

**MAUI PLANNING COMMISSION
REGULAR MINUTES
JUNE 25, 2013**

A. CALL TO ORDER

The regular meeting of the Maui Planning Commission was called to order by Vice-Chairperson Warren Shibuya at approximately 9:02 a.m., Tuesday, June 25, 2013, Planning Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Maui.

A quorum of the Commission was present. (See Record of Attendance.)

Mr. Shibuya: Planning Commission meeting come to order. At this time, I'd like to introduce some of our Commissioners. There's Commissioner Jason Medeiros, Commissioner Keone Ball, Commissioner Wayne Hedani, Commissioner Sandra Duvauchelle, Commissioner Penny Wakida and I'm Warren Shibuya and also with legal counsel, James Giroux and Director Will Spence, and we have another Commissioner here, Commissioner Max Tsai. Members, I'd like to make a brief announcement here, anyone here would like a public testimony can do that on any item. You have three minutes to do that, but you will not be allowed to testify again when the issue comes up. Or you can testify before...at the time that the issue the item or bring up the item. So if there's anyone who would like to testify now, please come to the podium. None, okay, noting that there's no testimony at this time for all of the items, we'll proceed. Director, will you introduce the first item?

Mr. Spence: Thank you, Mr. Chairman. The first item that we have for the Commission this morning is our amendments to our Parks Ordinance. Actually not an amendment, replacing our Parks Ordinance with something that makes a little bit more sense. The Staff Planner this morning is Mr. Joseph Alueta.

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

1. MR. WILLIAM SPENCE, Planning Director, transmitting A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.27, MAUI COUNTY CODE, AND REPEALING CHAPTER 19.615 RELATING TO PARK DISTRICTS. (J. Alueta)

Mr. Joe Alueta: Good morning, Commissioners. I'm Joe Alueta. I'm your Administrative Planning Officer. Some of you...I have not presented before some of the new Commissioners. I pretty much handle land use ordinance, changes to Title 19 as well as liaison between the...when resolutions come down between Council and to the Administration and I'll take them through the Planning Commissions.

As you know, there's two basic methods in which you can amend the County Code and that is either through Administrative or director initiated which we have today where we are making the proposed changes to Title 19 or they can be initiated by Council through a resolution process in which they'll send down a proposed ordinance for your review in which the Commissions have a certain amount of time before Council can take action. Again, today is a director initiated from our Department. It is part of our ongoing effort to update and sort of modernize the County Code. The methodology in which we do it is we believe you need to look at your Code every year and see is this still valid, is this still...do you need to do any tweaks to it? In the case of the County much of the Code dates back to the 60's and so this effort has been kind of a pretty intensive effort.

This section that we're dealing with is not that old. I think I was in high school when it was first initiated about 25, whatever, many years ago. Anyway, the most recent...yeah, I think was...and then the last amendment that we had which was back in I think '89 or '90, I was still in college so it's not so bad.

Mr. Ball: I was in high school.

Mr. Alueta: Yeah, you were in high school. So we're gonna try to update. The park...this is dealing with the Parks Districts. Okay, so what's very interesting about the Parks Ordinance is that you have two sections. You have 19.27 which deals exclusively with Keopuolani Park or Maui Central Park. And then you have what they created later on which was the Parks which they made it as 19.615 in the Maui County Code, but for some reason, and that's where you come up with as some of you may have heard PK-1, PK-2, PK-3, PK-4. PK-4 was the main driver which is golf courses, okay. But they stuck it in 19.615 which is if you look at the Maui County Code is actually under the Enforcement Section. So I don't know why it was stuck there, but they needed a placeholder and they just stuck it there and that's...so if you look under the Administrative Rules it's...so what we're trying to do is consolidate this down into the Land Use Code side which is under and we're gonna put it all under 19.27, and we're gonna rename it. The goal is to rename it basically the Parks District because that's what it's gonna cover.

And we're also gonna, and at first the idea was in going through this amendment and we're obviously we're working with the Department of Parks and Recreation just was kinda going back and forth with them. We were just gonna take the uses from Maui Central Park and put one table with all the Maui Central Park uses and then all the PK-1, PK-2, PK-3 uses all together and do... As you know, I love my tables and just list out what we do. That was the initial goal make it real simple. Keep all the uses the same and the things that we were gonna add, the main things that we were trying to accomplish I guess you could say was one, is higher heights for the Parks District because we were processing lots of variances for stadiums, gymnasiums as you know, they're taller than 35 feet or 30 feet which was a prominent height. Light towers, what do you...you have these light towers and light structures it was kind of a gray area, as to where they...are they allowed within the setback, how high can they be? And you notice the light towers at the stadiums are quite tall. So we had to accommodate for that.

But in talking with the Parks Department, in talking with Staff we were like why do we have...two things came out, why do we have so many districts? Why can't we just have a PK-1 which covers all the parks and PK-4 which is golf courses and so that was the premise. So we're basically getting rid of PK-2 and PK-3 and consolidating all the uses because PK-1 was limited to park size of two acres. Okay, so those were supposed to be neighborhood parks and then PK-2 and PK-3 got bigger to 30 acres and 100 acres and they would allow uses such as skate parks and other uses that you know, you need big areas. Well, Maui how many...how many times does the County buy 30 or a 100 acres, we have that the luxury of doing that and how many skate...I mean, why couldn't you put a skate park on two acres or on five acres? And that came about with Hana. Hana has a nice skate park. The only place that you can put skate park is PK-3, okay. But the minimum lot size is like 50 acres or 30 acres and we're like they were donated three acres or you know, a small acreage. So Council changed the zoning even though it didn't meet the standards for that lot size, it didn't meet the minimum lot size. So it became problematic and the reality of how we do

business or how park facilities get established didn't match this cookie cutter ordinance that someone may have copied from somewhere else where land cheap and uses may not, okay.

