

MOLOKAI PLANNING COMMISSION

REGULAR MEETING

MAY 26, 2004

The regular meeting of the Molokai Planning Commission was called to order by Chairperson Lori Buchanan on Wednesday, May 26, 2004 at 1:12 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. APPROVAL OF MINUTES OF THE APRIL 14, 2004 AND APRIL 28, 2004 MEETINGS.

MOTION: TO APPROVE THE MINUTES AS CIRCULATED.

MOVED: COMMISSIONER MICHAEL TANCAYO

SECOND: COMMISSIONER ROBERT RIBAO

MOTION UNANIMOUSLY APPROVED.

C. COMMUNICATIONS

1. MR. ED MEDEIROS of GLOBAL MEDICAL TRANSCRIPTIONS dba MOBETTAH.NET requesting a Special Management Area Use Permit in order to install a 60 ft. telephone pole with antenna and related improvements at 2 Kamoi Street, TMK: 5-3-002: 053, Kaunakakai, Island of Molokai. (SMX 20040102) (R. Loudermilk)

Ms. Loudermilk presented the staff report.

Ms. Buchanan: Thank you Robin, commissioner's do you have any questions of staff?

Mr. Vanderbilt: Is this a new venture or is it an existing venture?

Ms. Loudermilk: I do not know but I have the applicant here and he would be able to answer that question.

Mr. Vanderbilt: The other thing on the value of it, is it \$300, is that the value?

Ms. Loudermilk: Yes.

Mr. Vanderbilt: That must be just the pole right?

Ms. Loudermilk: Yes.

Mr. Vanderbilt: But there's something going on the pole is there?

Ms. Loudermilk: Yes there is.

Mr. Vanderbilt: This is just for my own information, as far as in the future, piece meal things, here's part of a project and there's another part, say that was worth \$250,000 hardware that went on top, in effect you would have a project that needed to get a major SMA, because of the valuation, I don't know if that's contains here?

Ms. Loudermilk: I don't think that's the case here. That would be an over sight on my part to not include the cost of the antenna which I believe is not more than a couple thousand of dollars, couple hundreds dollars, thank you for pointing out that over sight.

Mr. Vanderbilt: Thank you. With regard to, when you're going through the, do you know how many employee's that, maybe that's something we can ask the applicant.

Ms. Loudermilk: Approximately 10 is the information I got from the applicant and it's in the report under socio-economic impact.

Mr. Vanderbilt: Those would be new employee's?

Ms. Loudermilk: I am not sure, I'm not sure but that's something we can ask the applicant.

Mr. Vanderbilt: The only reason I ask that is you go through a pretty extensive review of how they're consistent with various things in the state plan, the general plan and the community plan which is good. But there's one objective under economic activity in our general plan it encourages new industry's seeking to locate on Molokai, which offers significant employee ownership options and or benefit such as profit sharing, stock options and retirement plans, things like that. Did you have any discussions with the applicant with regard to the type of employee?

Ms. Loudermilk: No I did not. I did not and the reason why, when I looked at that objective my understanding that some form of the company was already on Molokai. They will be locating from one part of the island to the other verses that particular statement to indicate coming from off island.

Mr. Vanderbilt: That's how planning interprets it?

Ms. Loudermilk: In this case generally coming in.

Mr. Vanderbilt: Thank you. Then with regard to the sewer in the next application and this application we talk about the sewer, have you all checked with the sewer company, not that this will have any real impact on the sewer but to find out what the current status of our sewer system is?

Ms. Loudermilk: Let me double check with the reviewing agencies.

Mr. Vanderbilt: This is just a general question, telephone pole is not going to add any sewage.

Ms. Loudermilk: No I didn't, no I didn't but that would be public works.

Mr. Vanderbilt: But in future projects we're at about 95% capacity on our sewage treatment plant, so, with future applications I just asked if the planning department review...

Ms. Loudermilk: You know normally we would but this is an existing commercial building which is already incorporated into the calculations. So in that case we did not feel the need. If it's already part of that 95% that you're talking about.

Mr. Vanderbilt: O.K. thank you.

Ms. Buchanan: Any more questions for staff pertaining to this agenda item today? I have a question if nobody has a question. Robin, since this antenna is omitting microwave signals, why wasn't one of the reviewing agencies the Department of Health as well as Fire and Police?

Ms. Loudermilk: That's a good question, I didn't think about that.

Ms. Buchanan: As we've seen with the other two installation from Time Warner and Verizon as well as MCC, reviewing agencies always included the Department of Health as well as Fire and Police and I was kind of surprised that they didn't have any comments as to this because I was wondering if it was going to be omitting microwave signals and of course the concern there is obvious. Is there any chance or at any point there would be any kind of interruption with the 800 mega hertz or the 911 emergency systems as they had in Kihei and West Maui, is a problem now. That is my concern as to reviewing agencies. And of course EMT's.

Mr. Boteilho: Madam Chair I would like to state for the record that actually I had asked that this be

expedited also because with talking to Mr. Medeiros there were several reasons. One was an existing business and he's merely relocating a few blocks away. Also there was this issue of hardship that he had to get it done by the end of next month. So I personally asked that this be expedited, thank you.

Mr. Vanderbilt: Excuse me Wayne what was the other reason? That it had to be done by a certain date?

Mr. Boteilho: There was a deadline and I guess the applicant can explain further. The applicant, I'm not sure when but I think ....

Mr. Vanderbilt: I hope that it doesn't become a precedent that somebody Wayne, who comes in and has a deadline and then it's expedited and than certain agencies should be contacted aren't contacted or don't contact them.

Mr. Boteilho: I take it very seriously, you know, in hardship cases. So I'll leave it at that.

Ms. Buchanan: Can we hear from the applicant at this time? Please come up and state your name for the record.

Mr. Medeiros: Good afternoon my name is Ed Medeiros and I'm the principal over at Medical Transcriptions and I've got my own business as Molokaimobettah.net. We're an existing company been in business for about four years already. Another side of our company is, we're an internet service provider. We have been providing wireless high speed internet access for about a year, two years, we were open last December. So we have customers already spread out throughout town and some in the heights and we just recently deported signal to Miller Hill and made another shoot to Punana where we have co-locations and we have just moved signal to Kaluakoi and we're starting to get customers there. This telephone pole antenna is like the first shoot for our (inaudible) and that's what this is for. First of all I want to thank the commission for hearing us and also the planning department for trying to help me expedite this. First to answer Ms. Buchanan's questions about some of the things about the frequency, this is a FCC approved non-licensed frequency that we're operating on. What that means is that the FCC does not require any special license in this like you do with a lot of the other frequency. Part is to go ahead and promote and start using this available technology. That's one of the reasons they do this. Plus to make it available to small guys like us because what happens is for instance there's a wireless company in Maui now that wants to start high speed access and in order to get his frequencies he paid about 8 million dollars to do that. Well this is a non-licensed frequency which the government is utilizing. So, the reason it's non-licensed is because we're operating basically out of one watt, microwave and that does not interfere,

you won't even see it. If you need more technical explanations my engineer is here to explain that. As far as the deadlines, I gave my landlord, basically, 90 days notice. I turned in my application 90 days ago prior to that and originally I went for an exemption, we thought this would be relatively simple but we've been hounding Robin like on a daily basis for the last several months and it was getting very, very close to my deadline. What happens with me is I have a lot of telecom that I have to move so I have to coordinate with Verizon, with Pacific.net to move the fiberoptic cable, to Oceanic to move their cable in and you know if you just try to get your phone repaired you can imagine what's going on. We're basically pulling in four or five T-1's into our building. Each one has like 44 pairs in one line. This is basically a big move. We also, part of our company, we handle all the call center work for Maui Visitor's Bureau, Molokai Visitor's Association and Destination Lanai. We're the type of business where we're like a public utility. We can't afford to go down or be down for one minute. I can't go back to my customers and say well I can't get my SMA due to planning conditions and etc. We're trying to plan this as neatly and closely as I could to coincide with my moves and my existing landlord and my new landlord. It was a pretty tough nut to coordinate and get everything together to get the telecom move and basically keep mobettah.net on line. So that's why we had to say this was an emergency in regards to the time thing.

Ms. Buchanan: Any of you commissioner's have questions for the applicant?

Mr. Vanderbilt: Eh Eddie. Explain why you need this pole here and how you operated a wireless situation without?

Mr. Medeiros: We're pretty close to where we originally hooked the fiber. I operated, basically I have a small mass that goes from the top of the building and we're up a little higher so I'm up about 20 feet and the technology is all line of site. When I move to where Dave's TV is I gotta get above the tree's, above the library and actually the higher I get the clearer the signal because what happens is that you get a lot of signal loss, you get a lot of noise from the tree's and just from the topography of the land. So the higher you are the cleaner the signal the better it is.

Mr. Vanderbilt: That's the reason for the 60 feet so you can get a direct line?

Mr. Medeiros: So I can shoot and hit Punana. Also the higher I get I can shoot back this way because I want my signal to start moving back towards the East End and right now it's kind of funny because we had customers on line and that little mountain that's right there is like I run right into that so I got places where I can filter through.

