

MOLOKAI PLANNING COMMISSION

REGULAR MEETING

MARCH 10, 2004

The regular meeting of the Molokai Planning Commission was called to order by Chairperson Malia Akutagawa on Wednesday, March 10, 2004 at 1:15 p.m. at the Mitchell Pauole Center, Kaunakakai, Molokai, Hawaii.

A. CALL TO ORDER

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

B. PUBLIC HEARING (action to be taken after each public hearing)

1. MR. RANDY LITE, Director of Facilities, MOLOKAI GENERAL HOSPITAL requesting a Special Management Area Use Permit for the Molokai General Hospital Addition and Renovation Project consisting of an 11,193 square foot new addition to the existing hospital, a partial renovation of the existing hospital building, and related improvements at 280 Puali Street, TMK: 5-3-009: 017, Kaunakakai, Island of Molokai. (SM 1 2003/0009) (K. Caigoy)

A. Public Hearing

Ms. Caigoy presented the staff report.

Ms. Akutagawa: Before I open it for questions Commissioner Buchanan wants to say something.

Ms. Buchanan: I just have a disclosure to make, same one I made at the EA. Because I'm President of Molokai Mortuary Incorporated we rent out space from Molokai General Hospital and at this time I choose to recuse myself from voting on this issue.

Mr. Dunbar: Because I sit on the Board of Molokai General Hospital I recuse myself also.

Ms. Kalanihuia : As the Chief Administrator I need to recuse myself as well.

Ms. Akutagawa: O.K. so let the record reflect that Commissioner Dunbar, Kalanihuia and Buchanan have recuse themselves but lucky we have quorum. Are there any questions for staff or the applicant?

Mr. Vanderbilt: Is this the time to mention maybe some corrections to the conditions or anything like that? O.K.

Ms. Akutagawa: Are there any questions? Does the applicant wish to say anything?

Mr. Lite: I think she covered the whole enchilada.

Ms. Akutagawa: Any specific questions for the applicant?

Mr. Feeter: Thank you. Bill Feeter and my question are relative to page 12, water. The first thing that came to mind is, the question is that 6" pipe enough for fire fighting and for hospital use? Let me refer back to exhibit 13, where there's a comment about approved fire flow calculations. I'm not an expert in this field by any means, but I believe that it's important for fire maintenance and fighting and as well as hospital use. I have more questions about water but let's stop at that one.

Mr. Lite: Good question. Our mechanical engineering firm and our civil engineering firm did the calculations and they're with the building permit, department now because they were required for the issuance of a building permit. The way that they chose to address the 6" pipe issue was they had a discussion with the Department of Water Supply and they decided that we would bring in a 12" water supply, dedicate it to fire fighting, for fire flow only and they will have a separate meter and a separate box and that would be located, it would come in from Kaiwi Street and come up and there would be a meter sitting over here (referring to map) and that 12" pipe would service all the sprinkler systems and the fire hydrants that would go around the property, that are required for fire flow. That would free up our 6" existing water line for domestic and irrigation.

Mr. Feeter: Thank you Randy. The other question was there seems to be a back flow device in the, as I read through this that was unsatisfactory test and then later on it was also mentioned in exhibit 13, this exhibit 13 is the Department of Water Supply in Wailuku. Maybe you can update me on this back flow mechanism that was unsatisfactory.

Mr. Lite: It was a little embarrassing but here's what has happened. One of the valves that shut off the device so that they can test it failed. So the company that inspects it, Truwell Water Supply informed us of this and we scheduled repairs and in the process of waiting for those repairs to happen we got this letter from the Department of Water Supply. So we said that repairs have been scheduled. So the valve was replaced and the company came back out to retest it again, once the valve was replaced, then the device failed. They fail like every couple of years and you have to change parts inside. Now we are waiting for parts to fix the actual device and we're anticipating that with in the month.

Ms. Buchanan: So you never had the March 3 testing that was scheduled?

Mr. Lite: yes we did. That's the one that the actual device failed. The first failure was, they're all reported as failures of the entire device. The first one the actual check valves inside could not be tested because you couldn't shut it off and isolate it. So they replaced the pieces that the valve that

isolates it and then they found out that the inside check valve actually failed. So now those are going to be replaced and those should be done this month prior to construction.

Mr. Feeter: So that would be remedied than to your satisfaction.

Mr. Lite: Absolutely.

Mr. Feeter: What is your water pressure up there?

Mr. Lite: The water pressure was checked several years ago, it's like 23 psi out of the standpoint at the edge of the hospital. Psi is a relative number because it depends how far you throttle it down and where you check it. That was a check that was done by Leonard Niemchzk on our stand pipe at the top of the hill so that we met fire calculations.

Mr. Shimizu: What is the static pressure?

Mr. Lite: I don't know.

Mr. Shimizu: You hear where I coming from?

Mr. Lite: Yes. All I can say is that the civil engineers and the mechanical engineers who designed the project in conjunction with the Department of Water Supply have designed this to meet current code.

Mr. Shimizu: Maybe I didn't get it but what's your pressure at the fire hydrant?

Mr. Lite: I recall there was 23 psi.

Mr. Shimizu: The county of the Fire Department has the scale saying that it has to x number.

Mr. Lite: That was the test that was done by Leonard and I'm not sure how they conduct the test normally, it was a flow test. He opened up our stand pipe and he actually let it flow across this device that he had and the number he came up with was 23.

Mr. Shimizu: You see because I'm real familiar with all these things because I used to work down at Kaluakoi and they used to check what the pressure and what it should be.

Mr. Feeter: Just a few more. In again in this exhibit 13 there was mention of say heavy metals and it mentions specific of silver and mercury from, it didn't say from what source but I'm assuming

your x-ray units in processing the film there's silver and they mention mercury. I didn't see any where in there where that toxic material or low level is being filtered, eliminated or recycle. I noted, I'm pretty sure they say silver, I'm concerned about mercury or heavy metal.