So what we're trying to do is, again, consolidate give the Parks Department and our communities more flexibility so you can establish a skateboard park or BMX track or something like that and get rid a lot of these restrictive standards where you have to have a minimum lot that is not going to happen. And so that's... so this goal is one again, consolidate all of the park facilities down to one district, eliminate the minimum lot size requirement, okay basically. So you're gonna see n/a non applicable. So you can have a smaller park facility.

Another thing that getting rid of minimum lot size or lot width is that for me I think it will encourage us in establishing a trail system. So now you can have a walking trail or a equestrian trail that is only 10 feet wide and get that lot dedicated and say it...and zone it to PK-1. So that it allows the County to take a small lot through people's properties as you establish a park facility that may not be just a square. It could be of varying sizes.

Again, the other issue that we were trying to do with the PK was heights. So if you look on, and I'm gonna be working from Exhibit 1. If you'll look at how we've established again, we're moving everything to 19.27. We're using the standardized approach that we have throughout a lot of our code amendment which is what's the purpose and intent, what's the permitted uses, accessory uses, special uses and development standards? So again, we're still keeping Maui Central Park, if some of you were around when that was established, that was the big Linda Lingle's project prior to her leaving office. It's a great park facility. Very controversial at the time because there was the dune system so there's preservation areas. We didn't wanna mess with whatever agreements were made with the development of that. So we basically just cut and paste it. We kept all of that the same thing. There's still a reference to a park master plan which is what Parks Department wanted because they worked it out with some community groups. We just call it Maui Central Park and we listed all of the uses that were already in the code, and then we...the one thing we did was add special uses to that, you'll see it later...(inaudible)...

Mr. Shibuya: Excuse me, Joe?

Mr. Alueta: Yeah?

Mr. Shibuya: Are you planning to go into the details now?

Mr. Alueta: No. Right now I'm trying to cover the—

Mr. Shibuya: Just give us a overview.

Mr. Alueta: —give us the highlights of where the main changes are.

Mr. Shibuya: Okay, what I plan to do is let you complete that portion of the overview and the streamlining effort and then I'll have questions from the Commissioners to clarify those items, then I'll open it up for public testimony. Okay, and then we can go into the details.

Mr. Alueta: Okay.

Mr. Shibuya: Thank you.

Mr. Alueta: Perfect. Thank you. And then again, all of the uses that were in PK-1, 2, and 3, were consolidated into the use table and you can see all the x's were they are and then we also kept PK-4 as it is. And the things that we probably added were like emergency broadcast and then subordinate uses and structures which are determined by the director as clearly being incidental and customary to the permitted uses. Other key things that we added, were farmers markets so you can, you know, those are very popular. As well as making it clear that you can have under accessory uses light fixtures, luaus, carnivals, bazaars, fairs which are temporary in nature and we defined what we meant by temporary so no more than 30 days. Again, getting rid of on the development standards you'll see us getting rid of where we say n/a for PK-1 and PK-4. And then increasing the building height to 120 feet, and making exceptions for non-habitable, I mean, as far as structures listed under for the development standards, and that way you'll cut down on one, variances for these uses.

Part of the discussion, and you know, I'll probably get corrected somewhere, but part of the discussion with the Parks Department was all of the park facility...the vast majority, we don't know of any privately owned parks that are not...that are not have...are not under the control in some fashion of the Parks Department meaning it's either a park facility, right, that's PK, zoned PK, right that is either owned by the Parks Department or there's some type of private agreement which regulates the use. And now again, this is just for land zoned PK. It doesn't necessarily mean like say it's zoned Residential because you can do a park facility in the Residential District and that's what's happens a lot of times is that you'll have a subdivision come in and they'll dedicate certain land areas like Maui Lani or Wailuku Heights or whatever, it's still zoned Residential District but parks are allowed, parks and playground facilities are allowed, but the County has a private agreement with them to say we're gonna maintain it. You know, we'll maintain it and then the uses that they allow in that private agreement is gonna be controlled for that. So that's pretty much why we felt a little more comfortable in allowing for some of these facilities to go forward and then again, if there's any other private, we can always deal with it later during the zoning process if somebody comes in for a PK, and that's pretty much the summary of the changes.

Mr. Shibuya: Okay, Commissioners do you have any questions that you'd like to have clarified before we go into the details or having a public testimony? Commissioner Wakida?

Ms. Wakida: I had just one general question. Where is exactly is Maui Central Park?

Mr. Alueta: Keopuolani Park right here, right down on, between...basically Kanaloa, east of Kanaloa Avenue and –

Ms. Wakida: Below the stadium or?

Mr. Alueta: Correct. Where YMCA. YMCA is a lot within the Maui Central Park and then you have all of...then you have the new doggy park, you know, all those baseball fields. Used to be all the Quonset huts, the military Quonset huts down there.

Ms. Wakida: Okay.

Mr. Shibuya: Any other questions, Commissioners? Yes, Commissioner Ball?

Mr. Ball: Does this now address...there was some issues with the Boys and Girls Club in the parks area when they were trying to redo their leases and I think that there was an issue this might fix 'cause I see that there is a provision for...anyway they're kind of listed in there as a community or sort of building in there.

Mr. Alueta: Yeah, they're part of Maui Central Park, so there was probably a master plan.

Mr. Ball: I think it was in Lahaina too, they had issues too.

Mr. Alueta: Oh really, okay.

Mr. Ball: Yeah, where they were in that park zone, but...

Mr. Alueta: I can, we can look into that if that's probably...

Mr. Ball: This might fix it because I see they're kind of semi listed.

Mr. Alueta: Okay.

Mr. Shibuya: Oh, Public Works?