Mr. Vanderbilt: Boy Kanae is working with some people about trying to start maybe a little radio station, I remember in Punana they had some post up there and at one time the owners of those poles

were willing, I think like Motorola or something was willing to share situations with other users. Is there any opportunity on this pole , 60 foot pole to provide some space for some other type users?

Mr. Medeiros: Certainly, as long as the signals don't coincide.

Mr. Vanderbilt: So a low frequency radio station probably wouldn't be a problem?

Mr. Medeiros: It wouldn't be a problem.

Mr. Vanderbilt: So you would be open if it was a community type radio station?

Mr. Medeiros: Certainly. Actually we share on Punana and we also co-locate with Pacific internet. There's a lot of that going on because there's not a lot of power structure. If you go to Honolulu now, the rooftop space can place 10 antenna's , that's a premium stuff.

Mr. Vanderbilt: That's the reason I asked so that Kaunakakai doesn't get to be just a bunch of 60 foot poles because nobody wanted to share.

Ms. Buchanan: One fast question for staff. On co-locations, co-location applicants would have to get their own special use permit to co-locate on an existing pole?

Ms. Loudermilk: They wouldn't necessarily have to, I'd have to check because one we're talking about the zoning. Regarding SMA they may or may not have to come before this body. So we actually have to look at two things for co-location. The unique situation with Mr. Medeiros is that it's on the same property that the office is operating out of. Verses being off site and other location. I think we have to further check on the co-location issue. I don't want to say yes or no at this point and time.

Ms. Buchanan: O.K.

Mr. Medeiros: I can only say with regards to co-location the only thing that was required of me is a lot of liability insurance.

Ms. Buchanan: The reason I asked is because we have the same issue on co-location out on the East side where Time Warner has put up their pole and than other people have co-located also on the West side with Verizon. They all had to come in for their own permit as well as having permission from the pole owner and the landowner to co-exist on the same pole. That's why I'm trying to clarify that with staff. I have couple concerns. One concern is a remote emergency cut off system.

Because we haven't had any discussion or reviewing agencies from the Department of Health as well as Fire and Police, which we usually do on antenna erection type of applications, what we did on one of them, because it was a problem on the West side of Molokai and Maui and in Kihei, we made a condition of the applicant to have a way to shut off their microwave signal or frequency or transmission, remotely instead of manually. So if there was a problem that had arisen saying the Police is using stuff one day and all of a sudden they don't know why their radio signal is being interrupted, would that be something that you could do, have it remotely shut off in an emergency situation?

Mr. Medeiros: Let my engineer answer this question.

Mr. Lawler: My name is Toby Lawler. Yes, all of our equipment is remotely accessible. We have to be able to program and change perimeters from the office. Usually we've been able to do regular maintenance as well.

Ms. Buchanan: O.K. so if an emergency situation did arise you could just cut it off just like that?

Mr. Lawler: yes.

Ms. Buchanan: O.K. that's nice to hear. Anybody has, Commissioner Dunbar?

Mr. Dunbar: Kip Dunbar, I'm just curious, but you don't operate on 800 mega hertz, do you?

Mr. Lawler: No, it's 2.4 mega hertz, same as your phone in your house. That's why the license thing is allowed by the FCC because they already tested.

Mr. Dunbar: That 2.4 mega hertz is not going to interfere with the 800 mega hertz?

Mr. Lawler: No.

Mr. Dunbar: Because that 911 is all operating on that jammed packed 800 mega hertz. So if you're above that, significantly above that there shouldn't be any interference?

Mr. Lawler: Correct.

Mr. Dunbar: Thank you.

Ms. Buchanan: Any more questions?

Mr. Ribao: The antenna, what color would it be? I was just concerned if it was a mirror type or just gray.

Mr. Lawler: There is a reflector that is a kind of a tan powdered color and that's actually not going to be there immediately, that's one of our expansions. The current antenna is a whip antenna, two inch diameter kind of grayish color.

Mr. Ribao: Next question you have a pole and you put your antenna on, how will it be connected? It goes to your other station, near the pier there? Can you explain that?

Mr. Lawler: This is what's called a base station, it's the source for all our signals and it's connected back through, like what I stated like fiber but now it goes through Verizon's copper and Oceanic's cable connection for the internet.

Mr. Ribao: So the lines would be above ground, all under ground, so you would have to do some diggings to do some connections?

Mr. Lawler: Yes.

Mr. Ribao: My last question you said in the long term it's going to employ 10 people, can I ask what kind of jobs?

Mr. Medeiros: Well right now we have one engineer, one technician, we have several tech support people and this is just the growing stages of the company, we're looking to expand and I'm looking to have a few 1,000 customers within the next two years. So this is a heck of an opportunity. We have 350 customers right now. We've kind of taken two years to kind of burn into the system and really test and see what mobettah.net is capable of. So the possibilities are endless. I might add too that I think we are the first high speed wireless internet company on line in the State of Hawaii. What we're talking is about this is at the very edge of cutting edge technology. People were afraid to do this because they were afraid of where it's going. But we said we can make this work and we are making this work. People come here totally surprised that we have (inaudible). This is really cutting edge technology.

Mr. Ribao: Thank you.

Ms. Buchanan: Fast question. If your pole is going to be 52 feet and your antenna is about three feet by two feet, the antenna is going to sit on top of the pole or on the side?

Mr. Medeiros: It'll probably sit on kind of off the side. About two feet wide.

Ms. Buchanan: If in the event that mobettah.net decided to move some where else would you be inclined to remove your pole?

Mr. Medeiros: Certainly. Unless somebody co-locates with me and had a real use for this pole. Those kind of things are real premium things.

Ms. Buchanan: It's just my opinion as a commissioner on co-location that it could be a condition of this special use permit that any co-location would have to come to this board in order to get that permit to co-locate. Which might not be such a bad idea because you don't know what is going to go up there. Like at MCC, where some people were just shocked at the size of the antenna after, but that's just my opinion. Any more questions for Ed Medeiros?

Mr. Vanderbilt: Just a follow up on Commissioner Ribao's, you said you had several tech support people, are they working at this location on Molokai?

Mr. Medeiros: Yes they are.

Mr. Vanderbilt: How many do you have?

Mr. Medeiros: Three.

Mr. Vanderbilt: And if you got to 2,000 customers how many total employee's do you think you might have?

Mr. Medeiros: Probably 14 or 15. I have 16 employee's and right now I'm streamlining.

Mr. Vanderbilt: Thank you.

Ms. Buchanan: Be it no more questions, thank you Ed.

Mr. Medeiros: Thank you.

Ms. Buchanan: At this time anybody wishing to testify on this item please come up and state your name for the record, you have three minutes and if you need more time you can come back after.

Ms. Beddow: Good afternoon. My name is Sandi Beddow, I'm the Director of the Molokai

Visitor's Association. We are moving our office and we are going to be at the corner in the building that the call center, mobettah.net is also moving into. We're going to be right there and we do support this, we think it's a wonderful idea. Not only is in greater technology to the island but it is providing jobs. We work very closely with Ed and his staff, as he mentioned he is the call center for not only for Molokai but for Maui and Lanai and this is a good move for us several years ago when we weren't able to bring calls to Molokai to stimulate our economy. The call center was not even in Hawaii, prior to that it was in the mainland and we worked very hard to bring this company to Molokai and they do provide jobs. When he moves he's going to have more room in there and there'll be more jobs available. So we're totally in favor of this and we're supporting it. Thank you.

Ms. Buchanan: Thank you, just a minute there's a question.

Mr. Vanderbilt: You mentioned that you're moving into the same building. That's where Dave's TV is, right there?

Ms. Beddow : If you're facing Dave's, I don't know what the plans are for Dave's. I know that the landlords are renovating the whole project.

Mr. Vanderbilt: You're not going to be in Dave's space?

Ms. Beddow: No. We're in the corner. If you face that building, if you drive by there, there's like two buildings, green with white trim, that's going to be the MVA office.

Ms. Buchanan: Thank you. Anyone else from the public wishing to testify, please come up and state your name.

Ms. Medeiros: Hi. I'm Diane Medeiros and the Assistant Manager of Molokai Community Federal Credit Union and we also use mobettah.net over there. I just wanted to read a couple of things. Mobettah.net provides excellent internet service to the island of Molokai. I believe anything we can do to help them to continue to provide better and faster service will benefit our island. Our members at the Credit Union have commented often about the high quality service they receive from Mobettah.net. They are especially grateful for the personal touch provided to them when ever they have problems with their home computers. Many of our kupuna's in particular would not be on line today if it were not for the technical house calls that Mobettah.net provides. It is an island grown company that serves our community well. The proposed antenna would not adversely affect the quality of the environment or ecology of Molokai in any way. It would be beneficial to the economic and social well fare of the community to permit Mobettah.net to put up this antenna which will allow them to continue to provide Molokai with cutting edge wireless technology. I just wanted to say that

even before they hit the wireless their service was so much better than Hawaii-On-Line. As soon as we connected to them our service was incredibly faster and better and as I said the tech support is really excellent. I hope you guys approve this.

Mr. Vanderbilt: Did you testify on your own free will today?

Ms. Medeiros: Yes.

Mr. Vanderbilt: Thank you.

Ms. Buchanan: Anyone else from the public wishing to testify?