Mr. Lite:Correct. We do have a silver, it's actually a discharge reclamation device so all of the chemicals that come out of our processor pass through this canister and it collects all of those materials before it discharges into the sewer system. That device is going to be upgraded to a new one when we move into the new facility. It's a good catch. I might not have made a comment to that but if I didn't I'm surprised that they didn't catch it as well. For your information there is a new reclamation device that is going to be put on the processor. There is no mercury involved in the process.

Mr. Feeter: So in your sense there's not going to be any industrial, heavy waste toxic material that will go into the sewer line?

Mr. Lite: Nothing that's above what is legally allowed.

Mr. Feeter: Thank you for that. Again back on exhibit 13 they're stressing the need to save water. Certain events, real important for this island and going back to, it mentions here that you're going to have, possibly half an acre added to the landscaping and it is suggested that you use eurosopic native plants that would require little or no water for that extra half an acre. Your water usage here is 12,600 gallons per day. Which just for the heck I calculated it out it's 4% of what goes to the total amount that the sewage plant can handle. I'm more concerned about saying water in your landscaping in it does mention the county water supply that you do, you are encouraged to save water. So I would like to suggest that (inaudible) not only an educational program for personnel at the hospital to save water but also in your planting and landscaping to use plants that are native and use again little or not water. I would like to see that if possible.

Mr. Lite; Can I respond to some of that? To the extent that it's possible, we would definitely try that and put that as a goal and move towards that. One area we're not going to be able to is the grass that planted around the addition, this landscaping here, this grass area, it was specifically put there so we could meet drainage calculations. The grass that is there now is a native grass and they have different numbers that they use for the drainage calculations according to the civil engineer and just because it has the wild buffalo type grass on it now, that doesn't work for stopping storm run off so it actually has to be landscaped and grassed. Now it's not necessary that we keep it mowed real short and all of that but it has to be a dense grass and it has to be kept alive, we can't let it die. So to a certain extent we're going to have to water it enough to keep it alive. We don't have to keep it like a yard but it needs to be kept alive so it services its function as a drainage barrier.

Mr. Feeter: O.K., but let's conserve water. One last question. I didn't see anything in here about any incinerator for pathological debris, left overs, tissue etc., is there such a thing?

Mr. Lite: There is not an incinerator that uses fire to incinerate regulated medical waste. The way the hospital treats its waste is that we use gravity steamed sterilization and we basically cook it at temperatures and time limits exceeding with what the Department of Health requires. Basically if you cook your regulated medical waste at 250 degrees for 30 minutes it kills any pathogens known to man. So, what we do is we cook it at 270 for 45 minutes, we document everything that we do and than it is rendered non regulated medical waste, it's regular waste. Than we take it to the dump and they dig a special hole for it while we wait and than we dump our barrels in there and they cover it back up. We also have for pathological waste, Kemo waste that we anticipate generating pretty soon we have an agreement with a company on Maui and we can actually ship out those types of waste to them where they have a flash incinerator and they'll incinerate it for us.

Mr. Feeter: That's what I needed to know. Thank you very much.

Mr. Vanderbilt: With regard to the water, I know there's an effort to save water on the island but also for landscaping up at the hospital can be a very soothing thing and some kind of nice places can be developed for families and patients that are out there for some crying time. So you may want to conserve as much water as possible I would try to make the spaces nice soothing type spaces where people can get a little comfort.

Ms. Buchanan: Randy exhibit 12 if you can turn to exhibit 12, it's a letter from the Molokai Police Department from Ronald Sagario and he asked a good question and I never thought about this question before so when I read it I said it's a good question. He's asking if item two of his letter about during and after construction there's no alternate route to the hospital to Puali Street for what ever emergency reasons needs to be closed. Example motor vehicle accident. That's a good question. I was just wondering if the hospital could address that question on alternate route in case of what ever emergency might come up since it's the only road and you're only going to have one lane open during construction and if that one lane gets closed for what ever reason. What is the other access route to the emergency room facility?

Mr. Lite; That comment was also kind of similar to his first comment. He wanted to know about there's only one road and than also there's also concern about distance. We tried at the one site of this, we gave our architect construction to see if there was a way to address this issue and with the budget hearing constraints due to it's all grant funded, we could not come up with a way to, we really got only one choice and that's the little short Kaiwi Street stub out. If we can some how access the hospital through that way. We could not afford to do it and still build what we actually needed. So, as I guess a next best alternative we tried to get our emergency department as close to the entrance

of the hospital campus as possible. I don't remember if we have, I think our calculations are in here but we were able to reduce the distance of travel from the time that they cross our property line onto our campus to the doors of our emergency room by 57% and in addition to that the ambulance, we have this little short ambulance loop that they pull off that's ambulance only, it's this one right here, so whereas before, vehicular access was up this road and all the way around behind the hospital and back to here. We shortened this back up to here. So now the area at risk has been reduced from here to here. We felt that it was kind of the best we could do because we couldn't afford to basically put in a second road and all the improvements that go with it and still have the space and the money to build what we needed. Does that answer your question?

Ms. Buchanan: Yeah the answer is no, there is not another route. That's the answer. That's something the community should look at and not only the hospital be stressed to find the funding for. It's a really good question you know because I can see where you come from Ala Malama, what road is that? And you might have some place where the county could retain a roadway or a passage way to come in the back of the hospital premises some how. If something for future to think about for the county that they acquire the lands and the empty lot next to the residents, they could acquire that and make a back road to the hospital facilities. Because it is empty and it is feasible to have that emergency lot. It could be a dirt road.

