructed in 5 years and then go out and resell the property. I think some where in our community plan it talks about land speculation which has just driven the cost of housing up for everybody, just like on Maui, where nobody can afford a home, it's working. Anyway I think I talked to you once at Hotel Molokai and sounds like your heart is on Molokai. Thank you.

Ms. Seales: I guess this is for the planning department. I guess there are times when the owners are going to build a smaller unit and what happens, things change. What's going to happen to that Robin, do they have to come back and say they have a revision or they get to do what they want?

Ms. Loudermilk: They cannot do what they want to do. First of all the exemption is based on certain representations made to the department and what we would be looking at is if there's any changes, the foot prints, if they're going to expand, go three stories in the terms of density. We have the checks and balance for that, now, what has occurred in the past is plans have been submitted, have not been built and I am personally not aware of that occurring within a special management area on Molokai. So I don't, I guess we just have to make sure that that doesn't happen. Mr. Pepper knows that this is what was represented to us, this foot print, if they want to move the property two feet to one side and three feet to the other side, we're not really too concerned about that because HSPD has indicated to us that there would be a no effect on the property as well as the two or three feet or even 10 feet would still be outside of the shoreline setback area. But if there are any radical changes, say the 700 square foot cottage turns out to be a 1,000 square foot, then there would be a stop and decess order and we'll take it from there.

Ms. Seales: How do you get the information? Who tells you, who monitors that if they're doing the right, I see a situation where they built a little hale, they was supposed to build a bigger one and he built the same size of that hale on the property and whether if someone monitored that if somebody knows about it, but what I'm saying is that if you guys are not going to be here physically, you know what you may be seeing right now and maybe in two months or 6 months down the road things will change and can change. I'm just wondering on that. What I'm saying is that when the people come here to say because everybody wants their thing to be approved, yes, they invested time, money and what ever it is, so the thing is, who monitors who? Who knows what's being done? I guess we don't have control over that do we?

Ms. Loudermilk: The Planning Department does not have a full time inspector on the island of Molokai. We have three inspectors, zoning use inspectors that do monitor the entire island. We are complaint driven and that we do receive anonymous complaints on a daily basis and the zoning inspectors try to get to the location as soon as they can. Granted it is easier when you are on Maui and the complaint comes in versus Molokai or Lanai. That is a problem.

Ms. Seales: What I'm saying is that when the ohana is built and then someday when you move to the bigger home and then if mom or dad does not come to the ohana dwelling then it would be a great idea to have (inaudible), it would be perfect. But maybe at this time but I think what I'm saying as you as the applicant that you be mindful just to stick with the plans and of course things can change. I think it's more of a comment that I wanted to do. I see that, when they come in, they have all this palapala and then down the road something changes. Everybody just moves on, people notices it and people just moving on with their lives.

Ms. Loudermilk: We appreciate what ever information you can provide to us and anybody Molokai or within our Maui County.

Ms. Seales: Because it's a perfect area for vacation rentals because there's the shoreline where they are. But what I'm saying is it's just more to share the mana'o, these thoughts, your thinking and I guess there are things that may affect your original plans that you planned for. Molokai always falls through the puka's, all the little holes sometimes and nobody wants to pull it back out so it's pa'a, it's done.

Mr. Pepper: I wanted to comment on what we do and where we're from. We first moved to Alaska in '82 when my mom wanted to move up, she came up in '95 and we built her an apartment there and she stayed there until she passed. I didn't put anybody in that building because I don't want anybody living that close to me. So right now that apartment is empty. So from our stand point, at that point I could afford to build that and that served its purpose. From this standpoint I cannot afford to make the investment for that big house right now, to be honest. I'm trying to do this project and still work and still maintain a home in Alaska and still maintain my ohana here. So therefore I have to do it in stages like I explained. So for us we really don't want anybody living there unless its our family. As far as, I'm kind of familiar with some of the things that happen along the shoreline there and as far as John's building, John kind of, he did what he did but that was a permit thing. He didn't want his permit to run out because in this permit process you have so long to do it or I'm gonna have to get another shoreline setback survey and then you have to go through the whole building permit process again. The way it was explained to me is that the reason why he built that second building is because that's what he could afford to do and he had the permit available so that's what he did. So as far as what plan he put together I don't know. I think that building came in smaller than the original building that he wanted. He did have a plan site with the two buildings but the second one came in smaller. I want to stick with the plan, I don't have that intentions. For us the way I see the project is that to complete the ohana and before the shoreline setback is expired which is in September of 2004 I would put the foundation in for the big house so therefore I can just continue with the process. Otherwise I would be back here in front of you and I'm not going to look like the same person. I'm going to look like the person that didn't do what he said he was going to do and then not expect to get my exemption. From our standpoint it's a process that we can afford

to do and that's the way we're trying to approach it. I still have to work, I still have to earn the money to do this and yes things can change. I hope that it doesn't change. I hope that we get to be in that big house some day and there could be a point too when the parents are gone. They can't live forever, I know that and than that ohana building will be empty. For us we've always viewed that as a caretaker. Because I still have to work for another 15 years. I just realized that if you're gone for 7 months the keawe, they feed tall. So if there's somebody there as a caretaker for the grounds than that would be the next objective with the ohana, a person or a family living there. It would only become a caretaker.

Mr. Boteilho: Just to add more to this issue about zoning enforcement or SMA, this was not the mayor's priorities that we were to increase our enforcement activities. So what we did last year, like Robin was right, in the past it was always complaint driven. Last year we were fortunate enough to have the council appropriate three more zoning inspectors, so we're going to have a total of 6 now. We are in the process of hiring, in the process of interviewing at this point. So hopefully we'll be able to be less complaint driven and more actually go out and be pro-active and look at things on our own. It'll take time, they gotta be trained and all these kinds of things. Secondly, our zoning division, our zoning enforcement division they have a buildings plans examiner and all the permits come to him and he has to check that the building part is in compliance with the SMA permit. Again shortage of work power too because we have only one person so things fall through the crack sometimes. So this year's budget we're requesting one more building plans examiner. Finally, after the request of the mayor we are trying to increase our use of technology and computer use in planning and zoning enforcement. Basically to have a central data base where you have the plans, you have the maps and things like that. So all of the different agencies can go to this central area and see what is proposed and what was approved. Again all these things are going to take time but we're getting started, thank you.