Mr. Takenochi: My name is Kenneth Takenochi and I reside on Kikipua, up here, and I'm also handicapped. Mobettah.net has allowed me to be working to support myself other than living off the government and stuff like that, like welfare. I've been working with Ed since he started the first company and its allowed me to better my life. Financially its good that I don't depend on the government to support me and I just wanted to make that comment.

Ms. Buchanan: Thank you very much. Any questions? Anyone else wishing to testify in the public? Thank you.

Ms. Bicoy: My name is Alicia Bicoy and I'm here as a customer as Mobetta.net. I've been with them since the beginning and I love the service, if you need any kind of help they're there. You can contact them at any time. The service is really good, it's quick, compared to other dial ups I've had. They're going into wireless and I'd really like to see where it goes, not only as a customer but for Molokai, I'd like to see Molokai in the middle of it and this is a great opportunity. They're learning a lot, they're right in there and I think we really need to support that. I'd like to see it keep going.

Ms. Buchanan: Thank you. Any questions for the testifier? O.K. thank you. Anyone else in the public wishing to testify? If you want to testify on this matter only. O.K. If not than I'm going to close public testimony and take staff recommendation at this time.

Ms. Loudermilk presented the staff recommendations.

Ms. Loudermilk: I'd like to propose adding two. Condition #6 would be our standard State Historic Preservation Condition, putting the pole in and trenching, even though SHPD indicated no effect there was some concerns in the very unlikely case. So I would recommend that and I would recommend proposed condition #7, that would allow us to consult with Fire, Police, Ambulance to

see if this technology will interfere, what type of mitigation measure will be incorporated. So there'll be no interference and that concludes the staff recommendations.

Ms. Buchanan: Sorry Robin just to make clear you're adding conditions #6 and #7.

Ms. Loudermilk: Yes that the department will send out a letter to fire, public works, the emergency agencies, give their input on the technology. If we need to do any type of mitigation conditions, it will be done. That's basically to do with my over sight and I apologize for that.

Ms. Buchanan: O.K. thank you. Commissioner's do you have any last questions for staff before I entertain a motion. If not the Chair will entertain a motion at this time.

MOTION: I MOVE THAT MOBETTAH.NET SMX 20040102 BE APPROVED AND AS RECOMMENDED THE ADDITIONS BY THE PLANNING STAFF OF CONDITIONS #6 AND #7.

MOVED: COMMISSIONER MICHAEL TANCAYO

SECOND: COMMISSIONER KIP DUNBAR

Mr. Vanderbilt: Madam Chair I support the motion but I would like to, this commission to consider another condition. Which would be if there is a co-locator on the pole that that co-locator be required to get an SMA permit and that in the event Mobettah. moves and there is no co-locator on the pole that they would remove the pole.

Ms. Buchanan: Commission is there any discussion?

Mr. Tancayo: Madam Chair just for clarification, what Commissioner Degray said is that to be added to the motion?

Ms. Buchanan: No, your motion would have to be withdrawn or amended and the amended motion be made. We're just in discussion right now. A motion has been made, it has been seconded and we're in discussion. He's just voicing his opinion as to what he would want to see put on this motion.

Ms. Seales: I know, Charlotte Seales, commissioner, I know I came in late but reading all through here I think Eddie has done wonderful for Molokai and I think this is great because of technology and getting a lot of the areas besides Kaunakakai, a lot more choices or having things get kicked up

a notch. So I think that's just great, mahalo.

Ms. Buchanan: I also think Mobettah.net is a great asset to the island. They have bought jobs to the island and I look forward to that in the future. I do agree with Commissioner Vanderbilt's ideas about the co-location and my reason for co-location is that I would simply say no co-location. If somebody did want to co-locate on the pole they would have to come in for their on conditional use permit at that time and that would solve a lot of problems. Also the removal part that would, if they did move I would agree that that pole should come down, I think that's a good idea. It's like anything else, if it's not in use it should be removed. That's a good discussion on that. Any more comments?

Mr. Vanderbilt: I would put in either just leave the co-location out of there because unless I'm misreading something maybe planning or corp counsel, if we put no co-location before somebody could come in to be on that pole we would have to amend the SMA permit here which has a condition of no co-location on it. So I would much prefer to have in there if there is an agreement where there can be a co-location that that co-locator be required to come in for a management permit, or what ever kind of permit is needed. Than everybody would be clear. Somebody would go to Eddie and say we would like to co-locate, and he'd say well you can but my permit says you have to before the Molokai Planning Commission and it would be resolved and they would know that and they would go to planning and the right steps would be taken.

Ms. Buchanan: O.K. thank you.

Mr. Dunbar: I think I need a clarification when you say co-location. If the recommendation is that if someone wants to have another antenna onto that pole, that individual needs to come before us? They're not putting up another pole?

Ms. Buchanan: No. They're just adding an antenna to the pole. Because you might run into a problem with the EPA, the share water thing and all that other stuff that they have to go through with Verizon. That's the reason behind that co-location thing.

O.K. so a motion has been made, its been seconded, we can vote on that motion, if the person who made the motion wants to amend that motion they can do that. If not we'll just vote on the motion we have on the floor right now.

MOTION UNANIMOUSLY APPROVED.

After a short break the meeting was reconvened at 2:15 p.m.

2. MR. RICH YOUNG requesting a Special Management Area Minor Permit in order to repair the existing exterior walls, add a new parapet, T-11 siding and battens, add a new canopy, and repair the existing roofing for the Mohala Street Building located at the corner of Mohala Street and Alohi Street, TMK: 5-3-002: 086, Kaunakakai, Island of Molokai. (SMX 2004/0113) (R. Loudermilk)

Ms. Buchanan: I have been asked by a community member to ask the commissioner's to amend the agenda for today to hear item E-1, community input before Mr. Young's presentation. Mr. Leimana Naki is here wishing to testify to the commissioner's some community input regarding a matter and it's up to the commission to amend the agenda, if not, Mr. Naki will have to wait till the regular agenda item. So I'm asking the commissioner's if they want to amend the agenda to hear Mr. Naki at this time. Do I have any objections? If we have no objections, do you object Mr. Young? We're going to finish today, they have a plane to catch. Mr. Naki, the commission is willing to hear you at this time if you can keep your testimony to be not too lengthy as to run out of time. O.K. thank you very much, we'll hear you at this time. Come up Raymond, speak your name for the record.

#### E. DIRECTOR'S REPORT

1. Community Input Regarding Matters Related to County Planning

Mr. Naki: Aloha commissioner's. I was here last year. Anyway my name is Leimana Naki. I'm here on behalf to contest, I'm against the building of the antenna on Puu Mano. I know that you guys gave them regardless I'm against that Puu Mano.

Ms. Buchanan: Leimana where is this thing in question?

Mr. Naki: Puu Mano is where Kip has that Microwave thing. Give me a second here, as Eddie Medeiros was speaking about his antenna in town, it has to go higher and higher in order to get what ever and give his customers. Just hearing that, culturally and traditionally, that's the reason why Puu Mano, Puu Nana, Puu O Hoku, there is a meaning, culturally and traditionally and it's not a religious thing, it's spiritual. We looking for the same source that we the Kanakamaole get. Our Kupuna's get that force, that power. That power today, you guy's interpret it your way, the antenna. Frequency, waves or what ever you want to call that. Those things are for our people, for us that living today and for those that are coming. Traditionally and culturally. So I speak on behalf of that I claim, I didn't only come by myself, I came with all my ancestors. They know I standing for them and all those that are leaning to this and know that I'm ready to go home. So, this year, in the month of January there was a big rain, if it's o.k. with you commissioners that I can speak in Hawaiian will you object?

Ms. Buchanan: I cannot understand I sorry.

Mr. Naki: Well let's get a raise of hand if they object that I speak Hawaiian.

Ms. Buchanan: I object.

Mr. Naki: Anybody else? Can I speak in my mother tongue?

Ms. Buchanan: I object Leimana and as a Chair I need to understand what your complaint is.

Mr. Naki: In the month of January, early this year there was a big rain, a rain from heaven, it cried and it opened up these clouds and many of our people, we malahini o kama'aina, they was hauoli (Inaudible), they was very happy. (Inaudible), they was playing and enjoying, ho'onanea. I understand when I read that paper it speaks about the Division of Land and Natural Resources in the article, in pertaining to whatever is built up at (inaudible). They needed a permit.

Ms. Buchanan: Special Conditional Use Permit.

Mr. Naki: Yes. For one whole month the water was dirty. I'm a fisherman not only I my ohana, friends and neighbor but the water was dirty. So was the road dirty, Mr. Dunbar went right ahead and clean the road. The ocean, after-the-fact, the water was dirty. Any Game Warden, any official came up there? No. Was it in their report, I waited, January, February, March, April, nobody made it, did we the public with our (inaudible) did the official's do their job?

Ms. Buchanan: Did you put in a complaint with the office?

Mr. Naki: No I did not. That's why I questioning you, should I put a complaint?

Ms. Buchanan: Yes you should.

Mr. Naki: Why should I put a complaint?

Ms. Buchanan: Because they don't know if you no complain. That's not their job to come up there wether it's Keif Apo from DLNR or where ever.