Mr. Dunbar: Maybe to address a little bit of the fears there, I don't know exactly where (inaudible) an accident would occur. If it occurred between the hospital entrance and the rehab center they could always use the driveway where people park the cars, where they can come back out through the native koa tree's that are there and get up to the hospital. If it happened down say in front of the armory and you go in the armory lower gate and come out the armory upper gate and still access that road. If it happens below that than you come in around the back side of the, pass the gym, that back side road and get on the main road. So if it happens between Oviedo's and that first road than you can use the back road. If it happens, the only part that would be in question is if it happened between that back road and the armory road. The only spot, that's about 25 or 30 feet or something. Good question but once you get beyond that spot you can go in the armory and out the armory or you can, if it happens above this rehab center than you can go right about rehab center into the parking lot and back up. I realize how thoughts prohibit the road here. It would be an ideal situation but I also feel a couple of rough road avenues to get in there if you have to.

Ms. Buchanan: If anybody have any other comments for Randy Lite?

Mr. Ribao: If there is some kind of chemical spill there that would not allow anybody to go out that direction. Dirt road or not. So in the future I think some thing should be kept in mind to get a road to come through the back some how because if you have to evacuate your hospital for what ever reasons and come up to the other area you kind of up the creek without a paddle. So just to keep that

in mind. I not saying will happen, I hope it will never happen.

Ms. Buchanan: I think the county could acquire some lands to do that as part of the county's responsibility instead of the hospitals responsibility. Please make note of that for the County Council.

Mr. Vanderbilt: Randy who owns the land behind the hospital where you might have a back road going in? I can't see.

Mr. Lite: Are you talking about back here? The hospital owns everything you see on this map. It's all hospital owned. These are private lots in Ranch Camp.

Mr. Vanderbilt: How about up towards the writing there, that would come over and connect to Ranch Camp?

Mr. Lite: Molokai Ranch owns everything back here and there's a large gulch on this side. There was once a road that came off right here by our back flow preventor and it goes right along this area, right along here and it comes up and it kind of stops. There once upon a time be septic tanks here and I suppose with a cat and a little bit of grubbing and a little bit of work on this hill right here there'd be some type of work. But once again it would be the kind of unimproved type of road that you guys are talking about.

Mr. Dunbar: Randy, what would it take just to drop some dirt right there by Kaiwi? Does it have some kind of cement feeding off right there?

Mr. Lite: That's a good point. If it came to a really nasty situation, right now there's a lot of slopes here. It's unimproved. When this project is done they would have trenched through Kaiwi Street to connect us to our 12" water main so they would have left it in a smooth state. Not smooth, smooth but good enough to drive over if you had to. This is all going to be landscaped and planted in grass with some surface irrigation on it so if you really got into a pickle it would be drive able to drive over this. I wouldn't do it in a Cadillac or a limo but I'm sure a vehicle could get through there.

Mr. Dunbar: Thank you.

Ms. Akutagawa: Any more questions? Thank you Randy. Anyone in the public wishing to testify on this matter? At this time public testimony is closed. We'll have staff recommendation.

B. Action

Ms. Caigoy presented the staff recommendations.

Ms. Akutagawa: Any questions of staff?

Mr. Vanderbilt: On the conditions on page four, starting at the top, the planning department recommends approval, for what term, 10 years, 20 years? Perpetual?

Ms. Caigoy: Recommends approval of the project.

Mr. Vanderbilt: For the special use....

Ms. Caigoy: For the special management area use, their permit application.

Mr. Vanderbilt: O.K.

Ms. Caigoy: Specifically the proposed project shall be initiated by March 31 and completed in 5 years. In speaking with Randy prior to this meeting he indicates that this time frame is more than adequate.

Mr. Vanderbilt: On number two, the time extension shall be requested no later than 60 days prior to the completion deadline. Isn't there maybe a need for that same line at the end of one in case for some reason a time extension is needed there?

Ms. Caigoy: Not having your rules in front of me but I believe the SMA rules for the Molokai Planning Commission, there's a section in there that talks about time extensions and requires the applicant to file a request, I believe it's 60 days prior to the expiration.

Mr. Vanderbilt: That's fine but that's why it was put in number two? I'm saying it's in number two and why isn't it in number one?

Ms. Caigoy: We can add that as suggested, number one.

Mr. Vanderbilt: I didn't look at the rules.

Ms. Caigoy: I just want to confirm that it's 60 days.

Mr. Vanderbilt: The other thing is, on number 9 it says that the applicant show, submit plans regarding the location of any construction related construction but not limited to trailer, sheds, equipment. I don't know if that's equipment storage areas or just equipment in general. They have

to submit the plans that the planning department for review and approval. Now when they get going on construction times and money, even the littlest things take them a lot of time for the planning department to review so I was just wondering if there's really a need for this or where it could be made more general. I just don't want them to get burn because they have to bring a construction trailer in because we need to do something and now we gotta go back to the planning department and get the approval, I was just wondering how necessary number 9 is.

Ms. Caigoy: That's a good question but that's been a standard condition on all of our permits. I'm not sure exactly where it originated from or for what reasons. I think the intent is just, I don't think we will require the applicant to submit a plan if he's going to move one storage shed. I don't think we would give that detail on the applicant. I think it's when construction is initiated and they got their general lay out, that would be submitted to us and that could be done as part of the preliminary compliance report of condition 10.

Mr. Vanderbilt: May be that could be made clear. But Randy's done such a good job especially on the EA and everything else. So he's keeping track of everything.

Mr. Lite: Normally I would agree that that could be a potential risk that we might face but in our particular circumstances we have the nurses quarters at the lower portion of our property and we're going to lease that building out to the construction company that's going to build the hospital. So those trailer's that they put on site are going to be reduced by that amount. So we're not anticipating a lot of them. I don't think that this is a real high risk item.