Ms. Akutagawa: O.K. we're getting a little bit off track so let's kind of hone in on the permit application on hand.

Mr. Dunbar: Robin I have a few questions. There's a 1,000 square foot septic tank that's supposed to take care of four bathrooms, is that what it's called for a 1,000 gallon tank for four bathrooms? The second question is you said (inaudible) is within a 100 year flood zone. Is that, would that affect the main house? Is that going to affect the ohana? The last question is I heard there's a accretion on the property and the shoreline setback I don't think it makes a difference but the shoreline setback is from the outside edge, the vegetation edge of the accretion, is that accretion acquired or is that state property?

Mr. Pepper: The accretion has not been acquired. I didn't get an increase of property at all it just shows that the shoreline is accreting out into the ocean. I have also, this is for the first question, my

design from the engineer Wayne Arakaki and he designed this because it's an absorption area, he designed it by the amount of bedrooms and it's 210 square feet per bedroom and we have a three bedroom house so with the 630 square feet from the absorption bed and I have this filed and the requirement we put in a 640 square foot leach field and a 1,000 gallon tank, I just went by direction of the engineer.

Mr. Dunbar: Is that for the main house or the main house and the ohana?

Mr. Pepper: Both. 1,000 gallons three bedroom, 630 square feet. Again when I spoke to people and they live up at Kawela and they all went by 500 square feet and it was the percolation of a lot, for example. That particular lot that we have, even with the 11 ½" of rain we had last week, didn't even leave a puddle on there. I think what Mr. Arakaki designed is he realized that all that soil is sand, there's no clay and subsequently he designed this system and the state approved it. The third part of the question was as the flood. A4 is the flood zoning. Kawela gulch comes down, it come along the shoreline and C, the property is on C which is the lesser of the two. I have a shoreline map if you would like to...Right here is a site plan. Here is flood zone A4 and this is flood zone C, the leach field and the septic tank would be in flood zone C. There's absolutely nothing in flood zone A. I'm not going to put any building or anything in there.

Mr. Dunbar: I'm confused why the setback comes from the edge of the accretion area which doesn't belong to you any way.

Mr. Pepper: I can't answer that.

Ms. Loudermilk: I can't answer that. The determination is made by the land board. We can get the information but as far as for setback purposes...

Mr. Dunbar: I'm curious why if the accretion is not owned by the applicant, than he's actually the second lot in. He's not beach front. If you live behind the fish pond, the fish pond is land so anything on the outside of the wall is ocean. So technically no beach behind the fish pond.

Ms. Loudermilk: O.K. I'll find that out.

Mr. Dunbar: My curiosity here is...

Mr. Pepper: Just for my own clarification, you would take the whole shoreline and that way you would take the setback from there instead of the new accretion?

Mr. Dunbar: Well you have to take your property line. Your property line is not the edge of that

accretion. The accretion is state land. It is acquirable by you. But it's not yours at this point and time, I'm just curious.

Mr. Pepper: For my own understanding if they even went from the original property line the setback would, I would assume that the house would still be further back.

Mr. Dunbar: That's correct.

Mr. Pepper: I got it.

Ms. Akutagawa: Any more questions?

Ms. Buchanan: How many children do you have?

Mr. Pepper: Zero.

Ms. Buchanan: I asked that question because I was trying to figure why you need an ohana dwelling if you didn't have children.

Mr. Pepper: Yeah, parents.

Ms. Buchanan: So, you got a thing like we all did from the department with recommendations, right?

Mr. Pepper: Yes I did.

Ms. Buchanan: So on page 12, item 5 it's pointing out that under the recommendations by the planning department refers that the conversion of the ohana to another use, will require a special management assessment and that's mostly for us too because as commissioner's because we all got this thing in the back of our brains, oh no it's another vacation rental coming up. Our concern is because Maui is over run, they have over 4,000 vacation rentals. We don't want that to happen to Molokai, we don't want to see that. You telling us that you're only gonna be a part time resident, not a full time resident. And it's not like you get 10 kids and you have a three bedroom house and your kids bringing back their babies and everybody don't have space. That's not your purpose of your ohana dwelling. So that's what bugs me wrong, but you real honest. So the other thing is you don't have the money to do the house. So what did I do? This is what I did. I started my family of 7 in a 1,000 square foot house because I was poor, I didn't have money. As time went on and we worked and what ever, my family grew, I added on a bathroom, I added on another room, and that's the way things are. I'm thinking to myself why can't you do the same thing. Why can't you start on the main house, build what you can build now, build the bathroom, build one bedroom, or what

ever, with the purpose that you're gonna finish the house that's in your plans. You made reference to somebody else and (inaudible). I'm saying go and build the foundation for the big house because you only have a certain amount of time. Start it off small and then expand as in the true sense of ohana. You expand as you have money and you have time to build. That's how Molokai is. Because we all poor over here, we don't have money. I have a classmate that lives in Alaska, has a home here in Kawela, works in Alaska part time but they were born and raised here. Working in Alaska gave them the money to do that. I know without asking that's something in the back of everybody's mind. That's why I asked you how many kids you had and why you doing the ohana dwelling. You said when your house is built it'll be for your parents and that's o.k. too. Now I guess I going be the first one that would be driving up and down Kawela checking everybody's house out and calling the planning department and say, hey, these guys are on the internet and they have it out for a vacation rental. Because I'm surprised on the number of places on Molokai, I live up in Kalae, up by the mule ride and in the next neighborhood, believe it or not, somebody was actually trying to build a vacation rental in the back there. I know the intentions are all good but I just pointed out to you in item #5 that you will need a special management application if you do anything other. I would have no problem with this if you just built the house, started with what you could build and added on as you went instead of building your ohana unit first and then start building the new house. It got me 10 years to get to where my house is now. I raised 8 kids in that house. Is it your intentions to eventually retire on Molokai?