Mr. Naki: What road, Mr. Councilman, what road on this island of Molokai everybody go through and come back? Nobody blind. I mean if they not doing their job their eye, the official should be looking where? In the ocean, in the mountain. It's their job and if they carry that badge then they

supposed to do their job. So that's the reason why. Not only that, if Ho'olehua, Pu'u Mano, if it's Ho'olehua, (inaudible) e'kahi. This ahupua'a, you know what is ahupua'a? You go to the store you get your food, you got (inaudible) you get his phone call. My ahupua'a is where I get my food. I no live like you guys eat steak every week. My ahupua'a gives me what I get on. My body, inside me, out around me and that's what the ahupua'a does for me, my family. We get, (inaudible) Mr. Dunbar owns land up there in that mountain or in that valley. It's not a kuleana land up there. A lot of kuleana people owns land up there.

Ms. Buchanan: Leimana? I sorry but so what is your specific complaint? You complaining about the antenna that is causing run off and erosion into the ocean?

Mr. Naki: Well the construction, what ever he's doing up there.

Ms. Buchanan: So it's not only the antenna it's just everything in general?

Mr. Naki: Excuse me chairperson. To me they just giving people this kind of o.k. like this, give them the green light, I think you guys should be the one to go out there and look. But to give someone permission to do this kind of thing, what ever they doing, you guys should be the one to be eyes and ears. You hit the gavel it's o.k. but you no go out there and look for yourself. I think that's one of the complaints I think I have with this commission board.

Ms. Buchanan: O.K.

Mr. Naki: (inaudible) Last but most of all I asked Kip Dunbar earlier when you go to Kalaupapa at that look out there are plaques, tells you about leprosy, tells you when it came, who bought it, why it started, but they forget to tell you that the people, there were people councilman in Kalaupapa, there where people that was kama'aina in Kalaupapa. The people not in Kalaupapa, there were people in Kalawao., Waikolu, all this people was in and then they went move to Kalaupapa. (Inaudible) There was Hawaiian people in our ahupua'a. Now when the leprosy came all the kama'aina's in there that had no leprosy, they were told to get out by our king, and public officials. Do you know where they went? Do you know where all this kama'aina's went? In Kainalu. They went in Honomuni, Kawaikapu, they were in Kainalu, and (inaudible). The people who had no disease, my people, my ancestors. It's very important. So when you look at Puu Mano and when you talk about Kainalu it is very important to me and my family. My ohana is in Kainalu and so is (inaudible). We have to live together regardless, he has to hear it from me and from my ohana, they all so busy, one on jury duty, on other things, working for the city and county, I speak for me and on behalf of them. So I really appreciate you guys time commissioner's. This is very important. I contest, I am against that regardless of what you guys done before, after-the-fact, I read the report.

You gave him after-the-fact, I hope you guys give me and my ohana and my ancestors, after-the-fact. Any questions?

Ms. Buchanan: No but I do have a suggestion Leimana. Wayne is here he's the Director of Planning, the assistant. I would suggest that you make a formal complaint right now to have whatever, if you think it's causing erosion, you know you get plenty laws out there to protect just against that. If that's what you feel you just need to be guided by the planning department as to where you should go with your concerns. Myself as a chairwoman, I will follow up on this personally to see, if that's o.k. with Wayne, if you can help him try to, where his concerns should be. If it's DLNR, if it's erosion, if it's what ever, EPA, what ever.

Mr. Boteilho: Madam Chair we'd be certainly happy to check into this. I would suggest that the planning department find out the facts of this matter. Certainly if there's some violation of the permit that should be addressed. So we'll look at the facts and then the commission can take it from there. Sir, if all possible, if you could write up something and give it to Nina that would help.

Mr. Naki: I talked to Nina.

Mr. Boteilho: If you could include like your phone number so that I can contact you if I have any questions.

Mr. Naki: Again commissioner's if I raised my voice, anything, this is very important. It's important to come up for your family. Whether you guys talking about the burden or hardship (inaudible) I've been there, done that, and I mean it. We have a beautiful mountain and we have a beautiful island. You can do certain, certain things. I respect you Kip, (inaudible). Puu Mano is very significant. Because we don't say anything about it, nobody's talking about it, just go right ahead and do it. If nobody using the shoes over there you going take it? If the car parked over there and nobody use it you going to take it, take the car? That's all it is. Nobody's using it, that's the wrong attitude. You need to talk to the community, you need to talk to the kama'aina.

Ms. Buchanan: Any commissioner's have questions really fast for him?

Mr. Vanderbilt: I just want to thank Leimana for coming here and that's what the public input is for and hopefully we can find an answer to what your concern was.

Mr. Naki: Thank you.

Ms. Buchanan: Thank you Leimana. I'd like to move on.

2. MR. RICH YOUNG requesting a Special Management Area Minor Permit in order to repair the existing exterior walls, add a new parapet, T-11 siding and battens, add a new canopy, and repair the existing roofing for the Mohala Street Building located at the corner of Mohala Street and Alohi Street, TMK: 5-3-002: 086, Kaunakakai, Island of Molokai. (SMX 2004/0113) (R. Loudermilk).

Ms. Loudermilk presented the staff report.

Ms. Buchanan: Excuse me Robin what is that?

Ms. Loudermilk: Parapet's is having to do with the roofline and battens are pieces of wood placed in a certain way.

Ms. Buchanan: O.K., I just didn't know what that was.

Mr. Young: This is a little larger picture. Our proposal is to basically give a building that's built in 1955, almost historic. In our regulations anything over 50 years and we're going to give it hopefully another 50 years. The idea is to take the existing GT Auto and strip all of the old metal siding off, reconfigure the new studding inside the walls and create, what you're asking about is a parapet wall or a false structure. What Kaunakakai Town and the country town zoning typically has become very fond of and the addition of a canopy will welcome and keep the sun shading the windows a little bit more, allow you to have a little shelter before you go in the building. We're doing one little push in, the entrance gets pushed in, one gets pushed out but essentially it's to renovate this building back and preserve it for the most part and not reconstruct. The idea is to, it needs a new roof badly, the siding of course, everything runs through it. It's in terrible shape. So we're going to reconfigure that exterior wall. We're proposing to put on masonite siding which is a fire proof board that looks like ply wood and then we're going to apply battens on to it, a lot like how the Drug Store looks. Apply little 1x2's, the old style is to have boards that were 1 x 12 with 1x 2 battens. So it's wood on top of wood and to make it really just resemble like the country town facade that you see on Ala Malama Street. Part of the project is also to dress up the exterior. We're going to reconfigure the parking. One interesting to note is that on the site planning, something that I think our community is not always aware of in Kaunakakai is quite unique, that the property line in many cases run right, well it's actually the sidewalks are part of the ownership of Kanemitsu Bakery, Friendly Isle Realty, the property runs all the way to the street. So the sidewalk is owned by the owner of those buildings. This Mohala Street building is more like, when we go to Guy's you're used to, you park your car right up against the front door practically. When you're parking, you're parking on Guy's property, when you back up you're backing up onto the county right-of-way. That's the condition that we have along Mohala Street here and we're going to maintain most of that parking that's there currently now

and we're going to bring the landscaping into play, couple canopy tree's and this line of property along Alohi Street side is actually, the boundary is where you park now is actually, when you park in preparation to go into the old GT Auto, you were parking on half on the street and half on the county right-of-way and half on the actual property. So it just looks like the way it should have been. You don't really know any different. I guess we never had an accident or nobody got bent out of shape about that. But our proposed plan now is to plant that and we're actually planting out into the street right-of-way to actually make it look better, to have some canopy tree's a little bit of shading, we're going to be adding benches around the project and in the back side of the property which is really been unkept is, the owner's starting now to prepare that for an on-site parking lot. In that we're going to have a loading stall and five parking spaces. So we are? Well we got one loading along parallel with the market...at this point this parking could reconfigure, in the permitting process planning could have issues but with the best of my ability this works to meet the correct in's and out's and all. The loading stall is against this side of the property line. I have a couple of contacts, an ADA requirement and there's two parallel parking stalls when you come in. So this is an existing paved area, we are adding a new paved area and that area gets drainage and there's other, we will retain all that water on site. We're going to continue our landscape around there. We are planning on doing it as an irrigated landscape as much as possible. The plantings would be ground cover instead of grass. We met with the urban design review, basically has reviewed this and given us a couple of hints of what they recommend and we're taking that into consideration. Any other questions?

Mr. Ribao: What will go into the building? Is it office space?

Mr. Young: Yes, perhaps the owner can speak to that.

Mr. Ribao: O.K. you say you're going to have handicap stall, it's required.

Mr. Young: Yes we have one along Mohala with direct in and out and we have a sidewalk around the building and there's an additional in the back which is the closest to the back, we have back entrances into these office spaces.

Mr. Ribao: O.K., thank you.

Mr. Dunbar: What plants did urban design suggest you use?

Mr. Young: Their comment was good to the trees we've chosen, the shower tree which was approved by the Main Street Association recommendation, sorry the fern tree is our shade tree which the tree which you would see out in front of the Drug Store. We were proposing a (inaudible) and flowers

as our ground cover and it was brought up that maybe we should consider different ground cover because it was sensitive to foot traffic. So at that point we were thinking well maybe we do need to change the ground cover, we felt that was better than grass. We figured it would attract people to continue to drive on that path and we kind of wanted it to be a green belt and permanently so and not people just starting to pull off the side and park where they were used to parking. Anyway that was...