Mr. Vanderbilt: Thank you.

Ms. Akutagawa: Before somebody makes a motion can someone put (inaudible) landscaping in there and that a reclamation device be installed so that we don't have to amend, and amend and amend. Any questions from the commission? Anyone wanting to make a motion?

Mr. Vanderbilt: In the future it might be helpful to the commissioner's who are trying to review all this that are some of these additions such as the one Bill brought up on page 6, number 14, he's been talking about this over and mercury and if I don't know how it could be done but in parentheses, per the Department of Health letter dated September 13. So when we're reviewing it we know where it came from. The other thing on number 7, 22, HVAC, that wasn't defined any where. Not that it's a big thing but what's HVAC?

Ms. Caigoy: That's the heating, ventilation, air-conditioning system. I can spell that out.

Mr. Vanderbilt: Thank you.

Ms. Akutagawa: Anyone wants to make a motion at this point?

Mr. Boteilho: Madam Chair since no one objects we can take it as a friendly amendment and we'll make the changes. If you have consensus we'll make the changes. Commissioner Vanderbilt feels otherwise and we need to move on this so can someone make a motion?

Ms. Buchanan: Would something like adding the last sentence on item 2 to item 1 about the time extension and than also item #9, condition #9, either way we can leave it it's not a problem. Also item #14, at the end of that sentence, wasted medical facilities, he can say something like and that a new reclamation device be installed. You can also add condition #23, about zero scaping and using plants suggested by the Board of Water Supply list preferred planting and planting non-evasive and hopefully native and indigenous Hawaiian plants to the landscaping.

Ms. Caigoy: What if instead of condition #23, I just expand on condition #16, part of the water conservation and irrigation measures.

Ms. Akutagawa: I guess within limits in terms of what Mr. Lite said about the leach field and certain types of plants. The drainage factor within the drainage factor issues. To that extent.

At this time I really need somebody to make a motion.

MOTION: I MOVE TO ACCEPT THE RECOMMENDATION BY THE PLANNING DEPARTMENT FOR THE MOLOKAI GENERAL HOSPITAL REQUESTING A SPECIAL MANAGEMENT AREA USE PERMIT FOR THE MOLOKAI GENERAL HOSPITAL ADDITION AND RENOVATION PROJECT CONSISTING OF AN 11,193 SQUARE FOOT NEW ADDITION TO THE EXISTING HOSPITAL, A PARTIAL RENOVATION OF THE EXISTING HOSPITAL BUILDING AND RELATED IMPROVEMENTS AT 280 PUALI STREET, TMK: 5-3-009:017, KAUNAKAKAI, ISLAND OF MOLOKAI. AND THE RECOMMENDATIONS BY STAFF WITH THE ADDED CONDITIONS, THAT A TIME EXTENSION SHALL BE REQUESTED NO LATER THAN 60 DAYS PRIOR TO THE COMPLETION DEAD LINE ON CONDITION ONE, CONDITION 14, AND THAT A NEW RECLAMATION DEVICE AND ON CONDITION 16 WE'RE ADDING ZERO SCAPING TO THE BEST OF ABILITY.

MOVED: COMMISSIONER CHARLOTTE SEALES

SECOND: COMMISSIONER NOBUO SHIMIZU

MOTION UNANIMOUSLY APPROVED.

Ms. Kalanihulia: I 'd like to speak as the Administrator and also as a citizen and a member of this community, Randy has spent two years on this project and it does show. He has many, many masters, he has Queen's , he has you folks, he has the county, he has the architects, he has me, he put really a lot of time into this and he's produced a fine product and a hospital that we're really going to be proud of. So I'd like to publically thank him for the work he's done to date.

After a short recess the meeting was reconvened at 2:20 p.m.

C. APPROVAL OF MINUTES OF THE DECEMBER 10, 2003 MEETING

MOTION: I MOVE TO ACCEPT THE MINUTES AS CIRCULATED.

MOVED: COMMISSIONER LORI BUCHANAN

SECOND: COMMISSIONER JANICE KALANIHUIA

MOTION UNANIMOUSLY APPROVED

D. CHAIRPERSON'S REPORT

Ms. Akutagawa: Some commissioner's have asked me to raise certain issues. The first one is to let you know that there's a community information meeting tonight at 6pm at Kulana Oiwai and this is in regards to the handout that Commissioner Buchanan submitted. This is for the Molokai Ranch Community Based Master Plan. The Molokai Enterprise Community Governance Board, Ke Aupuni Lokahi is sponsoring. A conservation fund from Washington will be crafting a career based on community input. So if the commissioner's can make it or spread the word on this meeting to attend, please do so. I wanted to raise a concern about this. I was invited last night to an economic sub-committee meeting I believe in my capacity as Director for the Rural Development Project. I didn't make any comments at that meeting it was my objective to just listen and observe. Now in my capacity with the planning commission I'm a bit concerned whether any of these planning efforts may potentially impact the Molokai community plan and the efforts that this commission has undergone in terms of Molokai Ranch. I know of one thing that has been an issue prior was the La'au Point proposal to create a resort/subdivision down between Hale O Lono and La'au Point. At the time the Planning Director Was John Min and he had asked Corporation Counsel to submit an opinion and the issue was the community plan amendment, whether an EIS , or SMA permit and things like that. In looking at the planning for this Molokai Ranch I'm concerned that potentially this could uproot the effort for this planning commissioner in terms of what the Ranch has done in the past and public input. I'd like to suggest that at the next planning commission meeting scheduled for the 24th that the Ranch and the Enterprise Community, I believe the President is Stacey Crivello

be present to do some kind of presentation and answer some of the concerns that the commission and the community may have with respect to how this may potentially impact the Molokai Community Plan and the work that this commission has done.