Ms. Dagdag-Andaya: Chair or Commissioner Ball, I think part of it too might come from the fact that they were doing a lease of the property and with that it had to with our Subdivision Code, and just recently we went to the Infrastructure Management Committee with revisions or amendments to our Subdivision Code that would allow for say if someone were to lease the property especially like Boys and Girls Club if they wanted to lease it they don't have to go through a subdivision which they had to do prior. So that, that new subdivision amendment would help, you know, in future cases where entities like the Boys and Girls Club need to lease out a portion of County property for their operation.

Mr. Ball: 'Cause I know the canoe clubs in Kahului are coming, are gonna be coming in for that same thing because their leases are ending so maybe that, hopefully that new ordinance will pass before that and that will...similar situation.

Ms. Dagdag-Andaya: Right. So it's coming up for first reading July 5th I believe. So, but I think that, that might be part of what you're asking about.

Mr. Ball: Thanks.

Mr. Shibuya: Thank you. Joe, I just have one administration type of question here. Now that we streamlined, let's say we streamline it, what happens to the variances that are currently in force now, will they be going away because it covers here?

Mr. Alueta: Yeah, if there was a variance it will either become moot or if the law changes, the variance runs with the land, you know, and the specific project. So it will have no impact on that. It will create basically allow for no more future variances. Meaning if they come in and did an expansion of some facility, they wouldn't have to get another variance to do that expansion.

Mr. Shibuya: Okay, in other words then title on that land would they have to add or amend that title or they just leave it as is?

Mr. Alueta: They probably leave it as it, but again, most of the variances are for the County.

Mr. Shibuya: Oh okay.

Mr. Alueta: Like I say, most of these, especially the ones that required height variances were County facilities.

Mr. Shibuya: Okay, thank you. Any other questions, Commissioners before I open it up for testimony? Thank you.

a) Public Hearing

Mr. Shibuya: Hearing none, we're opening up for public testimony on this item. Anybody would like to speak at this time, please approach the mic? Seeing none, we'll have public testimony closed on this issue. Joe, will you continue? And the procedure here, Joe, you go through each of these items and you'll highlight it and we can discuss it and any agreement, do we need to have some kind of acceptance by all of the members or is this generally you would like to have some kind of motion at the end accepting all of these?

Mr. Alueta: If you do have amendments, I mean, I think we can discuss it and then if there's consensus on the change then we can just do those one at a time and at the end have one general motion to approve the whole thing.

Mr. Shibuya: Okay, so Members, if it's okay with you when we discuss a specific item, I'll take a verbal type of consensus and if there's any objections that we'll continue to resolve that objection then we'll move onto the next item.

Mr. Spence: Mr. Chairman?

Mr. Shibuya: Yes?

Mr. Spence: One thing we would like to discuss with the Commission, when we get to it and we can go through the draft ordinance first, but then we'd also like to discuss perhaps making an addition to the County Ag District and to the County Rural District and it would be necessary for a discussion, but this is something that, you know, we'll talk about and see if it's something the Commission feels one way or another about, but right now the parks are an accessory use in the Ag Districts even though we have a lot of parks in the Ag District, you know, it supposed to

somehow be related to agriculture and, yeah, I know...and you know, the same thing in the Rural District and so we'll just, we'll bring that up after we discuss the ordinance with you.

Mr. Shibuya: Okay, thank you very much Director. Joe, go ahead.

Mr. Alueta: Again, I think the summary pretty much covered all of the different changes that we're majorly doing. Again, we still have the general Park District as PK-1. Instead of being Neighborhood Park it's just being called the General Park District and then we're having PK-4 stay the same as PK-4 Golf Course and then we have the Maui Central Park which does not change.

There wasn't anything significant. I mean, is there any use...I guess I would ask you is there any use that's listed in here that you would have a problem with or have a concern over? So again, skeet and trap field, we tried to look at where it would be appropriate. Again, PK, Park District it could either be, we felt it could be in the Golf Course District also. They should be able to PK-4, you know, if you have a joint use. Also, it's not something that you're gonna have in say Maui Lani per say, it's gonna be something that's regulated under, again, by a park facility. You're gonna have to take into the normal circumstances. So again, this is only for lands that are zoned the PK-1 or PK-4. Again, that's where I start because a lot of these uses are already permitted or listed in the County Code. The only things that we're pretty much doing is allowing for other businesses or similar commercial activities that are non-detrimental to the welfare of the surrounding area to be determined by the Commission.

Under Accessory Uses, we allowing for energy systems, small scale with the standard. We're allowing for light fixtures and pole lights which has lamps that have cutoff to lessen seabird strikes. That was one of the comments that we got from one of the agencies if you look in the back of the staff report there's some agency comments. You know, clearly making maintenance buildings, lifeguard facilities or security stations an allowed use. And again, expanding the...and allowing for luaus, carnivals, bazaars into the Park District. Emergency broadcast sirens, farmers markets is being added, and allowing for skate ramps, you know, play and outdoor exercise equipment.

Mr. Shibuya: Excuse me, Joe, on camp grounds when we have people staying or wanting to do some camping. Is it something that you have to register and is there a time limit for these people who want to camp out at the park?

Mr. Alueta: Again, it would be regulated by the Parks Department.

Mr. Shibuya: Okay, so they do have regulations?

Mr. Alueta: Right. Again, what happens is this code, right, the permitted uses would be like this both Council and as explained to me by the Parks Department, Council in their development, you know, when they come in for CIP projects to do the improvements would limit the uses. They gotta get it approved by Council if they wanna build cabins or something like that. Council's gotta approve it. But at least it allows for that use to be allowed. So it gets reviewed at that stage. If it's a private park, private owned but run...the facility by the Parks Department, they would narrow the uses further and say yes, you can do playground equipment and that's gonna be their private agreement with the Parks Department as to what would be the allowed uses on that property that

is zoned, again, PK-1 or PK...you know, or Maui Central Park. And again, these are lands that are either gonna be owned by the County or controlled in some fashion by either a private agreement if the land is not owned by the County. Now this does not impact playground facilities or park facilities that are in the Residential District, okay. That's separate. So you couldn't do a commercial campground in some park or a neighborhood park in the middle of Maui Lani or in the middle of Kahului that's not a use that would be allowed, okay, or it's just it wouldn't be regulated. It would not be permitted and it wouldn't be subject to it if was zoned R-3. This is only for zoned Park.