Mr. Dunbar: They didn't suggest a traditional native foliage?

Mr. Young: They did not. I can't give you this by heart but in the design guidelines that are country town zone, if that's in that, we kind of have to, we're restricted to that particular plantings that are in that. If the commission has some wishes for that for an alternate planting than we're there. Mainly I think the issue that we were trying to succeed in is actually beautifying the site in planting as to oppose what's there now, it's just concrete. Hopefully I think if the owner would agree some plants are better than no plants and this is a pretty extensive planting plan considering what's there now.

Mr. Vanderbilt: I had a couple of questions. One you mentioned the Drug Store and that's a good example to use. I think they probably have the best maintained commercial developments in all of the county if not the state. Maybe the owner of this property would consider even using Ed who maintains theirs a couple of times a week. But it really makes the town look beautiful and this would be a nice addition too if they could come any where close to that. The other thing I wanted to question is that you mentioned that you didn't quite finalize the parking because planning might have some problems. Didn't, hasn't planning already reviewed this and given you a yeah or nay?

Ms. Loudermilk: Yes and no. Yes in terms of what's being proposed is consistent with the Business Country Town plans. Some outstanding issues would be that the drive way to the back has to meet code. It may not be up to code at this scale. The layout looks fine and the more fundamental would be the parking in the front whether the existing non-conforming was still allowed, will still be allowed. We do believe that it will be, but, we just wanted to bring to this commission the tension that there always could be something out there technicality and if relooking at the code one overrides the other and they cannot have the existing parking as located than we need to go back and...

Mr. Vanderbilt: Well just explain to me than when something comes before this commission those kind of things aren't reviewed ahead of time so that we know that what we're approving is pretty much what it's going to be?

Mr. Young: Robin's not familiar with this. We have received all the approvals including the engineering division who has approved our taking out of the existing drive way, adding a new drive

way, the parking, so the new approach and the non-conforming parking along Mohala Street has been O.K.'d already at this point. But, we're always concurrent, we are doing simultaneously asking planning commission's approval as well as running through building department reviews on all agencies. So this is kind of an on going give and take and sometimes we do have to do revisions to the drawings or as amended. So what you're seeing as I have been instructed by the zoning division, the guy that will finally give his final signature has to wait for your approval, so I'm just saying that the door is open a crack. I mis-spoke that there's a problem that I'm aware of. This basically meets all the technicalities that I'm aware of. So if there was something that came out of planning it would come at the very end signature when that zoning guy reviews it after your approval, hopeful approval, than he would look at the parking and say you need to make that parking stall a foot bigger. I don't think, we don't have an issue here of not enough, we have provided more than the adequate.

Mr. Vanderbilt: Thank's Rich but I don't understand the process. Why can't you submit a plan and they look at it and they say this is o.k., contingent of SMA approval so that everybody's on the same page rather than us... this may be a minor thing but how far could it extend? Who is this that has to wait for our approval before they can o.k. the plan?

Ms. Loudermilk: For the building permits sign off it's the zoning administration division. The plan examiner in there. The SMA is a use permit, we represent the use to the best of our ability. But building permit as Rich has indicated and I indicated, as of right now this looks fine. Looks fine, (inaudible) can look at it and find something different and say I cannot sign off on it until you revise.

Mr. Tancayo: Looking at the plans with the new parking stall close to Friendly Market, has anybody did or do a soil analysis as far as contamination? Because that's where the grease rack and everything was?

Ms. Loudermilk: I am not aware of any soil testing being done on the property.

Mr. Tancayo: O.K. that's my concern because a lot places here in town where there were repair shops it has to be some kind of contamination to the soil.

Ms. Loudermilk: Like I said it comes to a larger question if there is some kind of contamination whether that was supposed to be cleaned up when the occupant left or not. I don't have the answer to that.

Ms. Seales: I was just questioning, Ray how many employee's do you have? About 12. They wouldn't be parking in there of course, or would they? In those 12 designated parking stalls because I think Alohi Street is going to get a little busier because a lot of us use that street as we go to the

side to cut short to go to the other side. I think it's a beautification, I think that's a, because across by Atlas over there get plenty opala and that place is kind of like dead zone right now, but, the thing is it's going to increase traffic because you gotta come in through Alohi, you park over there and that's a small little area and there's enough traffic coming out of Friendly Market going this way or going that way. So, I just, I mean I think it's a great project, I know real estate is pretty much booming, more and more people are moving here and more are going to be coming into the shop, but I'm sure you folks have that discussion. There is going to be more traffic, I think, in that back street because we get enough over there now because Friendly Market parks across the street, their employee's, so your employee's maybe at times, I'm sure not all 12 of them will be there in the parking lot but there is going to be them and then there's going to be customer's coming in and future people coming in to purchase land. You guy's probably talk story about that Ray?

Mr. Miller: Yes we have, some of the employee's people drop them off, no parking is needed for them. As a whole Kaunakakai needs more parking space. A lot of people will park on the streets and there's one hour parking time limit there but sometimes they'll park and sometimes some of the merchants will park on street all day long. Parking is a problem in Kaunakakai as a whole. Employee's of Friendly Market you can see where they park as well as employee's for Misaki's.

Ms. Seales: I'm looking at that and as well, like I said I'm for this but at the same time it will create a lot, I think, maybe a little bit more traffic because when GT was there they had to park their customers cars across the street, where ever, where ever, in front of Atlas. Now there's going to be, its been a dormant zone and now all of a sudden we're going to have a beautiful place and everything but it's going to attract more people and it's going to get a little bit more congested. But I think it's a great thing, a great for the island because I think people are really, I notice in a few months this place is changing, Molokai is really changing, more so, we got a lot more of new faces and people are coming to buy and so forth. It's going to be good but I think we all got to look at that traffic. It's going to be, it's not going to be the most easiest place to find and you're going to have people looking around, where is, do I come down, do I turn over here, I don't know that's just me talking loud. That's just my mana'o, I just wanted to share that, the traffic is going to be a concern. Thank you.

Ms. Buchanan: Any more questions?

Mr. Tancayo: Madam Chair. My biggest question is, as far the soil contamination, who's responsible? According to this they're going to pave and everything. Who's going to do what to get the analysis?

Ms. Buchanan: O.K. on your reviewing agencies you have the Department of Health, exhibit 5. Let's

see what exhibit 5 says. So Commissioner Tancayo your concern is that maybe in the renovation process that contamination of the prior business ends up in the soil is a concern for run off? Because Mike I do have a concern with any property that sits on top an aquifer as I did with the Molokai Rent-A-Car business.

Mr. Tancayo: That's my concern. Because if you take the old Molokai Electric plant... you can probably dig two feet, light a match and you blow up with it. So that's what my concern is in that area because of the soil of that repair shop that was there. Somebody has to be responsible.

Ms. Loudermilk: That's a very good question because we do rely on the Department of Health for that type of information and they did not provide it to us.

Ms. Buchanan: O.K. that's a good concern. Any more questions for Mr. Young?

Mr. Vanderbilt: Maybe this is for Ray, but in the sale agreement, you purchased the property, right? So on the sale agreement to purchase the property was there any reference to who would be responsible if there was any soil clean up required?

Mr. Miller: No it was bought as in conditions.

Ms. Buchanan: Any more questions for Mr. Young?

Mr. Tancayo: Is it permissible or can the planning department as the health department that question as far as contamination of the soil?

Ms. Loudermilk: We can ask if they're aware of any contamination, that portion of the property, we can do that.

Mr. Tancayo: I would appreciate it. That's the biggest concern.

Mr. Young: I just want to clarify that our permit specifically, I realize it gets into a little bit of a gray area here but we're basically just trying to save the building by being able to give it another 50 years of life. To give it a new roof and new exterior wall and new canopy. As a mitigative thing we are in addition taking it to this next level, beautification, taking out the old entrance to GT Auto, which would have been probably loaded with grease and oil, making that a planting space now. So that concrete's all gone. That existing slab that's there where they did some repairs, the new concrete we're putting in has its own catchment system and a new drainage system below ground, so we're containing that on site. So, this would not be a normal requirement of a repair and maintenance

request. So we are taking it up another bar. I understand the concern, that area would have been, I'm thinking of the area you're speaking of, closest to Friendly Isle, outside of the building, we're still using that as our entrance/exit to the site. That and what ever was on the pavement would still be on the pavement. It's like driving on the asphalt and the main roadway. So I'm not sure, anyway, I can just try to justify our request really, it wasn't something that we were requested to do by this permitting process. So this is kind of a...

Ms. Loudermilk: The applicant has indicated the proposed catchment system to be used on the property. In the mean time we can also send to the Department of Health a letter with the location map, a tax map key seeing if they have any information regarding contamination of the property. If so, it will be mitigated accordingly, if not, we would not have to mitigate and they can pour their parking lot at this point and time. But I think, would that satisfy your concern? The people on Molokai know that its been on there in terms of the regulatory agency I gotta go to the Department of Health.