Also, Commissioner Vanderbilt has asked me to raise these certain questions. One is the status of the Neighborhood Store. Has the paper work been sent to the Council for action on transfer of the conditional use permit and if so when? What is the estimated time frame where the council would make the final decision.

I don't know if you have a ready answer Wayne?

Mr. Boteilho: I'm not certain if it has been sent yet. Due to our deadline set by the charter it should have already been sent up or should be sent up soon. Now when the Planning Committee is going to take that up, we have no jurisdiction.

Ms. Akutagawa: Degray you have a question?

Mr. Vanderbilt: You recall the last minute, at the last meeting the planning commission made its recommendation and we were told the deal was dead, or probably going to die because of our recommendation. Do you have any evidence of whether it died or continued or what happened?

Mr. Boteilho: No.

Mr. Vanderbilt: So as far as you know the deal went through?

Mr. Boteilho: As far as I know we transmit the application to the Council. What happens privately between those parties we don't get involved with that.

Mr. Vanderbilt: O.K. thank you.

Ms. Akutagawa: Perhaps you can follow up and see where it is in that process and put that in your report. Was suggested by Commissioner Vanderbilt that future agenda's that, this standard agenda item be put in and that will be community input to the commission. I believe, according to Commissioner Vanderbilt Wayne stated that he and Corporation Counsel would look into that issue if it's proper. Have you an answer at this time?

Mr. Boteilho: To be frank no, we have not begun that process. I've been busy with a lot of other priorities.

Ms. Akutagawa: If you can follow up at the next meeting.

Mr. Boteilho: O.K.

Mr. Vanderbilt: I think a quick call to the Office of Information Practices you'll find that there's no problem with that. If no action is taken on the item and it gives the chance for the community to bring up issues they've made in enforcement or planning or something that maybe the planning commission can help them out.

Mr. Boteilho: O.K.

Ms. Akutagawa: This was a request by Commissioner Vanderbilt regarding the duplicate files in the Molokai Planning office and I believe you said you guys were working on it Wayne, but what's the status on that?

Mr. Boteilho: The status is we're going to start now. We're short handed and it was difficult to set up a system. We had to figure out who will do the xeroxing, how we're going to get it over here and all that sort of thing. What we're going to do and I've spoken to Nina, we're going to fly Nina over to Maui about once a week and she'll be copying the files and kind of logging them and bringing them back to Molokai.

Ms. Akutagawa: O.K. good idea. Commissioner Vanderbilt asked about a staff planner for Molokai, is there any provisions in the tight budget that would allow for that?

Mr. Boteilho: Well in next year's budget we're asking for three more Planner III. Our intent with those Planner III's is to get the back log down that is happening in current planning right now with all their applications, change of zoning, SMA, we want to get that back log down. Once we get that back log down than we can look at other options such as starting to assign certain planner's to different islands or different regions.

Ms. Akutagawa: Finally what is the status of the proposed legislation to allow one SMA permit for primary house and ohana units? Would the commission be, would it be more prudent for the commission to amend it through to reflect and what did the impact to ohana units being built without an SMA permit?

Mr. Boteilho: The first question, I'm pretty certain that the commission did not want to adopt that rule change. So there would be no rule change necessary.

Mr. Vanderbilt: So that was relayed to somebody that that was the planning commission's decision

on that?

Mr. Boteilho: Yeah to the Planning Director.

Mr. Vanderbilt: In writing or verbally?

Mr. Boteilho: Verbally. The second part, it is illegal if you build a second dwelling, you should get an SMA if you're in the SMA zone. In fact I was talking to Degray earlier and what we're going to do is provide a list of all the SMA's granted on Molokai within the past year. We'll see what we can do. We have this computer system that can generate list and if we're able to do it quickly with the computer system than fine. If not, it might take a bit of time because than we have to do it manually.

Mr. Vanderbilt: I guess my only question was that the Pepper's came in for a permit for their ohana unit and from what I understand in talking to Ralph a little bit is that somebody just goes and builds an ohana unit without a permit he's not going to have to tear it down, he might have to pay a couple of thousand dollars penalty and if that's the case I would recommend to everybody to just go and build them. Because that's just the cost of doing business. But I think there's gotta be some kind of clarification of what the rules are and because if you're a business man or anybody else it's just the cost of doing business. You build it and if you have flack and they talk about an after-the-fact permit and what would happen if they went for an after-the-fact permit and came to this commission and this commission didn't grant the permit, what would happen then?

Mr. Boteilho: They could not occupy it.

Mr. Vanderbilt: So if they build without a permit?

Mr. Boteilho: Basically yes. They couldn't use it as an ohana dwelling. Maybe they could use it as a shed.

Mr. Vanderbilt: The reason I ask is because going east of the Pepper's or going west from the Pepper's, both sides, there's been quite a bit of new construction going up with two houses on a lot. I don't think anybody's come before this planning commission for an SMA permit. I understand to get a building permit for an ohana unit you have to have an SMA permit. Maybe we all need to look into that.

Mr. Boteilho: We'll try to get that list.

Mr. Vanderbilt: Thank you Madam Chair.

Ms. Akutagawa: One more thing, Nobuo and my term is coming to an end at the end of this month. I'm concerned about getting good commissioner's on this commission and I talked to Council Member Danny Mateo at the last meeting and I asked him if there were any applicants for the commission and he said there was just one and I asked if it was too late to have names submitted and he said that we could have names submitted directly to the Mayor's office. So I want to encourage commissioner's individually to go out into the community and people that you feel would be a good asset to this commission that you encourage them to apply and if I can have Wayne, staff, give the procedure on how you can get these applications out, how you can have access to the applications.

Mr. Boteilho: They already appointed two and looks like the Council is going to confirm.

Ms. Akutagawa: Who are these individuals?