Mr. Pepper: Yes.

Ms. Buchanan: How long will that take?

Mr. Pepper: I'm 47 I have to go till I'm 56, I have 9 more years on board before I can actually retire. You know when we originally put this project together we were considering building the big house first, we were going to follow along those lines. Two things changed our mind.. One was Maui County Code 19 changed and allowed you to apply for a building permit and that's when we changed our mind on what would be the easiest thing for us to do and to live in. You're right. When I built my house in Alaska in 1982 I had the out house for 10 years, I know just what you mean about hard work. I lived in a small bed in my whole life so far. Part of this was if in fact we would have built the front house first I would have this big building here for 9 months out of the year and nobody would be in it. There's a lot more temptation for this problem that you all are talking about with the vacation rental if you have 3,000 square feet right on the ocean to try to make money there. But that's not our intention. So what we want to do is put the ohana in, that's what we chose to do and I would like to put the foundation in and one year it'll be sheet rock and it's going to go from there. That's why I estimate that it'll take five years before and I'll be close to retirement than.

Mr. Vanderbilt: Robin under the interim zoning would it possible to build four structures on this

property one 6,000 square feet?

Ms. Loudermilk: Yes she could however you would have to put subdivision improvements in. Even if you don't subdivide the property the...

Mr. Vanderbilt: I'm just trying to get a relative idea of what this property could be if, if I just bought it and wanted to put a drive way in.

Ms. Loudermilk: They could put in three single family houses and the fourth structure would require subdivision improvements.

Mr. Vanderbilt: the other thing on page 12, you said item 5, Commissioner Buchanan mentioned it, the conversion of the ohana to another use will require a special management assessment. Another use other than what?

Ms. Loudermilk: Ohana, the representations made to us would be that it's not a rental, it'll be for family members only. It will not be used for anything else. If they want to do long term rental...

Mr. Vanderbilt: Where is that representation in your report?

Ms. Loudermilk: It may not be exclusive in the report.

Mr. Vanderbilt: Maybe we could make it exclusive in the condition.

Ms. Loudermilk: That's a possibility.

Mr. Vanderbilt: Thank you.

Ms. Akutagawa: Any further questions?

Ms. Loudermilk: 700 square foot, the ohana, cottage equals ohana.

Ms. Akutagawa: At this time we're open for public testimony, if anyone in the public wishes to testify. O.K. we'll close public testimony and have staff recommendations.

Ms. Loudermilk presented the staff recommendations.

Ms. Akutagawa: Questions of staff?

Ms. Loudermilk: You can modify and add conditions.

Ms. Buchanan: Do I do that after I make my motion or at this time?

Ms. Akutagawa: You can make the motion with the recommendations.

Mr. Vanderbilt: The \$80,000 valuation just for future reference, that was the value of the completed ohana and the septic system? O.K. As far as the recommendation of number five, it will require a special management assessment, just so I'm clear on that, what would the special management assessment be for?

Ms. Loudermilk: If the use is going to be for a use other than single family.

Mr. Vanderbilt: O.K.

Ms. Loudermilk: The scenario's, for single family, terminology, cottage, ohana the use is the same as we would think of as a single family. If anything changes say short term rental, conversion to, I don't know what, than they would be required to come in for the assessment because it is a change in the use.

Mr. Vanderbilt: Single family use does not allow rentals.

Ms. Loudermilk: Long term rentals greater than...a 180 days. Anything less is not allowed and that would be a change in use.

Mr. Dunbar: Office use too, if he changes to commercial/office use he might have to get a special use also.

Ms. Loudermilk: That is correct. The assessment because we are talking about a use, the special management use. Many times a use is associated with a structure as in this case. The representations made to this department in regarding the single family and the ohana is that both of them will be used as single family which the Pepper's will eventually live in one of the structures, their parents will live in another structure. Should both parents pass away, they could rent that out for long term, greater than 6 months and that is an allowed use under the single family. If they want to change the use all together whether it be commercial, any other type of use other than what is allowed under the single family, than they would be required to come in for the assessment for us to determine whether the use is one allowable and two, whether a permit is issued or not issued.

Mr. Vanderbilt: Well I think that for this commission and for future commissioner's an enforcement

be pulled that when we put recommendations down here as conditions, they should be clear so when somebody picking it can understand what that means. Right now it says the conversion of an ohana to another use, there's nothing in here that needs to be expanded on as to what that use is as represented by Billy and Elizabeth.

Ms. Akutagawa: On the flip side Commissioner Vanderbilt, I would caution as being too specific because you can end up locking yourself into only a specified amount of scenario verses a scenario that would totally be unanticipated. So sometimes it's good to have broad, flexible language.

Ms. Loudermilk: In terms of the, we can work on terminology, terminology is we going ohana/ cottage, single family dwelling, technically according to the code if you look at your resources, this is an accessory dwelling. You can only build it in relation to the larger. General terms, if there are preferred terms that you would like for us to use for the Molokai Planning Commission you know you can let us know. Generally the term both ohana and cottage are used, are interchanged and when we talk about ohana and cottage we are usually talking about either family owning and living in the property or long term rental.

Mr. Vanderbilt: An accessory dwelling has to be built as an accessory to the use of the primary dwelling. It should be the same type use right?

Ms. Loudermilk: correct.

Mr. Vanderbilt: Thank you.

Ms. Buchanan: Robin he still has a permit to build his house and he still has whatever time he has to build it right?

Ms. Loudermilk: correct.

Ms. Akutagawa: Anyone caring to make a motion at this time?

MOTION: I WOULD LIKE TO MAKE A MOTION TO DENY THIS SPECIAL MANAGEMENT AREA MINOR PERMIT TO CONSTRUCT AN OHANA DWELLING.