Mr. Tancayo: I understand that. If there's a catch basin, so the water, so nothing...

Ms. Loudermilk: The water is required to stay on the site, based on the current grading ordinance.

Mr. Tancayo: They always use that terminology, catch basin, to me that's a joke. It's just a dig well. Because over there you can dig three, four feet and you already reach the ocean.

Ms. Loudermilk: That's true in this location the water table is high and even with the catchment, but I think to be on the safe side we would take your suggestion for that particular area and move forward with that. Because we can move forward with the renovations of the front part and we can have that current in the tail end portion.

Ms. Buchanan: Chair recognizes Commissioner Dunbar.

Mr. Dunbar: You know you might also consider some kind of planting on there, I think if you actually go to the Department of Health they'll give you a list of plant and trees that (inaudible) and because Molokai Electric was not too far from this and I can almost (inaudible). At least if you could try and mitigate it with plants that will absorb.

Ms. Loudermilk: We could do that.

Mr. Dunbar: You would be ahead of the game instead of trying to figure out...

Ms. Loudermilk: We could do that, just for the back ground information, as part of the BCT we have the design guidelines, and part of that is landscaping plans. If we want to go that route we would acknowledge that we can deviate from the business country town at this particular point for these reasons and that could be an item for, for in the future if we know of the certain sites and if there are other native plants like you had brought up, that were not in the design guidelines and we feel should be in the design guidelines, something down the road, that would be very appropriate.

Ms. Buchanan: Do we have any more questions? If not I would like to open it for public testimony at this time. Anybody from the public wishing to testify? If not we're going to close public testimony and take the recommendations from staff.

Ms. Loudermilk presented the staff recommendations.

Ms. Loudermilk: I think based upon our discussion we would modify the recommendation and add some additional conditions. #8, the DOH will review their files for any contaminants on the property and propose any type of mitigation measures, something similar to that effect. #9, we would add a condition that we consult Commissioner Dunbar's, is that Department of Health list or who would have that list regarding the different types of...

Ms. Buchanan: I think it's the Board of Water Supply.

Ms. Loudermilk: They have the planting plan. Urban Design, it's sort of a circle. In terms of the landscaping the applicant can deviate from the BCT guidelines to find landscaping materials, tree's, ground cover such that would absorb any sort of contaminants within the soil.

Ms. Buchanan: Any questions from staff on the recommendations?

Ms. Seales: Robin? So you're going to, in other words if we vote today I'm thinking how long would you get back with from Department of Health as far as with Commissioner Tancayo's concern?

Ms. Loudermilk: I would say probably a month and a half. One I can send out the letter tomorrow, we really need to give them 30 days.

Ms. Seales: So if we waited until, because I'm looking at it, that's a great concern and besides I'm thinking of the parking, but some where along the line I think there was an over site and whether it was or not, but, I think that's an important concern because I feel everybody's, I'm sure, for this project but I think before we vote and you said it takes 30 days and then you're going to bring it back

to us? How are we going to know is it going to go through our chairman?

Ms. Loudermilk: We would bring it back to the commission, what I had envision in the recommendation is that everything isn't done at once that we could work it in such a way that they could start doing the improvements to the structure and maybe some of the landscaping and not touch any of the area in the back in which Commissioner Tancayo had a concern until we receive the information from the Department of Health. Based on this discussion we could also propose another condition in terms of timing, in terms of them not being allowed to do anything in that particular area until the Department of Health has responded and then depending upon the response, they either have to comply or they don't.

Ms. Seales: It's not a real big area in that corner.

Ms. Loudermilk: No it's not but it is a concern, it is a concern. Maybe we can think through this or...

Ms. Seales: Or we could not pass it today and wait for your, you could come back with your information and than we could decide on it then. We could redo this. I don't know what the other commissioner's would feel but what I'm saying is like they go do something and what if it is, what if there is something and they got all this done and you got this problem and that cuts them back with limited more parking space and more of a crunch and yet they already have their building up. So I don't know, that's just my thoughts. I'm glad Commissioner Tancayo thought that up I didn't even think about that. This is environmental and it's going to affect a lot. It's a great project but I'm thinking why give half and than bumbye come back and then maybe it might just go and then it might not. So it's 30 days, I don't know if everybody could wait 30 days instead of giving them a piece of the pie, I don't know. That's my thoughts. Thank you.

Ms. Buchanan: Any more questions of staff? We can basically do what ever we want to at this time.

Mr. Tancayo: Madam Chair can I ask the applicant a question?

Ms. Buchanan: Sure.

Mr. Tancayo: What is your timetable like as far as renovating?

Mr. Miller: We're ready to go right now.

Mr. Tancayo: O.K. Thank you.

Mr. Dunbar: Can I make a statement? Department of Health comes back and says bruddah you bought contaminated ground they going make you dig it out or you're going to say I don't want it any more, who knows what could happen? So, you're asking us to give you the approval to go forward and Department of Health might say let's dig this out four feet and take all this stuff out and that could be the dilemma. It's not necessarily money out of our pockets, it's just what might happen. Could be it wasn't even GT's oil. It could be from across the street. So, I think what is being recommended by Charlotte and Madam Chair is that if we went ahead and approved it I'm sure some of us would go ahead and consider approving it and you face an even bigger risk if you begin putting money into it and a month and a half from now you find out because you've done the soil test because someone has required that a soil test be done because you've gone to the DOH your exposure could be three or four times as much. I mean, to me I think the beautification is outstanding. I'd go for it in a second. But it could very much be that it cost four times as much.

Ms. Buchanan: Fast question Degray?

Mr. Vanderbilt: I think we're getting into a problem here is that this commission is looking to approve things and have an idea of what they're approving and we always end up sort of being put in a position of the bad guy because of some sort of situation, or some timetable and I don't think that's right. I'm just trying to see, where was the Department of Health comments? You know Councilman Mateo will contest, attest to this that I was pushing to try and get a planner for Molokai so maybe we wouldn't end up with ...

Mr. Dunbar: Point of order, let's not go there, let's get to the chase.

Ms. Buchanan: Point taken, go ahead.

Mr. Vanderbilt: Point taken, thank you Mr. Dunbar. But I think that the point is there's a lot of these letters that come back from someone in this case they're in Wailuku and they have no comment. How can you have no comment? I mean when do they comment or when do they look at it, or why do you even send something to them if they always write back no comment and then look at the bind we're all put in right now because Commissioner Tancayo bought up a legitimate concern and I don't know. The process seems to be a little bit (inaudible).

Ms. Buchanan: O.K. any more questions?

Mr. Ribao: I kind of agree with Mr. Dunbar and Charlotte because it's up to the buyer/seller to have the soil test and knowing that that area for the longest time was a garage and this possibly have some contaminants in the soil. If there was an o.k., a green light then this project would have been

approved right here. I kind of agree on deferring this until we get a letter from the Board of Health saying the land is clear or not. If not you're going to spend big money cleaning it up probably.

Ms. Buchanan: I have one comment. You know, the neighbors, the rent-a-car place, we required that they not have to install a very expensive grease trap as was required by the County of Maui, they had other mitigation that they could have done to catch the grease or whatever when they was the cars because they sit on an aquifer and that's the neighbors. My main concern for this project was sewage and sewer and flooding water because we all know we gotta throw on our goggles and everything when we gotta drive on Mohala Street after one big rain. I would have, that would not for me be, and I feel (inaudible) to purchase land to build a nice office building, Ray I really appreciate your plans I think they're beautiful, I think you will make Kaunakakai Town more attractive so I think you did a really good job, Mr. Young, in your plans and I really want to see it come forward because right now it's an eye sore, that whole area is an eye sore from Atlas to every where. The county is out there pumping water every time it rains and that is my concern. I do have a concern. We know it's a brown field across the street with Maui Electric and nobody knows what to do with that place and how we're going to do it, you know the EPA gets involved and everything. But I can hear the concerns, I do agree that there's no problem in deferring this until such answers come forth. Other than that, the drainage is my main concern. Your drainage I don't know how you going contain everything on that. But, I would like to see the concerns brought up answered. Because we know you go do grate, some kind of grating is going to have to happen, and trenching and you going have to do something with that. So with that if there's no more questions the Chair would like to entertain a motion at this time. Robin, I'm sorry are you running on the 120 day?

Ms. Loudermilk: Yes, I don't know what day it is from the 120.

Ms. Buchanan: But they have time.

Mr. Young: My question is technicality. This is for staff. Once the commission approves that gives us another wait, we can then immediately go...

Ms. Loudermilk: Yes.

Ms. Buchanan: We can also defer action on this until the next date of our meeting time at which time you'll come before us again.

Mr. Young: (inaudible)

Ms. Loudermilk: I'll make a couple of phone calls to the Department of Health and see if they could

expedite the matter and what type of information they have or what information they would need for that.

Ms. Buchanan: O.K. I have two last comments. First Commissioner Vanderbilt, very short.

Mr. Vanderbilt: So when you send a letter to the Department of Health and if you know whether it's an electric company or its been an old gas station do you let them know what the previous use was if it was something that planning knows?

Ms. Loudermilk: We provide them with the application provided to us. My understanding is that each department has a different methodology on how they assess thorough.