Ms. Alcon: Sherman Napoleon and Mike Tancayo.

Ms. Akutagawa: O.K. Just to keep it for future reference people. Please keep an eye out on who you feel would be good commissioners and we'll have them apply.

Mr. Boteilho: You know what is the best thing, next year, any commissioner, if you have somebody in mind that you think would be good just let me know and I'll take it from there and I'll get the application to them and everything.

Ms. Akutagawa: If you can kind of give a heads up, couple months in advance, tell the commission o.k. so and so is up, please encourage people to apply. Thank you Wayne. So make sure that the EC people are here at the next meeting.

Mr. Boteilho: I'm going to try my best I cannot guarantee that they can come or time on that day, but I'll try my best.

Ms. Akutagawa: I think it's important that this goes on our agenda and if you can convey that to the EC president and she stated that she's going to submit a letter to the planning commission on what's going on and Nina informed me that she has not. But I prefer to see her in person and field any questions this commission and the public might have. So please express to them the importance of this issue.

E. DIRECTOR'S REPORT

1. Updates on:

- A. Patnoe letter
- B. Dave Curtis Letter
- C. Halawa Valley

Mr. Boteilho: Madam Chair first up we have the Patnoe letter. Actually he has been working with our department since last year and he has been directed to DLNR who has the first jurisdiction and he already has a permit application in. So he should be fine. Jeff and Chris Patnoe wanted to restore but they wanted to start with some tree trimming, mangrove areas.

Dave Curtis letter. We have received his application and his filing fee, I have to commend Commissioner Vanderbilt for helping us in this process. We are expediting it. We had first hoped to get this on the agenda at your next meeting March 24. That's looking less and less likely because we need to get back to him, we need plans, construction plans. We need to look at that. So it might take a little bit longer. I fully expect that this will probably be an exempt action or at the very most an SMA minor which is fast. The Director just signs off.

Mr. Vanderbilt: I believe, didn't Mr. Curtis provide you with construction plans earlier, if you look in the file there were already some construction plans for this earlier?

Mr. Boteilho: This has just been assigned to a planner so the planner mentioned that to me and yeah, I think I have some construction plans here.

Mr. Vanderbilt: So if it's an exempted action it doesn't come before this planning commission if you guys decide that there's not a permit needed.

Mr. Boteilho: Yes.

Mr. Vanderbilt: Who's going to make that decision, the Planning Department?

Mr. Boteilho: The Planning Director.

Mr. Vanderbilt: You know Yola Forbes had another stroke, she's having trouble getting into her office, all these kids in wheel chairs, they gotta lift them into the office, it's getting kind of embarrassing for the planning commission. Hopefully you can get this thing exempted real quick. Because I talked at the zoning, who is it Celeste in there? She said once you get a number assigned to it she would rush it through.

Mr. Boteilho: Celeste must be some other department.

Mr. Vanderbilt: Who are the girls in zoning? Starts with a "C".

Mr. Boteilho: Cheryl.

You know if I could comment on this whole issue. The SMA law was changed in 2001 to say that you must assess basically, well its been interpreted that you must assess everything for a cumulative, environmental and ecological impact, personally, I agree with you. I do not think the law was intended to go that far. Especially for something that is like over night tents in county parks. So, we're looking at that. Again this kind of stuff takes time. We are working with Parks Department right now and we'd like to, we're going to use Molokai as the pilot project that we're going to try exempt these over night tents on county land. That they wouldn't have to go through this SMA assessment.

Mr. Vanderbilt: Let me ask you a quick question on this. Non structural additions to commercial buildings that's not considered a development is that true?

Mr. Boteilho: What do you mean by non structural?

Mr. Vanderbilt: Cindy do you have the list that are considered not a development in the SMA?

Ms. Caigoy: I can probably answer that. Non structural improvements to existing commercial facilities can be determined not a development provided there are no cumulative environmental impacts.

Mr. Vanderbilt: So what is a structural improvement to a commercial building, maybe Ralph can help us out on that.

Mr. Nagamine: As defined in your rules?

Mr. Vanderbilt: This is a structural wall here. Is a wooden handicapped ramp a structural?

Mr. Nagamine: Well the building code does not have structural improvement. So you could take it as an improvement that's structural, that's supporting a building or it could mean something physical. So if you're saying is the wheel chair ramp supporting the building, probably not. But is the wheel chair ramp physical, probably yes. So it depends on how you use the term structural improvement. It's not essential to the building the building is already there, it's being added on.

Mr. Dunbar: He can build it and come for an after-the-fact permit.

Mr. Vanderbilt: Like the ohana units. Hopefully you guys can exempt this real quick.

Mr. Boteilho: I think the non structural is more like events. Finally Halawa Valley. We have checked everybody that was in the minutes and what I got from the Zoning Administration Division was that those people have joined up with Lawrence Aki, with his organization so they're all under the same SMA assessment. I also asked the inspector but you know, there maybe some, for lack of a better word, road tours going through there. So I said call Ms. Davis so he said he would do that. The thing about the road hikes is that it's hard to catch, hard to enforce.

Mr. Vanderbilt: That's another reason for a planner enforcer on Molokai to do more than just the planner thing he would know some things that would take you guys two weeks to figure out. So it'll save a lot of time and money and so on plus all the planners on Maui wouldn't have to come over here every time.

Mr. Boteilho: I shall respond this way, I agree because I think this department needs 60 something people. When I came in we only had 38. If we get 60 something people than we would start to become a Planning Department.

Mr. Vanderbilt: So long the first of the 60 comes to Molokai, that would be a good idea.

Mr. Boteilho: I'll see what I can do.

Ms. Akutagawa: Wayne you were saying that all these people have joined under Lawrence Aki's SMA assessment, now does that also bring their activities under one assessment?