Mr. Shibuya: Yeah, my concern was in terms of dealing with possibly homelessness that we have a problem in Honolulu and would this cover it or will the regulations...I guess the Parks Department would somehow administer to that rather than this ordinance?

Mr. Alueta: Right, yeah.

Mr. Shibuya: Okay. Thank you. Any other questions, Commissioners? Commissioner Wakida?

Ms. Wakida: Thank you. Joe, a 120 feet is approximately how many stories?

Mr. Hedani: Ten feet per floor.

Mr. Alueta: The Code...we do it normally 15 feet per story given the structure, but you could go 10, so it would be 12 stories, but that would be a narrow, I mean, you'd have to have a supporting structure to build that that's why...

Ms. Wakida: I have a little bit of concern about one of the allowed uses, governmental offices and facilities. So this means that you could build a government...an office building that's 10 stories high on a park land and I'm just wondering about the impact of that.

Mr. Alueta: I guess theoretically you could, but it would have to get...one, why would you do it in land zoned Park and not something else or Public/Quasi-Public, that's true, you could do Public/Quasi-Public, you know, 2 which allows for higher heights also. The reason the Parks Department wanted a 120 feet because there is a plan, haven't seen it, but there is a plan to build a Blaisdell like facility on the County's park lands and so that was where they wanted the 120 feet to build such a stadium or not stadium but Blaisdell like facility.

Ms. Wakida: Well, I...

Mr. Alueta: And that's where their plans came up and that's why Parks Department wanted...I asked Parks what height do you want because I was gonna give 'em no height and then let you guys hash it out and they wanted a 120 feet.

Ms. Wakida: Well, my concern is that down the road there is a piece of park land and the County goes well, let's build it there 'cause we already own the land and we can already go, you know, it's 10 stories. I think there gonna be a lot of scrutiny of something like that.

Mr. Alueta: And that's where your...that's why you're here today so you can...if you feel that that's something that should be reviewed at another level outside of the County, remember the Parks Department in their rational, right, is that if we came in and said we're gonna build a 12-story office building in the parks land, PK-1 land, we would have to go to Council, okay, and we would have to get Council to approve a budget to build that facility in the parks land. If the community didn't want it or if there was concern it would come up at the Council during the improvement of a CIP project or just Parks Department would be inundated by phone calls saying why are you taking away my park land to build an office building is that an appropriate location? So they felt that there was enough oversight I guess you could say, but there's enough...someone's gonna be reviewing it outside. If you feel there's need for additional review then again, we have a special use permit process, right now we're saying the only thing we have in there right now is cell towers for Maui Central Park. Again, because these lands are park lands, I mean, zoned Park and they're theoretically owned for the most part, owned by the County of Maui or controlled in some fashion. I don't believe that we're allowing those facilities in the PK-4 which is the golf course facility, at least I hope I didn't check that off.

Ms. Wakida: Well, you do. You allow for the government offices in PK, in all three.

Mr. Alueta: Oh, for government offices, okay.

Ms. Wakida: Yeah, government offices and according to this it could be up to 10, 12 stories, whatever a 120 feet comes to. I agree it seems a stretch that the County might choose to do that, but you never know. I mean, you look at things that have been happening around here lately that where there's been some miscommunication and...

Mr. Alueta: Well, in the PK-4, in the PK-4 District it be limited to 35 feet. So it's only in the PK-1 that has that 120 feet.

Ms. Wakida: That's true.

Mr. Alueta: So just to give you an idea, I mean, I'm not sure what...we have...based on what I could determine, we have...Makawao has about 37 acres in the Makawao-Pukalani Community Plan District about 37 acres that would be PK-1, that would fall under the PK-1 District, 12 acres in the Paia-Haiku District, 148 acres in Wailuku-Kahului, Kihei-Makena has about 6 acres in the PK-1, and then they have 6 acres in PK-2. They have lots of land in ambiguous, Park PK-4 or...and then you have West Maui has about 5 acres in PK-2, and that's pretty much it.

Mr. Shibuya: Okay, any other questions Commissioners? I have one, Joe. This open land recreation and outdoor recreation, maybe you can help me understand the difference between the two or we just say outdoor recreation, but they also do not have a cross mark of applicability to PK-4 where PK-4 is outdoor I think recreation and that's golfing is it not? Or is golfing something else?

Mr. Alueta: Golf course, you'll see that golf course facilities, golf courses are allowed right below it.

Mr. Shibuya: Right, I understand.

Mr. Alueta: At the time, again, the definitions for outdoor recreation, open land recreation. They were created at the time when you had PK-1, 2, 3, and 4, and so you had to differentiate between the various uses. Basically one allows...is basically, is passive. Is an outdoor land, there's no real active activity going on. There's hiking, trail activities, but there's no like structures or facilities that would be associated with say, shooting...a shooting range or archery and so it was kind of a catch all. One had facilities to support some type of outdoor activities such as shooting range or riding stables and stuff like that. And one was just open land, very passive where you could do hiking and biking but there was no real infrastructural facilities.

Mr. Shibuya: There would be some rest facilities there too right, hopefully? No?

Mr. Alueta: Yeah, I think it was...but it was very limited to the type of facilities that could be built and again, it's kind of a...it was at the time when we were having...where you tried to differentiate between the 2 and 3 and you were trying to separate those out. And at this point, it's sort of a moot point because they are both being allowed in the same district and because we, again, because we consolidated down these uses.

Mr. Shibuya: Okay, well, my suggestion is to either structure it in such a way or move the golf course block within the outdoor recreation. I don't know why you wanna keep it separate.