MOVED: COMMISSIONER LORI BUCHANAN

SECOND: COMMISSIONER DEGRAY VANDERBILT

Ms. Buchanan: Discussion. Mr. Pepper said that initially because of the Title 19 recent changes in

Title 19 that that was the purpose of adding in the ohana unit and I guess for myself I don't see a real need for that at this time. I assured that in the future you can always come in at any time in the future and request another permit to build another dwelling should the need arise for another dwelling because of what ever reason. At that time if family came down or what ever. So, that's just my mana'o.

Ms. Akutagawa: Any further discussion? O.K. I have some input. I think over all this rule could be a good one in terms of looking at (inaudible). I know a lot of people prefer to put several dwellings on their property. In a consistance with traditional concepts, Hawaiian concepts of living so I really don't want to place such a chilling effect on that process by using this as an example, this particular permit application as an example. My feeling is that the recommendation as stated is adequate enough to prevent something like vacation dwelling and I guess for me I feel that, I would feel that I would be interfering too much in the plans of this individual, this applicant to build a home and also provide for his ohana. Sometimes it may be a simple thing like maybe they want the parents to be a little bit off the side, have them have privacy or maybe there's medical needs or what have you. So while scenario may work well for us because we have a three bedroom house I don't want to impose my own kind of biases and comforting living on somebody elses family. So I guess I would caution just because it works for you it may not work for the other person. This person seems honest enough and sincere enough in my opinion that he's going to use the additional dwelling for the use that he stated it to be. I hate to have some kind of prejudicial effect on this individual just because we have larger, broader concerns. That's my only caution.

Mr. Dunbar: Yeah I'd like to say that I don't really have a problem with doing an ohana unit there either with the condition that it not be used as a vacation rental. I can certainly see the sensibility that he has three months of snow in Alaska where you can't boat and you come down here and you spend three months working on your unit and it's a lot easier to work on your unit with tools and what not in a home that you can just walk right across to the other unit. I believe the community does have the perforation of vacation rentals and certainly there is some of that that is good. There are others that have not brought it forward and continue to do it and it's basically under the table as everybody builds a house there and uses it for a month and than rents it out for 11 months as a vacation rental. That's the fear that I hear with Lori and I also feel that you could probably stay in that unit and build your house a lot easier than living in a tent. So personally I don't have a problem with it.

Ms. Akutagawa: Any further discussions before we take a vote?

Mr. Ribao: I agree with Commissioner Dunbar. Cost wise it's easier for him to make the cottage first, living there and long time within that five years to build his big house. You know it's a money situation for him and him being in Alaska working is a difficult thing, I kind of agree with

Commissioner Dunbar on this.

Ms. Young: I would like to caution that in order to deny the SMA minor permit, basically this body would be finding that the applicant has not met the criteria set forth in the applicable regulations section of this. So if this body denied that permit it would need to fill on why this criteria has not been met in order for the department to redraft the findings, this decision and order. It would need to be made clear so that this department could redraft that order in order to say why the commission rejected the application.

Ms. Akutagawa: So in essence are you saying that an SMA minor permit application, that there's less discretionary bars as to SMA major permits? That there has to be a clear procedure floor in the document itself?

Ms. Young: The discretion is the same however there would need to be a reason based on the criteria set forth. So there's not less discretion that you would have to show why in your discretion this particular application did not meet the guidelines set forth.

Mr. Vanderbilt: Cindy are you saying that it really doesn't matter with this applicant or any other applicant whether they say they're going to use it for family or not? That they have the right to come in, somebody else that may intend to use it as a vacation rental down the line may say I'm just going to build a single family home, that's how a lot of these vacation rentals get built on Maui because the building department doesn't make you clarify that you're going to, just say you're going to do a single family home. So you're saying that if somebody else came in here tomorrow and said I want an ohana unit and they're not going to make it for family that we would just have to approve it?

Ms Young: I'm not saying that you would have to approve it if they wanted to use the additional dwelling as a transient vacation rental. What I'm saying is that you need to look at the criteria. That criteria includes density so if what you're looking at is an increase in density, than you would have to make that representation so that the department could put that forth in the order so that everyone is aware as to why this commission rejected or denied the SMA minor permit.

Ms. Akutagawa: I think what Corp Counsel is saying is that what specific criteria that we have before us in making a decision on SMA minor permits some how violated, where is there a lack in this application that is not in compliance with that criteria for which we based our decision.

Mr. Vanderbilt: I understand that Ms. Chairman. What I'm trying to say that we are trying to figure out the intention of Billy and Elizabeth when really there's nothing in here about the intentions.

Ms. Akutagawa: From what my understanding was when we did review one transient vacation rental

application, we looked at additional permits not just an SMA minor. We looked at conditional use permits so I'm thinking if they want to go in and get a vacation rental they have to follow the same kind of rules that that particular applicant had to follow in getting his permit approved. So my understanding is o.k. they're going to use something that's contrary to the uses specified in this application, they still gotta come before us. Is that correct Corporation Counsel?

Ms. Young: Yes and if the concern it sounds like it's primarily that the concern is the use of this ohana should not be a vacation rental use, that could be set forth in an additional criteria or an amended...

Ms. Loudermilk: As a condition because on page, starting on top of page three going through the middle of page five, these are the criterias that we are looking at and what Cindy has been indicating in relation to the motion as part of this criteria you gotta identify where in here, it doesn't fit. That's what Cindy is saying and you have to provide that to the department should the motion pass because your findings of facts and your recommendations are different from that of the department. So that is all that Cindy is saying at this point and time.

Ms. Young: That could be part of the motion. That whether you're saying that this application is contrary to, for example to the community plan, than you would site criteria H, that in your motion that basically this project does not meet that criteria and so that the department could properly redraft the order.

Ms. Buchanan: So Cindy I would say that I have a problem with item two, page four, item A, "such adverse effects shall include, but not be limited to, the potential cumulative impact of individual developments, each one of which taken in itself might not have a substantial adverse effect, and the elimination of planning options;" so if I have a problem with that than I have to site that in my motion?

Ms. Young: Yes, and it will also be helpful to the department to explain why you think that this project does not comply with that provision.