Mr. Boteilho: Yes.

Ms. Akutagawa: I guess I'm kind of concerned about, it seems kind of, is this proper Corporation Counsel? Just for example, you got other tours going on like boating or what ever are these activities, can they be seen under one umbrella?

Ms. Young: Yes they could be under one SMA, would be similar to the ocean recreational permit, SMA that's being done now and the process is still continuing, yes that's something that we've determined that yes that's appropriate under the ocean recreational permit system and here again under here.

Ms. Akutagawa: O.K. now isn't it true that these activities are occurring on conservation land?

Mr. Boteilho: Yes.

Ms. Akutagawa: So some kind of CDUP required, conservation district use permit and are the acceptance of other permits contingent on whether an SMA is issued, is proper for issuance?

Mr. Boteilho: I'm not sure about the CDUP but the second part of your question I would say yes because if they do not get an SMA than they can't conduct that activity.

Ms. Akutagawa: O.K. now am I to understand that while they're being assessed that they still continuing these activities or has the planning department ordered them to cease and desist until such time they receive permits?

Mr. Boteilho: As far as I know they've been allowed to continue.

Ms. Akutagawa: I believe you guys need to be enforcing this.

Mr. Boteilho: You know this has been a long standing policy, 30, 40 years. As long as your application is being processed than we're not going to stop you until the point where you get disapproved and than we stop you. I'm not sure what I can do.

Ms. Akutagawa: What I'm concerned about is we had a strong East End Policy Statement that's incorporated into the community plan that says no commercial on the East End. To me this is setting a bad precedent where we allowing people who are knowingly in violation to continue to be in violation, it's saying to other entities that are conducting these activities that it's o.k. to do. So I don't care if it's a policy or not because it's a bad policy. So, I'd like you guys to get on this and tell them to cease and desist because it makes our job ineffective if it's going to fault the laws, it makes it ineffective for commissioner's to give up their time and hours twice a month so that other people can fault the law.

Mr. Boteilho: I think the policy side was based more on the good faith efforts of the applicant to seek a permit. The other half I would say we need to look at legal review. I'm not sure if we can just tell them to stop, due process concerned. Also when you have something, a policy that's been done for so long it kind of in effect becomes law.

Ms. Akutagawa: No, that's not true.

Mr. Boteilho: No, o.k. we'll look into it. I'm gonna have legal review on this too.

Ms. Akutagawa: Standard, I've been court rule too and they said just because it's a standard pattern of practice doesn't make it a right, doesn't make it wrong. I really want you to get on this, Wayne, really.

Mr. Vanderbilt: Can I just add something to that? It's not so much, I don't know who the allotted tours are but just in general it makes it tough on this commission that people knowing go out and start a business and hire two or three people and they know they have to get a permit and they don't and then they get going and come in for an after-the-fact permit and this commission doesn't give the permit that means one family loses a job or another family loses a job and puts a lot of undue pressure on the commission on whether it's allowed.

Mr. Boteilho: We'll take a look at that.

Mr. Dunbar: I don't disagree with the fact that they're a commercial entity to the East of Molokai. But I can guarantee that there are plenty people that make a living hauling people to the back side as opposed to a trip to Halawa Falls. So, I don't, charter fishing to the back side and it's not just the process I'm just saying that there are a lot of local people in my community out there that make a living doing that. They pay for their gas, they offset season, even when they're just doing netting, they offset the season by taking people behind there to charter as charter fishermen. So, I just, I haven't been up to Halawa Falls in an awful long time but I just don't know what the cultural impacts of that are. Are we stopping people from understanding what we find so valuable or are we losing that which is valuable by allowing these people to do it. If you're going to put the brake on one person or a Hui of person's, then you got to look at the bigger picture. It's not quote unquote out of hand than some of these people make a living by it.

Ms. Buchanan: And my sister make a living by using ocean resources to pick limu and selling it at \$20 a gallon, that doesn't make it right. Either your actions is pono or it's not pono. I think it's easy, black and white to find out whether you're doing something right or wrong. As far as Halawa is concerned I do a lot of control work in Halawa, up in the falls area, so I see the tourist coming through all day long and...

Mr. Dunbar: With or without a guide?

Ms. Buchanan: They're very encouraged to use a guide. The reason why this whole problem with Halawa came back was because people was being threatened verbally and residents who wanted to take tours were threatened verbally. I know names and I know everybody and that's because I niele. No, but anyway, I talked to the people who take tours too and I had a good talk with Lawrence Aki. I can see everybody's point of view but again we have a community plan and if we no stick to our community plan which a lot of people worked really hard on than what do you have? You have chaos. You have people trying to amend your community plan every time you turn around and that was not the intent of the community plan to be changed but for every 10 years or what ever time the community plan changes. We took so long to come up with this community plan so that's our guide as a commission is the community plan, that's the basis, that's our bible as far as I understand is that

correct Malia? We as commissioner's are bound by our community plan and we have to carry out our community plan as stated and you have ways to amend it but that's our bible and that's what we go by. Maybe we all as commissioner's should take some time out to review our community plan especially now with Molokai Ranch and EC doing their own plan. The EC is on a 90 day task on this Molokai Ranch issue. So they said to the conservation fund, o.k. we going put everything on the side and we going to spend the next 90 days to resolve and come up with this plan with the Ranch. What Malia was trying to say is that the concern is what about our community plan? We already have one community plan why are you trying to make us another community plan? My concern is that there's a lot by in's, by the EC on this issue and it's scary. Because in the letter they going after the community and they going represent me. I never ask them to represent me. I never ask the EC to speak for me as a community member, I have my own mouth. So that's why I going to the meeting tonight because like everybody else I don't know what's going on. But as commissioner's again, our bible is the community plan and we obligated to operate as the community is stated and we should all review that before the next meeting come up.