Mr. Alueta: No, no, no, I think the one that would be, could be consolidated is the open land recreation and outdoor recreation. And again, we kept it separate because it is currently two separate definitions and again, this is just a proposal. We don't know whether you or any of the planning commissions are gonna be supportive of the consolidation nor do we know if Council is gonna be supportive of the consolidation of some of these uses. So we left it there to keep it flexible enough so that we didn't have to go through the whole rigmarole of readding it in later.

Mr. Shibuya: Okay, maybe just putting like you mentioned paren passive and the other one is paren active or something to that effect.

Mr. Alueta: Okay, some to clarify it?

Mr. Shibuya: Somehow to clarify it. And then going down you have automobile, go-karts and motorbike activities. Is this for competitive recreational uses, you know, like speedway?

Mr. Alueta: It could be in the Park District, yes.

Mr. Shibuya: Like in Puunene?

Mr. Alueta: Correct, if they wanted to zone that.

Mr. Shibuya: Okay. Also, recreational, educational, neighborhood or community centers, facilities for public or eleemosynary organizations. That's interesting because it says educational and what now is happening is that Baldwin High School was once actually started by the County and then

after we had the statehood, then all educational facilities were supposed to be transferred over to the State. State DOE has that responsibility to provide for educational services. However, the facilities at War Memorial is County owned. Baldwin High School is not. It is State. So it's no man's land there and there have shower facilities where the students are actually using it.

Mr. Alueta: Yeah.

Mr. Shibuya: And they're being kicked out or limited. There's a little problem here I guess 'cause now you have the community has needs as well as school educational has needs and you have conflicting needs. I just wanna resolve that. This is not a means of resolving.

Mr. Alueta: This is not a means of resolving. That's more of a infrastructural facility issue. This allows for that facility to take place otherwise Baldwin would not be able to offer any type of aquatic educational programs because they would not have the facilities or have to build the facilities. This allows for educational programs Baldwin to use a County park facility and makes it an allowed use. It allows for nonprofit swimming organizations to use park facilities or to either construct their own facilities in a joint venture with the County on County land. So you could get like a Salvation Army type pool being built in the PK land it allows for it or maybe my Valley Isle Roadrunners wants to open a clubhouse and that's pretty much what Maui Central Park was. If you look at Maui Central Park, it has lots established. All these little lots. So you have the Boys Club, is it Boys Club? Yeah, Boys Club and then you have the YMCA. Those are those nonprofit organizations, educational programs that have a joint lease leasing County land in the Maui Central Park facilities. There's also some other land, lots there within the Maui Central Park to allow for it. And this just, again, reflects that you could allow for it. Any of these uses would have to be approved by Council not only has to have agreement with the Parks, Council would have to approve the use of those County lands.

Mr. Shibuya: Okay, any other questions, Commissioners? Commissioner Wakida.

Ms. Wakida: Joe, I wanna come back to my concern about the height and the government offices. Review for me again. Let's say hypothetically the County wants to come in and they're in desperate need of office space so they say they wanna put up let's say an eight-story office building and house the Planning Department for example, and they wanna take a chunk of park land. What then is the next...what's the process that the County has to go through to get permitted to do that?

Mr. Alueta: We would have to...it would have to be approved in the budget during the CIP project and that's the only review that would happen. Again, if you look at the far right column, always put that as my catchall. And again, government offices and facilities, it's kind of a catchall and that's something new that was added because, you know, we're the government. We need...we need to provide for the community in some fashion and we don't necessarily wanna get bogged down by having to go through a zoning change. And I mean, we already gonna have to do an EA. There's already gonna have to do an Environmental Assessment 'cause you're using county facility or county funds. During that EA process, the impacts of using a park lands that may or may not be currently used by the community would have to be addressed.

Ms. Wakida: Okay yeah, I just wanna be sure that the park land is kept for standard park uses and

it doesn't get eaten up by say the government wants to build a 10-story parking lot and a baseyard for its trucks and so on, and suddenly...

Mr. Alueta: If you wanted to be more clear you could put in that far right-hand box, government office and facilities in support of parks or the, you know, the purpose and intent of this district so that you don't have the Water Department going in and moving in or the Public Works parking their trash, you know, their loaders and dumpsters in the park land. You know what I'm saying?

Ms. Wakida: Exactly.

Mr. Alueta: Or Corporation Counsel building their edifice to themselves. So anyway, but I'm just saying if you wanna say like limited to government offices and facilities and then you put in that far restriction condition that says hey-

Ms. Wakida: Provided they support park and recreation activity. However, anything like the Water Department they all can argue that they support parks because it's the Water Department so it is a little...I don't know how effective it is. I don't think in the near future that this is gonna happen, but I'm looking like 15 years down the road when there's a whole bunch of different people and land becomes more scarce.

Mr. Alueta: Okay.

Mr. Shibuya: Okay, thank you. Any more, Commissioners, any more comments? Commissioner Hedani?

Mr. Hedani: I held back because you asked for questions. It's not really a question.

Mr. Shibuya: Comments is fine. It's okay.

Mr. Hedani: I have eight comments basically on the document, Joe, and it's mostly matters of style and understanding how you put this whole thing together, yeah. But maybe like to run through a couple and then yield the floor basically. On Exhibit 1, Page 1, Section 1, it says, Chapter 19.27 Maui County Code is amended by adding a appropriately designated and to read as follows, to me that's an incomplete thought, yeah. I mean, a word is missing or I'm not sure what the objective of the sentence is yeah, but it's fragmented so that's just a comment.

Mr. Alueta: Okay.

Mr. Hedani: Somehow that needs to be cleaned up.

Mr. Alueta: Maybe there needs to be an "s" at the end of the "a", adding as appropriately designated and to read.

Mr. Hedani: Amended by adding a section as appropriately designated, something that makes sense.