Mr. Vanderbilt: So the answer is no unless it's mentioned in the application.

Ms. Loudermilk: Correct.

Ms. Buchanan: Commissioner Dunbar.

Mr. Dunbar: Robin this is more of a technical question. I recognize that this is an SMA minor permit would have to do with anything they wanted, adding to the outside of the building. Because I remember when I was with the bank and we wanted to do a shelf that was that big and I had to go in....

Ms. Loudermilk: Basically the reason why we're here is for the parking in the back.

Mr. Dunbar: So, if Rich and Ray wanted to begin taking down the steel sidings that 's on that building and replacing it at this time they basically do so, they can do so without an SMA permit.

Ms. Loudermilk: Technically that is correct. Why we are before you is more of the landscaping improvements and the parking in the back. If they wanted to pull a building permit specifically for the structure that would be considered the repair and maintenance. As we usually encourage the applicant to do it in a comprehensive manner, come before and yeah.

Mr. Dunbar: Thank you. Thank you Madam Chair.

Ms. Buchanan: O.K. that's it. At this time I'll entertain a motion.

MOTION: I MAKE A MOTION TO DEFER SMX 2004/0113 UNTIL WE RECEIVE A LETTER

OF CLEARANCE OR NONE CLEARANCE FROM THE BOARD OF HEALTH REGARDING ANY SOIL CONTAMINATIONS.

MOVED: COMMISSIONER ROBERT RIBAO

SECOND: COMMISSIONER CHARLOTTE SEALES

Ms. Buchanan: Motion was made any discussion on the motion?

Mr. Dunbar: Madam Chair when would we rehear this? In two weeks? Is this a two week referral?

Ms. Buchanan: Deferring till we have an answer. If there's no other discussion I'll take the vote.

MOTION UNANIMOUSLY APPROVED.

#### D. CHAIRPERSON'S REPORT

Ms. Buchanan: I have nothing except, Wayne, Hawaii Kai Salts, Nancy Grove, anything happened with that because she came remember at the last meeting?

Mr. Boteilho: That I'm no exactly sure what the applicant has done but that, she needed to provide information to our department so we've instructed the planner to get in touch with her. I think she represented that everything was in and we was moving on it but that was not the case.

Ms. Buchanan: O.K. thank you. I'm going to defer other stuff and you can do your director's report.

#### E. DIRECTOR'S REPORT

1. Community Input Regarding matters Related to County Planning
2. Update on Halawa Valley
3. Update on Papohaku Ranchlands subdivision

Mr. Boteilho: As far as community input we did that. Update on Halawa Valley, the last meeting I stated that instead of ceased and desist order we would be asking the applicant to conduct mitigation measures on the concerns raised by the state. We're going to go one up on that, not only are we going to ask them to do mitigation measures but we're going to monitor their mitigation measures and the start of that is we're going to send Robin actually on the tour so she can see...

Ms. Buchanan: So she can see how much land she going traverse over and trespass. I'm just joking go ahead.

Mr. Boteilho: Well yeah kind of and also she would work with the state and try to identify cultural sites and give them advice as to what to do. So that is the status on that.

Mr. Vanderbilt: We were sent this report, thank you Wayne it was quite lengthy on the Halawa Valley situation. The state is basically saying it shouldn't be an exclusive situation for any one group, is that your understanding?

Mr. Boteilho: From my memory yes.

Mr. Vanderbilt: Well that's in this letter dated July 9. And then it says the application has been transmitted to various government agencies for review and comment. This is Robin writing to Katherine and Lawrence Aki, your application will be deemed complete and ready for processing when the comments from these agencies are received and does not require any additional information or clarification. So what is the status? You were looking for the comments by January 9, has all the comments come in and if so what's the delay right now?

Ms. Loudermilk: I'm going out to seek additional information for myself because we have a lot of conflicting information coming forward. So I am going, I have the ability to go up to the site, I have some maps that was provided, like Lori had indicated, go over the properties and you know, see for myself and I need to sit down and talk story because this is still the time for fact finding before we make any decision regarding the special management area. Nothing more, nothing less.

Mr. Vanderbilt: Well I don't know where it is in the minutes but at one of the last three or four meetings Wayne you mentioned that the county would not be inclined, this is after you got the letter from the state to give a permit for one group to have an exclusive use of the trail. I can find that if you want. But that's basically what was said on the record. So I'm just wondering, after your fact finding trip what will be your status with regard to the state's letter?

Ms. Loudermilk: I have not seen the state's letter so I cannot respond to that.

Mr. Vanderbilt: Wait a minute, our commission was sent this and it includes letters from you and it's a package and they didn't even give you the same package they gave the commission?

Ms. Loudermilk: I have no idea what they gave you.

Mr. Vanderbilt: Thank you.

Ms. Buchanan: Maybe Degray you should make a copy for Robin then she can see. Didn't Nina, somebody did it for us.

Mr. Vanderbilt: I assumed that planning.

Ms. Loudermilk: If you know what agenda date I can get a copy of the packets. But the packets that I send to the commissioner's we don't receive the packets. The packet is available on file in the office. We have 200 files high of just paper in general.

Mr. Vanderbilt: All I'm saying is that you were looking for comment letters from various agencies and one of them was dated January 8, 2004 and they were pretty adamant about keeping this trail public and giving it to exclusive use of just one commercial group.

Mr. Boteilho: I think what Commissioner Vanderbilt is referring to is the basic file on this matter which planning does have.

Mr. Vanderbilt: This is just something that you guys sent to each commissioner.

Ms. Buchanan: That's cause we asked for it. We asked for the file on Halawa and that's what we got.

Mr. Vanderbilt: But you must have the same information in your file, don't you?

Mr. Boteilho: She does.

Mr. Vanderbilt: O.K. thank you.

Ms. Buchanan: My understanding of exclusive would be if somebody else besides Lawrence them came in and wanted a permit they could put in for a permit right? You could be running two or three tour operations in Halawa, is that right, or what do you mean by exclusive?

Mr. Boteilho: They have the right to apply but it's the planning commission that would have the final say.

Ms. Buchanan: O.K. so the other problem that was not answered was the private land issue, the conservation issue with the state, all that is still unresolved even though the county, they could, their

laws could over run your laws and that's what we had discussed in the last meeting was that private land issues and traversing over private property and who would be responsible or liable for that. If the county gave the permit would they be liable for that because we're giving them a permit to go people's private land. So if I got hurt I'm going to sue the county.

Mr. Boteilho: Madam Chair, yeah, part of the process is that once we received comments from agencies we ask the applicant to address these concerns, work with the different agencies. So not only will they be doing that but now Robin will also be helping them.

Ms. Buchanan: O.K. and that is the reason why the planning commission here asked you folks to cease operations until that was clear and you said no you going write the letter and no you said you going do one little bit more, you going send Robin out there. Robin if you do out there and you do go on the tour you need to also hear out the other fraction in the valley which is Kathy Davis because you have two hui's in that valley operating against each other at this time. So you have to take that into consideration. Any more questions on this Halawa issue?

Mr. Boteilho: Madam Chair I have a question. Just for my own information, if there is trespassing going on why doesn't the landowner say just don't trespass?

Ms. Buchanan: Because a lot of the landowners are not here and actually the main landowner in Halawa is Puu Hoku Ranch. About 3/4 of that valley is owned by Puu Hoku Ranch in front from what I understand. I understand that the Ranch is now working with Lawrence on the tours. So it would be small parcels that you would be traversing that would be in question and half of these people don't even live here from what I understand. But try kick one rock on their land and see how fast people going find out who own that property.

Mr. Ribao: Madam Chair I have to be excused. One comment, there's a conflict on the next meeting date, the conference is on the same day.

Ms. Buchanan: We were going to bring that up. Wayne was going bring that up.

Mr. Boteilho: Let me just say that this is the exact conference, on the 9<sup>th</sup>. The policy of the county is that we send, unless it's HCPO where we would send all, we just send the Chair and Vice-Chair, unless the Chair and Vice-Chair cannot go then somebody else can go. Maui Planning Commission asked me the same thing yesterday and I told them the same answer. I would say if the Chair and Vice-Chair would like to go to this conference, please, I guess you were sent application. Please get that to us or Nina as soon as possible. So they invited everybody.

Ms. Buchanan: O.K. thank you, next.

Mr. Boteilho: Next is the Papohaku Ranchland subdivision. When I last came here I told you we were holding a meeting on our position and the meeting was with Director Foley. That meeting has taken place and I guess I can't say too much because of the possibility of pending litigation. However I can say that the planning department's position has remained the same. We do not support gentlemen estate on ag land. Basically, if they want to have a gentleman estate then they should call it what it is and change the zoning. We were going to write a letter to the Public Works Director expressing our concern, our strong concerns. We have held off on that because what we'd like to do, because actually the Public Works Director has the final say in final subdivision approval. So what we're doing right now is meeting with the Public Works Director and seeing if something can be worked out. So that is the status of this matter. But again, the planning department is in support of the position of the many members of the Molokai Planning Commission.

Mr. Vanderbilt: From what I heard and maybe you can correct me if I'm wrong, public works and planning are negotiating on how to respond to the land owner, is that correct?

Mr. Boteilho: You know I'm not directly involved with negotiations, I can't do everything personally but basically yes.