Ms. Akutagawa: Commissioner Buchanan you have suggested language or any specific criteria that you take exception to with respect to this application?

Ms. Buchanan: No this is just something new, before when we made our motions in the past, denied or what ever we never had from Counsel that we had to specifically state what we had in the recommendations that we didn't agree with. So this is new to me and I've been on the board now for two years. I know we had to say why we disagreed but to put it into the motion I never had it said that I had to do that before. I did earlier have a problem with that and it's the cumulative impact of

all these ohana dwelling, taking all together one at a time is not, you have to go individual. But as we seen with other people we had mentioned in the past and we have approved did not gone through with what they said and than the only option after that is to be complaint driven and to call the planning department and put in a complaint and say you know what, so and so never do what they said they were going to do. That's what we trying to avoid. But it's fine, all I can suggest at this time, siting that on page four, item two, A, as being my reason. A motion has been made, let's vote on the motion, if the motion passes or fails we can do another motion.

Mr. Vanderbilt: Robin on page four item 1-A, is this a development? This project? It says all development in a special management area shall be subject to reasonable terms and conditions set forth by the authority to ensure adequate access by dedication or other means, to publicly owned or used beaches. So when we're looking at like on Maui the beaches are getting pretty build up with major houses and everything else, the beach front, is it the authority of this commission to ensure that through some of these residential subdivisions that there is access to the beach? What is this 1-A mean, maybe not for this project but for the future.

Ms. Loudermilk: My understanding of the 1-A is one of the mechanisms for the respective counties to develop and implement access to public shoreline areas. Just generally.

Mr. Vanderbilt: When they talk about the authority that's us right? Are we the authority or is it somebody else?

Ms. Loudermilk: Authority in this particular sentence is the commission. The respective commission.

Mr. Vanderbilt: So it's up to use to provide adequate access.

Ms. Loudermilk: No, it's up to, you are given the authority to condition a permit to allow for adequate access.

Mr. Vanderbilt: So if there was an area that had a lot of homes like on Maui where these homes are coming up and blocking beaches, five were approved and the 6 came in with still no access the planning commission could say you get this approval with a condition that you would have to provide public access.

Ms. Loudermilk: It has to be based on something. You cannot do it arbitrarily. One if it's a known access point that has been used by the public or two, if it's part of a some sort of master document put together by the county, it could be conditioned but than the county would have to purchase it. The access could be provided, however other things could occur.

Mr. Vanderbilt: You concur with that Corp Counsel?

Ms. Young: Yes. That is correct.

Mr. Vanderbilt: Thank you.

Ms. Loudermilk: The Parks Department, for example, the Parks Department doesn't have the authority, they can buy the property but they don't have the authority to condition the permit. When application comes before this body and it's in the special management area, based upon the information provided, to the commission or information that the commission has they have the authority to impose conditions in relation to these particular areas.

Ms. Young: I just have one additional comment on the motion and the motion being made, if denied on page four, two A, I guess the question would be, what does the adverse effect is that this commission feels the project will have? That would be important for the department to draft its order. The other part would be, what cumulative impact is being contemplated here that would be from this part, what cumulative impact is the commission concerned with?

Ms. Buchanan: The impact would be that all the dwelling, the second dwellings on all the homes up Kawela on the beach are not being used for single family dwellings. They are being used as transient vacation rentals.

Ms. Akutagawa: I think this has to be project specific. You cannot punish an applicant for other peoples actions.

Ms. Buchanan: It's a long term effect over a long time. Because at this point I don't see that there's not a real need for it but in the future if you can come back and ask for another permit to build a second dwelling, like we had in the other case. They came in for an additional conditional use permit after one was already built. He can do that too.

Mr. Shimizu: I'd like to say something. I think we just assuming a lot of things. If we pass this thing who's supposed to be policing this thing? I think that's the biggest thing. Who's supposed to be policing this thing. If he's caught doing what he's not supposed to be doing, making a vacation home, what is the penalty? What's the penalty?

Mr. Boteilho: Well if you catch it early enough it's cease and desist. Other than that basically \$1,000 a day fine.

Mr. Shimizu: If he going use that for a vacation home pull the permit so he cannot make a bigger

home. I mean, you know I think we trying to assume too many things and there's nobody to police this thing. You know on the east end where get a lot of vacation homes I think it's none of our business. I think the county is supposed to be policing this thing. So I cannot see denying him. He meet every criteria. As far as I'm concerned, I won't deny him. I don't want to be ending up in court.

Mr. Ribao: I have a question, was Lori's motion seconded?

Ms. Loudermilk: Yes.

Mr. Ribao: O.K.

Ms. Akutagawa: I think the only issue is what ever criteria Lori set out, is that adequate? O.K. if we have no more discussion let's go ahead and vote on this thing already. Anybody else want to say anything before we go?

IN FAVOR: COMMISSIONER LORI BUCHANAN

OPPOSE: COMMISSIONER'S CHARLOTTE SEALES, ROBERT RIBAO, KIP DUNBAR, DEGRAY VANDERBILT, NOBUO SHIMIZU AND MALIA AKUTAGAWA.

MOTION FAILS.

Ms. Akutagawa: Motion fails. The Chair will entertain another motion.

MOTION: I MAKE A MOTION THAT THE SMA MINOR PERMIT REQUESTED BY WILLIAM AND ELIZABETH PEPPER BE APPROVED WITH THE CHANGE UNDER RECOMMENDATION NUMBER FOUR THAT IT SAYS FIVE YEARS INSTEAD OF THREE YEARS.

MOVED: COMMISSIONER ROBERT RIBAO

SECOND: COMMISSIONER NOBUO SHIMIZU

Ms. Akutagawa: Discussion.

Mr. Dunbar: I think I like that. I don't have a problem other than we need to add as a condition that right up front it cannot be used as a vacation rental.

Mr. Pepper: I never said that.

Mr. Dunbar: We understand that but a lot of people said that they wouldn't and they have, that's our concern.

Ms. Akutagawa: It's just as a condition. Does not reflect anything else that you're proposing.