Mr. Alueta: Okay. I'll go back through. I rely on Corp. Counsel a lot.

Mr. Hedani: Also on Page 1, I wasn't sure what you were doing like if you look at Line 17 where you cross off, Maui Central Park District establishment permitted uses. It seems like you're taking away the definition of the Maui Central Park but on Line 31, you're keeping it and saying the Maui Central Park District is.

Mr. Alueta: Correct.

Mr. Hedani: Seems like you're taking away the definition and using the term. So you either put it in or take it out or I wasn't sure what was happening.

Mr. Alueta: Okay, what's happening, because I'm folding in 19.615 into 19.27. 19.27 is titled the Maui Central Park District. Okay, and that only deals with Keopuolani Park. And to make...to make room basically and remove the exclusive nature of 19.27 which is only dealing with Central Maui Park, I had to eliminate that title and that's why I created the standardized by crossing it out on the 17 and putting in permitted uses, right and then saying all the other stuff, accessory uses and structures, special uses, those all fit within the standardized outline of what's gonna be in this ordinance, and then under the purpose and intent which is that list that all the new park or existing Park District. So Maui Central Park exists so we're keeping that, but it's just gonna be a subsection of 19.27. It's not gonna exclusively be for Maui Central Park. And then when you turn to Page 2, you'll see PK-1 is defined and then PK-4 is defined and so that's why it's structured that way because I was using, I'm basically taking 19...rather than create a whole new ordinance, I'm amending 19.27 which was exclusive to Central Maui Park and I'm just gutting out that exclusive and sliding in all of the uses that were...and all of the definitions from 19.615.

Mr. Shibuya: Okay, continue. Commissioners, do you have any other comments? We'll have Commissioner Hedani continue.

Mr. Hedani: On Page 2 of Exhibit 1, on Line 12, what I was suggesting where you have PK-4, Golf Courses, I'm assuming you want whoever picks this ordinance up in the future to understand what the ordinance is in its totality. So shouldn't PK-4 be renumbered PK-2 if you're only gonna have PK designations?

Mr. Alueta: We could and that would be great and then we would have to generic thing at the very end again, like we have where it says, "any lands that are zoned PK-2 and PK-3 are now zoned PK-1. We would then take any property out there that's PK-4, Golf Course would then be PK-2, Golf Course. And the reason I just...if that's the will, we can do that. My only, again, I did it because I wanted to make sure that everybody was good with the idea of eliminating PK-2 and PK-3 before we started renumbering a lot of things because once you-

Mr. Hedani: Okay, that was just a comment. And mostly it's just a matter of style whether or not you wanted to keep it.

Mr. Alueta: No, I agree with that part. I mean, it would it make it cleaner. I just didn't know whether there was gonna be support for such a structural change and consolidation.

Mr. Hedani: Okay, the next comment that I had was on Page 3, the "x" that you have under archery and gun ranges, you know, the comment that I had was do you really, do you really want gun ranges on the golf course?

Mr. Alueta: Yeah, one is that the reality is that golf courses take up a lot of acreage and so...and many of these golf courses are becoming multi recreational facilities. I mean, I just came back from Orlando and saw the greatest multi recreational facilities in the world. And so that's pretty much what some of these golf courses that you notice some of them are, you know, even hosting weddings, some of them are, you know, have a different thing. And having archery or even...they may change like say Kaanapali. Kaanapali is a good example...I'm sorry, Kapalua. Kapalua has changed where you had the Plantation Golf Course. It's still zoned PK-4, it's now a frisbee golf course and it is a...it's a frisbee golf course and the XTERRA run and bike course, you know what I mean. So that type of flexibility is that they may come in and get PK-4 and they develop a golf course, the market falls out for that, someone wants to do a skeet or an archery range, makes sense, so...

Mr. Hedani: On that same page under botanical gardens I suggested adding that to the PK-4 designation as well.

Mr. Alueta: Okay. There's a consensus on that, I mean, if I can just add it?

Mr. Shibuya: Any objections, Members? None.

Mr. Hedani: On Page 4, I just had a question on what sporting ranges are because we were saying skeet and trap fields and I wasn't sure what's sporting ranges or...

Mr. Alueta: You know, I looked this up, it's been a while but I looked it up. There's different shooting methods and it...(inaudible)...you know, trap, trap is either coming from in front of you and skeet is coming from behind you and then sporting range is like the rabbit, all kinds are going along and some may be pistol, you know, different targets because some is like your from a stationary target and you're shooting out from there and then some is that going out and it's like a golf course, you go from one to another like the one below Ulupalakua and above Makena Resort. That's more of a stations where you go to each station and shoot different type, mimic different type of prey.

Mr. Hedani: Okay.

Mr. Alueta: That's all.

Mr. Hedani: On Page 5, the only question...well I had a question on Lines 1 through 6, you're eliminating all of that, zoos, botanical gardens, cultural and performing arts centers, et cetera, and the question that had was does this comport with the terms of dedication of the 300 acres to the county. My question was, was Central Maui Park when it was dedicated from A&B to the County did it have certain requirements for certain criteria for what the land was to be used for and by eliminating all of these lines, you know, was it making, was it taking away what their original intent was?

Mr. Alueta: Basically what I done is I eliminated all of that and then they're placed within the permitted use check box. So where we used to list them line by line, I'm now just moved them all to the table format.

Mr. Hedani: In the box section that you have on the second row on the right-hand side provided that lighting and lamp post and lighting controls shall be cutoff luminaries. I think a luminary is a person that's really famous.

Mr. Alueta: Let me look at their...

Mr. Hedani: The term should be luminaires, L-U-M-I-N-A-I-R-E-S, yeah, which is a light fixture.

Mr. Alueta: I might have misspelled it. It's on Exhibit 9.

Mr. Hedani: Yeah, it was misspelt by the State when they spent you the comment.