Ms. Akutagawa: Thank you Lori.

Mr. Vanderbilt: Madam Chair, can I just say something to that? I sat in a couple of those meetings, I wasn't invited to to the initial meeting but I happened to stumble into one up at the DHHL conference room where they said everybody is welcomed so I sat down. But from what I gather is the process, the first 90 days is to just get input and than it goes back and gets digested and the various committees come together and the community and they try to come up with a plan, this would end the community plan, I can't see any new stuff that's coming in. It's a way to get more input but I certainly wouldn't support it if it was going to surpass the community plan, I don't even think it can surpass the community plan by law. They're not going to be able to say we're going to do this over here and just do it. It's just no way they can do it without amending the community plan. I think there's a lot of good input coming in, they're recording all the meetings, there's a lot of information the Ranch saying this and certain people of the community saying this and that and it may or may not go, it has to work for the Ranch and it has to work for the community or it's not going to work, so, I've just been following the community meetings I can to see where it goes. But tonight I think they're going to try and explain some of those questions. I think that's a great question to ask, how is this process related to, not only our existing community plan but our up coming community plan reviewing process that's going to start up in a couple of years.

Mr. Boteilho: Just a fast comment, we cannot stop some private group trying to do a master plan but they cannot implement it unless they get the Molokai Planning Commission approval. Depending on what they want to do.

Ms. Akutagawa: Anything else?

2. Announcements

Mr. Boteilho: Maybe I have to move away a little bit. The microphones. The order has to take long, yes. Have I been trying hard to get it, yes. We have basically a single source consultant on Maui. I've been working with him and just so happens he's busy in the council chambers redoing the whole council chambers. The latest I got from him is he's going to order this 8 microphone system. In fact I even told him you know, it's 8 new microphones. First there was some confusion and he thought we wanted four and I said no 8 so he had to go back again and he was looking at 9 but anyway I told him order it and once he gets it in he'll be working with Nina to get that system set up. He has to configure the frequency to Molokai's frequency. Finally, you know as mentioned earlier Commissioner's Akutagawa and Shimizu are leaving. So we're going to have our annual fairwell dinner and I'd like to, if there's no objections I'd like to go to the Lodge again. Anybody object? The Lodge it is. Well that's the next question. I'd like to take a preliminary poll on when you'd like to do it. Let me give a fast option. The last meeting is on the 24th, we could do it that night. We could also do it the following evening because Friday is Prince Kuhio Day or we could do it Friday night, Prince Kuhio Day night or any other date you folks want.

Mr. Vanderbilt: How about Thursday?

Ms. Akutagawa: Commissioner Dunbar said the day that has crab and steak.

Mr. Boteilho: Which night do they have crab and steak? In fact if I was to pick one I would pick Thursday.

Mr. Vanderbilt: That's what you told me to say.

Mr. Boteilho: I told you not to say that. March 25th about 6pm so everybody mark your calendars and we'll be giving you further information. Let me say this, I gotta say this now because last year I almost missed the plane so I forgot. The county will cover the spouses, all the commissioner's and the spouses of the out going members. I have to request that if any other member brings their spouse if we could have a separate check for your spouse. Number two, the county cannot pay for alcohol. In fact last year I got stuck with a \$100 alcohol bill which I paid so nobody can say I never do anything for you. But for the commission, of course, I'm going to do that again, I'd like to do that for you, I'll pick up the alcohol tab.

Ms. Akutagawa: Since I don't have a spouse can I bring a pal?

Mr. Boteilho: Yes.

Ms. Akutagawa: And that person going be covered?

Mr. Boteilho: Yes.

Ms. Akutagawa: My significant other is in Argentina so forget it I going bring one pal.

Mr. Boteilho: Finally I gotta fore worn you we're going to have to post this dinner as a meeting. We had this policy which was never enforced but planning commissioner's can only be bought meals if it's a working meal. So, I talked to the Mayor about this and he said just post the meeting, post reading of the resolution. So if you see some weird special meeting for the 25th you folks know why. That's all I have Madam Chair.

Mr. Vanderbilt: Madam Chair this resolution that was given out, was that given out today? It wasn't part of the package that was mailed to us?

Mr. Boteilho: That again is for your information. It was sent to us by the County Council. We're trying to tighten up our affordable housing policy so people have to do it. In the past there was no date so they just didn't do it.

Mr. Vanderbilt: Well the other thing just on the affordable housing conditions, the way this is set up the council can put any affordable housing conditions they want on a project. It's not ...

Mr. Boteilho: Basically yeah, but this says you must build it concurrently and you must build all within five years. You also have to put up a bond but we'll be having a workshop on this.

Mr. Vanderbilt: The other thing, in light of this, Bill 84 is passed now which was going on for so long so maybe we could also, if you have a workshop on this, have a workshop on Bill 84 because that's really important for our commission and maybe you can send us the bill that was passed a few weeks ago, in January?

Mr. Boteilho: O.K. I guess what is the pleasure of the commission?

Mr. Vanderbilt: You really think this is going to take a long time?

Mr. Boteilho: There might be other applications. Well seeing that nobody objects to a workshop on Bill 84 we can schedule that but maybe not on the same day. This has to be first because we have to get back to the council within 120 days after you vote.

F. NEXT REGULAR MEETING DATE: March 24, 2004

G. ADJOURNMENT

There being no further business before the Molokai Planning Commission the meeting was adjourned at 3:12 p.m.

RECORD OF ATTENDANCE

COMMISSIONERS PRESENT:

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

STAFF:

1. W. BOTEILHO, DEPUTY DIREC. FOR PLNG
2. K. CAIGOY, PLANNER
3. C. YOUNG, CORPORATION COUNSEL
4. R. NAGAMINE, DSA