Mr. Dunbar: We're in discussion so the condition is that it not be used for anything other than residential purposes and specifically not short term purposes, short term residential purposes. I mean he can do long term, anybody can do long term. The condition that it not be used for short term.

Ms. Akutagawa: Commissioner Dunbar, if you can make that in a form of a motion to amend and someone can second that and then we can vote on that.

Ms. Young: What you can do is somebody can make that into a motion, another member could second that motion to amend adding that condition, you would vote on that motion to amend, if that motion pass, then you would vote on the main motion as amended.

MOTION: I WOULD LIKE TO MAKE A MOTION TO AMEND THE MAIN MOTION TO INCLUDE THAT THE OHANA UNIT FOR THE PEPPER'S NOT BE USED FOR SHORT TERM RESIDENTIAL PURPOSES.

MOVED: COMMISSIONER KIP DUNBAR

SECOND: COMMISSIONER DEGRAY VANDERBILT

Ms. Loudermilk: Technically you can go into executive session.

Ms. Akutagawa: Do we need to discuss this?

Ms. Young: You could discuss the motion to amend before you vote on that. But it should just be on the motion to amend.

Ms. Akutagawa: Any discussion on the motion to amend?

Ms. Buchanan: You cannot do that? You cannot put that on as a condition? We tried that before and Corp Counsel said we couldn't do that because that was being too specific and that was not advised that we could not do that. You couldn't be that specific as to the use if it's in the future because they could come in for an amended use or a special conditional use permit, you cannot do

that, that is what I understand.

Mr. Boteilho: Madam Chair if I could suggest maybe, if I could suggest wording. Maybe we can say something like the conversion of the ohana to a use other than single family dwelling purposes will require a special management assessment.

Ms. Young: You could withdraw your amendment to the motion.

Mr. Dunbar: I withdraw my motion to amend.

Mr. Vanderbilt: I have something that the permit be non-transferrable.

Ms. Loudermilk: Commissioner Vanderbilt is correct. For the main permits that come before the non-transferability and again because of the time frame, I would concur with Commissioner Vanderbilt in this instances because we are talking a longer term than the normal timing that we have for a minor. In this situation...

Mr. Dunbar: Is it condition #6, that it be non-transferrable?

Ms. Loudermilk: #7.

Ms. Akutagawa: I think it's #6 because #5 is further refined.

Ms. Loudermilk: Well we have #6 that full compliance with all other applicable governmental requirements shall be rendered. Bobby can withdraw.

Ms. Akutagawa: O.K. withdraw and let's start all over, please.

Mr. Ribao: Can I just do this, put the additions that I want to do to my original proposal? In other words, to add #7 in. Do I have to withdraw everything?

MOTION: I WANT TO AMEND MY MOTION TO ADD UNDER RECOMMENDATION #5, THE CONVERSION OF THE OHANA TO ANY OTHER USE OTHER THAN A SINGLE FAMILY DWELLING WILL REQUIRE A SPECIAL MANAGEMENT ASSESSMENT. IN ADDITION #7, I WOULD LIKE TO ADD THAT THE PERMIT BE NON-TRANSFERRABLE.

MOVED: COMMISSIONER ROBERT RIBAO

SECOND: COMMISSIONER DEGRAY VANDERBILT

Ms. Akutagawa: The non-transferability clause is something inadvertently overlooked in the staff recommendations. Basically you cannot transfer your permit to another owner if you sell your land.

Ms. Loudermilk: It's basically that you understand.

Ms. Dunbar: Do you understand?

Mr. Pepper: Yes, I understand.

Ms. Akutagawa: Any further discussion before we take the vote?

MOTION UNANIMOUSLY APPROVED ON THE AMENDMENT TO THE MOTION.

MOTION UNANIMOUSLY APPROVED ON THE AMENDED MAIN MOTION.

After a short recess the meeting was reconvened at 3:05 p.m.

C. CHAIRPERSON'S REPORT

Ms. Akutagawa: I just wanted to let you know that I received two communications. One from a Dave Curtis representing Yola Forbes. This is a request for approval for an exemption for a small pedestrian ramp to accommodate handicap access to Ms. Forbes attorney office in Kaunakakai. I guess if staff could kind of cue us in as to why this is not an exemption or why does this require an SMA minor permit. We're not going to be taking any action on this, only to convey the communications. If staff has a response as to why this is not something that can be exempted, if not, how long will the process take.

Mr. Boteilho: Madam Chair I will have to brief you on the next meeting. I simply don't know where it is in the process. I guess, I'm not sure exactly what the criteria is as to why this is a development.

Ms. Akutagawa: I think it's real minimal. I know Ms. Forbes also has some problems getting up the stairs so I think something as simple as this is needed, if you can check on this.

Mr. Boteilho: In general, we would agree that we should get rid of cumbersome regulations. So we have to look at this further, exactly why it is a development. Maybe your next meeting I can brief you more on this.

Mr. Vanderbilt: Madam chair it's less than \$10,000 and it's a ramp for the handicapped children. Right now they are carried into the building. It's for the handicapped children in the ARC program.

This is ridiculous. Clayton Yoshida responds by just sending a 9 page form or 12 page form which requires plans, shoreline setback, 15 copies of this and that, this is ridiculous. He should have at least called Mr. Curtis. That's another reason why it would be good if Molokai had its own planner, it could also act as support clerk too with the budget. Same thing happened with the Neighborhood Store. And it just makes this commission looks bad. There was something in the paper about this, in the Maui News, a front page story. I think they just need some direction. Mr. Curtis if he could find out what he has to do to get on the agenda for the next meeting, call him.

Mr. Boteilho: Point well taken but I'm just not privy to all the details on this. I'd have to look into it.

Ms. Akutagawa: The next one is a letter from Jeff and Chris Patnoe who have requested a lease of a state owned land on Ualapue Fish pond. I guess they're working adversely with different departments and also with the fish pond restoration efforts which may require removal of a mangrove. My question is, is this something that the commission needs to look at? Does this require some kind of SMA permit or?