Mr. Alueta: All right, so I just copied what they said. But I will-

Mr. Hedani: But because we don't want famous persons in there, I think it's the lighting fixture that we're talking about.

Mr. Shibuya: While we're still on this, I'd like to make an amendment to this. I'm looking for my notes here, but I do have a short rewrite. It says, provided height of lighting or lamppost, downward light deflecting fixtures and reduced brightness paren lumins of lights are designed to lessen possible seabird strikes. I'm defining in terms of the height, the distance from the light to the ground, the direction of the light that is facing downward and the brightness or intensity of the light. Those are three qualities that I just mentioned.

Mr. Hedani: My suggestion was to change the word, cutoff, well, cutoff luminaires which is short people basically, yeah. Change that basically to full cutoff luminaires. Full cutoff would refer to having the light fixtures such that none of the light fixture is exposed beyond the 180 degrees of horizontal.

Mr. Alueta: That sounds good.

Mr. Shibuya: Is there any objections, Members? No. We can accept that, Joe.

Mr. Alueta: Okay, thank you.

Mr. Shibuya: Commissioner Hedani, you have any more?

Mr. Hedani: On Page 7, Line 8, on development standards, you said, development standards for Maui Park Districts shall be, and the only question that I had was that does that include Molokai and Lanai? I guess the ordinance would apply to all of Maui County?

Mr. Alueta: I'll have to look at what I titled it. It should apply to Molokai and Lanai because we're

Maui County. Although we are Maui island, it is...We can clarify that by saying Maui County Park Districts.

Mr. Hedani: Those are all the comments that I have.

Mr. Shibuya: Okay, thank you, Commissioner Hedani. Staying on Page 7, Notes and Exceptions, I think there's some terms here, provided that the minor utility facilities, vent pipes, fans, chimneys and energy savings, I think I would like to change that to energy saving and renewable energy producing devices shall be permitted. Additional height if the item is mounted on the roof of a facility. That's the only other. Any objections, Members to those changes?

Mr. Spence: Mr. Chairman?

Mr. Shibuya: Yes? Director.

Mr. Spence: So would we wanna do small scale electrical generation just to be consistent with the way we've been going through the other districts.

Mr. Alueta: Right. That's why we added...oh, I see what you're saying.

Mr. Spence: I forget the exact the term that it's just like small scale.

Mr. Alueta: It's under accessory uses as energy systems, small scale.

Mr. Spence: There you go.

Mr. Alueta: Okay, so we'll just add that.

Mr. Shibuya: Right. Good thank you. Any objections, Members, so far? None. Okay, continue. Lost my train of thought here. It comes with age. Okay, any other things, Members? If not, then...yes, Commissioner Wakida?

Ms. Wakida: Well, I wanna go back if we're getting into the picking on the grammar. I'd wanna start on top of Page 2, I like to see things that the public can easily read and understand and I know that's your goal also, and by the way I love your charts. However, starting on Line 1, on Page2, this sentence does not, I don't know what you're trying to say. It says mention and graphic identification of specific uses or organizations are deemed to be exemplary of the type of use which is compatible with a location within the district. What are you saying?

Mr. Alueta: I have no idea. I didn't write that. I just, you know-

Ms. Wakida: I think it could be left out.

Mr. Alueta: I think what they're trying to say is that the signage shall be of good quality. Honestly that's...because they're saying the graphic identification for the specific organization is deemed to be exempted in...(inaudible)...Basically what you're saying is their sign should be pretty.

Ms. Wakida: I'd like to see...I didn't know what that had to do with signage because that didn't jump out at me that way, so I would like to see you reword this somehow so it would make sense to the general public.

Mr. Alueta: Okay, I will...I'll go back and look at it. Like again, 'cause I was shift...that's existing in 19.27, and it is again, the Maui Central Park and, but I'll go back with the Parks Department and ask them if they want me to...what they would recommend to make it more clear. But I'll come up with some suggested language.

Ms. Wakida: Yeah, it's bad, it's confusing.

Mr. Shibuya: Okay, thank you very much, Commissioner Wakida. Anything else?

Ms. Wakida: Yes, Purpose and Intent in this document. Is one chunk, therefore, it needs a singular verb. So on Line 26, Page 1, you need the general purpose and intent of the Park Districts is...And then over on Page 2, you've done it correctly. You have the purpose and intent is, and the purpose and intent is, so change "are" to "is".

Mr. Alueta: Yep.

Mr. Shibuya: Any objections, Members? None. Accepted Joe. I just have a comment. Commissioner Wakida, any more? No? I don't wanna stop anyone, but I just have...

Mr. Alueta: I wanna go back to Ms. Wakida's...

Mr. Shibuya: Renewable energy because I think it's a great opportunity here. I think we have in our parks areas, well, I don't know if Parks is part of the senior centers or community centers, but I believe you have proposals to have canopies over the parking lot with PV, right? And this would allow for that.

Mr. Alueta: Correct. Under accessory uses and buildings, energy systems, small scale are allowed.

Mr. Shibuya: Yes. Okay, Members?

Mr. Alueta: Mr. Chair, oh, I'm sorry. I did want to get back...I wasn't quite clear if there was general consensus on the adding some type of language to the 120 feet for government office buildings?

Ms. Wakida: What do you recommend, excuse me, Chair?

Mr. Shibuya: Commissioner Wakida?

Ms. Wakida: What do you recommend that would provide...you said there's an EA will have to be done anyway?

Mr. Alueta: Correct. Any time you use government lands or facilities or funds.

Ms. Wakida: Well, I suppose your recommendation is provided they support Parks and Recreation.

Mr. Alueta: Yeah, I mean, I just...I'm trying to address your concern. I'm just throwing out a suggestion. I'm not...

Ms. Wakida: Yeah.

Mr. Shibuya: Okay, is it resolved or it's not gonna change, right the wording here?