Mr. Vanderbilt: But you're the experts in planning and consistency with the community plan and everything else, so, they look to you for your expertise, why would you be negotiating with them on what you can say in your recommendation letter?

Mr. Boteilho: No, not what's going to be in our letter, but the final say by county code, the final say in subdivision approval is the public works director. So we don't want to just send a letter and have it approved, we're trying to work with him to see if we can do something, defer.

Mr. Vanderbilt: Well I sent a letter, Nina were you able to give a copy to the commissioner's today?

Ms. Kawano: Yes.

Mr. Vanderbilt: O.K. it was dated May 25 and it just provided additional information from Mike Foley that might help them and one of them was the West Molokai Homeowners Association just recently met and voted 377 to three against allowing any further subdivisions down there because of a lot of problems with the water and impacts with the economic development there. I also provided some information that he required another Molokai subdivision applicant to file a consistency report where the applicant had to say how he was consistent with various policies in the

general plan and our Molokai community plan. I was wondering why that same standard couldn't be applied to this landowner because it would be pretty tough for him to show consistency with several portions of our community plan. I'm just wondering why it was a requirement for one subdivision application and it hasn't been thought of for the next one. I just bought that up and the only other thing is, I bought up the fact that this Papohaku Ranchland has been before the Land Use Commission once before on a controversial issue where they tried to subdivide the conservation area to expand the sides of the lots down there. With that madam Chair I had just one question for Corp Counsel regarding the director of public works, they approved this subdivision right?

Mr. Boteilho: Yes.

Mr. Vanderbilt: I was just wondering is the approval of a subdivision an administrative action?

Mr. Boteilho: yes.

Ms. Young: Yes it's an administrative action and also subdivision approval just for this commission's information is also a ministerial approval. It's not, as opposed to a discretionary approval which would be like an SMA where there's criteria but there's more discretion, you can provide conditions. Subdivision is, would be if they had adequate water, adequate access and the list goes on. But they have certain requirements like code. So long as those requirements were met they would be hard pressed to deny the subdivision. Also the fact that there's a lot of community opposition they would be hard pressed to deny just based on general opposition. If it was opposition where there's a lack of water or there were concerns for example like gentleman estates it would go against the community plan that's a different scenario. But if it's just general opposition they would be hard pressed to deny because this is not a discretionary permit, or a discretionary approval it's a ministerial one.

Mr. Vanderbilt: Madam Chair can I just follow up on that? I'm trying to understand this because a lot of people are concerned in this whole community on this and in the county code under that Bill 84, 280-B, it says notwithstanding any other provision, all subdivision ordinances, zoning ordinances and administrative actions by agencies which will be public works shall conform to the general plan which includes the community plan. In my letter I quoted that in Title 19 it says that any approval of a subdivision has to be consistent with the policies and objectives of the general plan and the community plan. My question is, if planning writes back and says ask the applicant like they did on another subdivision to show that you're consistent with the community plan and they aren't able to show that, can't the director of public works not give them final approval? The only reason I ask that is because in the other subdivision they wrote back public works director and said comply with the requirement comments from the planning department. That was the subdivision where they asked

the applicant to come back and say how they were consistent with various provisions of the community plan and the applicant didn't and they never got final approval. So couldn't that same scenario apply here?

Ms. Young: I believe it's the department's position that that is the case. That they have to conform to the, be consistent with, conform to the general plan. Having said that then, that would be the department comment to the public works department and that would be a criteria that the department would use in order to deny the application for a subdivision approval.

Mr. Boteilho: That's why we're talking with public works. Public works has a ministerial act, they look at, either your parcel is two acres or not. Either your road is 40 feet or it's not. What planning is trying to say is you know what perhaps we should change the policy to be more in conformance with the community plan.

Mr. Vanderbilt: What do you mean change the policy, the law already says you can't approve a subdivision unless it's consistent with the policies and objectives of the community plan, it's law. How can you say you gotta change a policy when the policy you're looking to change is already in the law?

Mr. Boteilho: I'll try to answer quickly, but yeah, Corp. Counsel's opinion in the past has been that the community plans are so general in nature and they're not specific enough, therefore, consistency with the community plan should be required when another law says that you must. For example the SMA.

Mr. Vanderbilt: This is the last. But in your letter, your comment letter on another subdivision on Molokai you said the applicant must also provide a compliance report for the planning department which describes how the proposed subdivision is consistent with the goals, objectives and policies of the Maui County General Plan, the Molokai community plan and Chapter 19.30A the agriculture zoning ordinances. Then you list various issues there, provisions in those documents which the planning director didn't think they were consistent with. Now how can he do that and not do the same thing for this one?

Mr. Boteilho: Is that a recent letter? Can I get a copy?

Mr. Vanderbilt: Mike Foley signed it. That's why I wrote you the letter.

Ms. Buchanan: 2003, January 26.

Mr. Vanderbilt: It's signed by Mike Foley who is now contemplating sending a letter to the what ever this other guy's name is.

Mr. Boteilho: Planning Department would agree, that would be something...

Mr. Vanderbilt: Why don't you just do it and if public works wants to approve then fine you've done your job. I don't understand this negotiation to try and get a policy when the law already says.

Mr. Boteilho: We're not negotiating to get a policy, we're negotiating to see if our concerns can be addressed according to our preference.

Ms. Buchanan: Your concerns are the same concerns that we have. So I'm in support with Wayne and what ever they trying to do. You get some point and we've been beating this thing to death so that's enough on that. Mr. Knottman is not building anything right now and that's the main thing. We have anything else under Director's Report?

Mr. Dunbar: I have a question on that public input thing. If anybody would like to hear?

Ms. Buchanan: O.K., what time you guys plane? As long as they out of here in the next...

Mr. Boteilho: We have to leave by four.

Mr. Dunbar: Basically the ahupua'a of Kainalu has been owned by my family for over 90 years. (Inaudible) upon which there are no kuleana lands. It was originally owned by Abner Paki, Bernice Puahi Bishop's father, he was born there. During the mahele we got, what they said was \$5 for the kalo lands and (inaudible). He owned the Kainalu fishponds, and some where in the 1860's (inaudible) I think the final survey was during the 1880's or 1890's. At some point and time the government said we own it and we don't know whether it was. (Inaudible) bought it for \$500 and in 1886 she sold it to some guys names Cassidy in 1904. They then sold it to pops in about 1914. We've held that property ever since. PuuMano sits on the property. This microwave station is not on PuuMano, it is below Puu Mano. In January when it rained I had water all, I had mud on my beach all the way from Wailua that came out of the Wailua Stream, as well as what came out of the Kainalu Stream. All the roads were muddy, they were muddy from one end lla the say down. We're planting native Hawaiian plants on the hill side that was geared unfortunately, we were going to do a circle and now it's all pasture with grass and weeds about five feet tall and we're doing a 60 foot surface and native plants will go in there and we're putting in drip irrigation. So I don't know, it's an ahupua'a that we won't deny (inaudible). Raymond is on the Halawa side, they have walked up and (inaudible).

Ms. Buchanan: I think Leimana's concerns were more of a conservation issue because he just, the water's dirty and I don't know why, I going blame your road because you went build it and all this kind of stuff which is a concern. What ever. You know his point is taken and as a community member we need to at least try to address his concerns. Thank you very much, I like history, bumbye we talk. Wayne you have anything else here?

Mr. Boteilho: One final thing, the microphones, when I was last here we had orders not to spend money, however I took a chance and put it in any way. And it got approved. So the microphone system has been ordered. It'll go to our consultant, he's going to set it up and I'm going to go down to shop and he's going to show me how to operate and than we'll send it straight to Nina over here. I say by July 1<sup>st</sup> we should have it operating. \$10,000 you're gonna have probably the best portable system in the state. If I'm challenged I'm going to say this may be a prototype for the future.

Ms. Buchanan: If there are no other announcements...

G. NEXT REGULAR MEETING DATE: June 9, 2004

Mr. Vanderbilt: Madam Chair when ever we meet again could we possibly talk about the format on the agenda's? The only reason I ask that is all the agenda format's are not the same for all the commissions as I understand it. For instance on Maui, on their, right on the front of theirs it says if anybody in the audience, if you're coming in to testify and your item is not till later you can testify and it tells you how to do that and it just is a lot more friendlier than ours. I would like to at least talk about the format of our agenda to make it as friendlier as possible.

Ms. Buchanan: O.K. we can put that on the next meeting date. Thank you Degray.

H. ADJOURNMENT.

There being no further business the meeting was adjourned at 3:52 p.m.

#### RECORD OF ATTENDANCE

COMMISSIONERS PRESENT:	1.	L. BUCHANAN, CHAIRPERSON
	2.	D. VANDERBILT, VICE-CHAIR
	3.	W. FEETER
	4.	R. RIBAO

5. K. DUNBAR
6. M. TANCAYO
7. S. NAPOLEON
8. C. SEALES

ABSENT:

1. J. KALANIHUIA

STAFF:

1. W. BOTEILHO, PLNG, DEPUTY DIREC.
2. R. LOUDERMILK, PLANNER
3. C. YOUNG, CORP. COUNSEL
4. R. NAGAMINE, LUCA