Mr. Boteilho: This again we have to look at because I'm not sure what Mr. Patnoe means by month to month revocable permit. There's, in fact for fish pond restoration there's a whole bunch of permits you gotta get.

Ms. Akutagawa: If he can follow up with you to see if they're filling out what ever applicable permit applications they need to do and just let us know.

Mr. Boteilho: If we have to we'll refer him to the right agency and we'll let you know.

Ms. Akutagawa: Please contact him.

Ms. Buchanan: On this Patnoe guy I going have a problem on how they removing the mangrove. I would have a problem with that.

Ms. Akutagawa: I believe, I heard this from somebody else. Basically they want to work with the Ho'oikaika people, Tubs Kalipi is supervising Ho'oikaika where they're doing traditional cultivation and fish pond cultivation. So I think basically he just wants to support those efforts. If you can also check with Jeff and Chris Patnoe to see who exactly they're working with and if they're just supporting those efforts or if they have something more aggressive in mind with the fish ponds.

Mr. Boteilho: O.K.

Ms. Akutagawa: I was reminded that the Neighborhood Store issue that we discussed at the last meeting, I believe we had asked that it be put on the agenda. Do you know what happened to respect with that?

Mr. Boteilho: That is scheduled for your next meeting on the January 28 as was represented in a letter to the applicant. We are going to schedule it.

Mr. Vanderbilt: Why wasn't put on for the 14th?

Mr. Boteilho: It wasn't ready. Robin was handling that. What we said last time was that we would try our best if it's earlier. The 28th was the likely date that we scheduled.

Mr. Vanderbilt: I got a call from Pauline and she said she was upset that it wasn't on the 14 and she was given a reason that it couldn't be put on because the agency comments hadn't been received. Now, correct me if I'm wrong, we could have still heard it and made a decision without the agency comments because I don't know what kind of agency comments would have come in on a transfer. But, could we have scheduled it for this week without agency comments on a transfer?

Mr. Boteilho: I'm not sure what the details on this were. But, at the last meeting it was stated that we were looking at January 28. We also have it in writing to the applicant.

Ms. Akutagawa: I'm really concerned about expediting this process but I think also if it has to do with agency comments haven't been received yet I think staff has to exercise its due diligence to get us that information so that we can make a well informed decision. So if we say we need agency comments for this application but on the other one we need, it makes too much of a mess of it. O.K. that concludes my report.

D. DIRECTOR'S REPORT

Mr. Boteilho: O.K. thank you Madam Chair. First of all, microphones, I'm not sure if it's on order but we, our audio consultant has been contacted and he'll be ordering several new microphones. Secondly, it's not on the agenda but just as an announcement sort of thing at the last meeting the commission asked that we do research into illegal transient vacation rentals. This, I have to inform you that the Mayor, we have a directive from the Mayor that we will not enforce as far as the use of transient vacation rentals. We will enforce as far as nuisances, loud noise and parking.

Ms. Akutagawa: What gives the mayor the right to make that kind of executive decision?

Mr. Boteilho: This is based on a good faith effort. I would say that you will be seeing something in

a couple of months.

Ms. Akutagawa: Once this legislation comes out will it come before our planning commission?

Mr. Boteilho: yes. This was brought up last year too. The Council's policy is basically the same. We should make a good faith effort to come up with a process before we go out and enforce the use on people who have been doing it for a long time and their livelihood and all that matter.

Ms. Akutagawa: Which means that also any application to become legitimate, vacation rental operator's are put on hold than? Pending this process?

Mr. Boteilho: No. Some operators have chosen to go through the regular process of a conditional permit or bed and breakfast permit or special use permit.

Ms. Akutagawa: I guess I heard that after Commissioner Dunbar, before he was on the commission, after we approved his permit request there was some talk that other Moloka'i operators were submitting applications. So now I'm wondering that was like a year ago, I'm wondering what's the process, what's going on?

Mr. Boteilho: I'm not sure.

Ms. Akutagawa: If you can follow up on that. I know Diane Swenson was submitting something, I forget who else. Do we have any more information about Halawa? I heard a rumor that you guys were going to exempt one of these Halawa operator's? So I wanted to see if there's any merit to that rumor.

Mr. Boteilho: Not to my knowledge. We have one application pending that's being processed. I have not heard about a decision would be made to exempt them.

Ms. Akutagawa: Who is the applicant?

Mr. Boteilho: Mr. Aki.

Ms. Akutagawa: What about those other people that showed up at that meeting that openly said that they had operations? Have they acted in good faith in submitting an application?

Mr. Boteilho: Last I checked the inspector basically said he had trouble finding other operators. So what we have to do now is do more research and point him in the direction.

Ms. Akutagawa: If you look through the minutes those individuals presented a power point presentation of their operation. I think you should give the minutes to the inspector it'll give him a head start. I guess I'm kind of concerned, they did a good show these Halawa guy's but they still haven't come in on their permits so to me that's an act of bad faith and we need to be cracking down on them.

Mr. Boteilho: Also not only the minutes but there are some other agencies we can check with. This particular inspector was on vacation for a while and when he got back I checked with him and he hasn't found anything since. But we'll get him back on.

Ms. Akutagawa: If any of the commissioner's particularly know who these individuals are you can clue Wayne in on that.

Mr. Vanderbilt: Madam Chair is the Halawa one that didn't provide an application, is this on our list of projects that are pending?

Mr. Boteilho: It should be because if it's not I have to follow up. Let me check with them because I really can't point it out. That's about all I have. Maybe if we can take a short recess subject to the call of the chair until I can look for Robin.

Ms. Akutagawa: O.K. short recess.

The meeting was reconvened at 3:15 p.m.

E. Workshop on amending the Special Management Area rules of the Molokai Planning Commission to include ohana dwellings in the definition of "a single family dwelling". (M. Niles)

Ms. Akutagawa: I made a gross over sight. I forgot to welcome Mr. Feeter as a new commissioner to the Molokai Planning Commission. We're happy to have you on board.

Mr. Feeter: I'm short on speech but I thank you.

Ms. Akutagawa: I've very pleased, thank you for volunteering for this long appointment.

Mr. Feeter: I'll be here for 6 months.

Ms. Akutagawa: Oh, you're filling in for someone. Nobuo and I are leaving at the end of March. But if you guys have any idea on who would be great to serve, put a bug in their ear to apply. Go

ahead Robin.

Mr. Boteilho: First of all Madam Chair I wanted to say that Planner Matt Niles was supposed to conduct this workshop today but he is leaving our department and the situation came up where we had to have him finish up as much projects as he could before his last day and as such Planner Robin Loudermilk has graciously agreed to conduct this workshop. Basically we'd just like to get you started and than we can follow up.

Ms. Loudermilk: My understanding is that nothing has been provided to you. So that is a problem but what I'd like to do today is several things. First of all the special management area permit that we just previously discussed is the major topic of the workshop. A proposal has been put forth to change the definition of single family in the special management area rules for this commission. For Molokai, Maui and Lanai. The background to that had its genesis on Maui, we have close to a 1,000 special management area assessment. Give or take regarding single family residences, the practice in certain location is to build them the same time. So this is the discussion we have today. So we exempted one and than at the Maui Planning Commission they were going to delegate the authority to the Planning Department for the amount of permits. That is not the case with Molokai. That was the genesis and a large amount of those assessments and permits will locate in an area that has been designated for urban development and this type of use. Now there were those areas in which there were extenuating circumstances such as cultural resources, shoreline issues, that in the past you would not have addressed but it had to be addressed up front before what would issue the exemption or issue a permit for the ohana unit. The staff came up with the proposal to redefine a single family to, as indicated earlier under Title 19 and it was one structural with one family. The generic language, we don't have it here, is that the single family would include, the single family, ohana and any other improvements associated for those two. We went before the Maui Planning Commission and they agreed with that. So now we're going out to the other planning commission's, Molokai and than we will be going to Lanai. We do realize that each island is different but with the policy change we wanted to give everybody an opportunity to review and discuss. I don't anticipate any action today because I want to provide you with, with information in relation to that and than secondly, though it's not necessarily on this agenda item, it might also be a good time to go through the shoreline setback variance. I know Malia had asked about different scenario's, if they came in for a sea wall or something that, as far as I know the agenda for the 28th would be the Neighborhood Store, I don't believe there is any other public hearing item and that would be a good time to have this workshop, we can focus on the proposal but it'll also give us the opportunity to take a chance to go through the rules again, be familiarize ourselves with the different documents for both the special management area and the shoreline setback variance procedures. That's basically it for now. Your thoughts and comments?

Mr. Vanderbilt: When does this go before the Maui Planning Commission?

Ms. Loudermilk: About October.

Mr. Vanderbilt: Would it be possible for us to get a copy of the proposed revisions along with a copy of the minutes of the Maui Planning Commission meeting on that subject prior to our next meeting?

Ms. Loudermilk: Yes.

Ms. Akutagawa: Any more questions? I wanted to ask you Robin, I got this transmission of Resolution #03189, I'm just curious what exactly does it entail? It says transfer of development rights, what does that mean?

Ms. Loudermilk: O.K. I have not seen the bill itself, but in general terms a transfer of development rights is a tool that can be used to transfer certain rights for development from one property like this property here, I'll use this the resolution itself to represent a piece of property and my notebook here to represent another piece of property. What ever rights for development are on one piece of property could be transferred to another piece of property. How the tool is used is more for conservation of resources whether ecological, open space, for public use or purpose. What it would allow is that you could increase the density or the type of use. That's the general concept. In terms of..

Ms. Akutagawa: It says transfer to the commission. Was it transferred from what the County Council?

Ms. Loudermilk: This looks like the resolution came from Council member Joann Johnson. I think it came from Council and probably a heads up and something that we should talk about the next time. Normally when something comes out of council, it gets transmitted like the Bill 84. We should have some kind of workshop and get the feed back.

Ms. Akutagawa: It sounds like new powers.

Ms. Loudermilk: It could be, if state law the power has been given to the counties to use this tool.. As of right now Maui County does not have anything in its ordinance to use this tool. So that's what it looks like it's doing.

Mr. Vanderbilt: Theoretically that's what the Ranch was doing with that major subdivision on the Alpha property. The county was transferring rights (inaudible)

Ms. Loudermilk: Under chapter 46 of the Hawaii Revised Statutes, that deals with the powers delegated to the county, one of the provisions if it's the zoning the creation of the commission and

would be the ability to transfer the development rights. So I would recommend to Wayne that we get a workshop on this similar to the Bill 84.

Mr. Boteilho: Madam Chair I believe that this was just included in your packet just for your information for now so that you can read the bill prior to a future workshop.

Mr. Vanderbilt: Maybe at the next meeting or at the workshop we can discuss the agenda and possibly having a community input where people who might be having a problem or might have a concern and this will allow them to talk. I don't think it's something that will get out of hand. I think if it's posted on the agenda the people will know the process.

Mr. Boteilho: Let us look into that. Just to get the back ground information. I'm not sure exactly on how the rules are but I would say that we would not be opposed to such a thing but we would want to find out exactly what the legal parts are.

F. NEXT REGULAR MEETING DATE: JANUARY 28, 2004

G. ADJOURNMENT

There being no further business before the Molokai Planning Commission the meeting was adjourned at 3:30 p.m.

RECORD OF ATTENDANCE

COMMISSIONER'S PRESENT:

1. M. AKUTAGAWA, CHAIR
2. L. BUCHANAN, VICE-CHAIR
3. N. SHIMIZU
4. D. VANDERBILT
5. K. DUNBAR
6. R. RIBAO
7. C. SEALES
8. J. FEETER

ABSENT: 1. J. KALANIHUIA

STAFF: 1. W. BOTEILHO, DEPUTY DIRECTOR OF PLNG.
2. R. LOUDERMILK, PLANNER

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3. K. CAIGOY, PLANNER
4. C. YOUNG, CORPORATION COUNSEL