Mr. Alueta: Right now there is no restrictions on government offices and facilities. Right now we're proposing any. I was trying to help Commissioner Wakida address concern by suggesting some language that the Commission could discuss and that's why I'm just trying to find out whether or not there was a motion or add any type of language.

Mr. Shibuya: Okay, thank you. Commissioners, if you have no amendments or Commissioner Hedani?

Mr. Hedani: On Page 5, the bottom left corner of the matrix, luaus, carnivals, bazaars and fairs which are special events and temporary in nature, I suggest adding things like food and wine, music and film festivals or something along those lines.

Mr. Shibuya: Any objections, Members? I think we have a concurrence there, Joe.

Mr. Alueta: Okay. So food, wine and film. Sounds like a good evening.

Mr. Shibuya: Thank you, Commissioner Hedani. Anything else, anyone else? I don't wanna speed it up, but I do want us to either accept as through a motion. Joe, you wanna summarize first before someone comes up with a motion? Just quickly.

Mr. Alueta: Okay, so...Page 1, Line 26 change "are" to "is". And then also work on this top section on Section 1. Page 2, Line 1 through 4, try to clarify what they're trying to say there, redo it. My understanding is that it's for signage issues. Page 3, open land recreation, I'm sorry, outdoor recreation, you had recommended that we add some type either active or passive, just to clarify what those means. Page 5, under lighting fixtures to put in provided that lighting or lamp post and lighting control shall be full cutoff luminaires to lessen seabird strikes. So I'll double check the meaning and spelling even though State said that's what they wanted, but I'll double check. I'll just double check to see what the thing is.

Mr. Shibuya: Joe, I just wanted to bring you a point that I don't know whether the Members concur with this but I just wanna highlight three different factors on that lighting. The height on which the lamp posts are, the downward direction of the light fixtures and reducing the brightness which is the lumens. So those qualities would be...can be identified. Any objections? Commissioner Hedani?

Mr. Hedani: The only concern I would have with that Warren is on the brightness. You know in some events you need a certain amount of brightness like football stadiums and stuff like that.

Mr. Shibuya: Right. Understand.

Mr. Alueta: And then on luaus, carnivals, you wanted to clarify that you know, food, wine or film festivals, just incorporate what we currently know exists out there. Page 7, Line 8, just add Maui...make sure it's County just to be clear. On maximum building height, rather than just minor utility facilities, we'll include energy systems, small scale as well as on that. So that would cover renewables and stuff like that in addition to the chimneys and vent pipes. And that were all the corrections that I had or additions.

Mr. Shibuya: Members, any...Commissioner Hedani, I mean, Wakida, sorry.

Ms. Wakida: Just one more minor thing on Page 7, should Line 8, Line 9 say Maui Park Districts?

Mr. Alueta: Plural. Yeah.

Mr. Shibuya: Okay.

Ms. Wakida: I just wanna comment on the government offices, I don't think we need to make any restrictions on uses, but since there is an EA I'm just...I suppose there will be enough public scrutiny if they wanna come in and do a big building that would put the breaks on that kind of thing.

Mr. Shibuya: Okay, Commissioner Hedani?

Mr. Hedani: I just wanted to make a comment that I thought that the effort to, you know, consolidate, streamline, make it more understandable to the average person was a great idea.

Mr. Alueta: Thank you.

Mr. Shibuya: Appreciate your efforts here in the streamlining our ordinances. Thank you very much. Making it very understandable. I like your chart.

Mr. Alueta: Okay, you got more coming so...

Mr. Shibuya: Okay. Commissioners, can I have a motion to accept this?

Mr. Medeiros: So move.

Mr. Ball: Second.

Mr. Shibuya: It's been seconded [sic] by Commissioner Medeiros, and seconded by Commissioner Ball. Members, all in favor.

Ms. Wakida: Chairperson?

Mr. Shibuya: Yes?

Ms. Wakida: Can we have the motion, what is the motion?

Mr. Shibuya: Oh yes, thank you.

Mr. Spence: The motion is to accept the Planning Department's recommend with the changes to the Park District, and as discussed by the Planning Commission.

Mr. Shibuya: Okay, Commissioners all in favor of the motion raise your right hand.

Mr. Spence: That's six ayes.

It was moved by Mr. Medeiros, seconded by Mr. Ball, then

**VOTED: To Recommend Approval of the Proposed Bill with Amendments to the County Council.
(Assenting - J. Medeiros, K. Ball, M. Tsai, W. Hedani, S. Duvauchelle, P. Wakida)
(Excused - I. Lay, J. Freitas)**

Mr. Shibuya: Thank you very much. Members, we'll break and we'll come back at 20 after 10:00.

Mr. Alueta: Thank you.

A recess was called at 10:10 a.m., and the meeting was reconvened at 10:24 a.m.

Mr. Shibuya: ...come to order. The first item here, I'd like to have the Director explain some of the...oh, before I even continue, let's try to keep our mouths or at least our voices more uniform. If we can keep about a hand distance away from the microphone, it will probably give a better reading and a consistency in terms of the volume that Akaku as well as Carolyn needs to have for recording.

Director Spence has some items related with the parks that he'd like to share with us.

Mr. Spence: Thank you, Commissioners. This is something that when we were going through the Parks District we thought maybe let's look at a couple of our other districts and see if we wanna just outrightly allow parks within them. You know, normally if we're considering like a short-term rental ordinance we'll go through and we'll amend the Residential District and the Business Country Town District and the Rural District to state, you know, to allow a permitted use, you know, we'll add like short-term rentals as a permitted use or section of the code or bed and breakfast. You know, we'll add to the list of permitted uses within the, within a specific district. And I'm wondering if we, if the Commission would want to consider that same thing within the County Ag and County Rural Districts.

Right now, the State Ag and Rural Districts allow parks, the County District, County Ag District allows open land recreation as an accessory use meaning you can have some hiking and camping

and fishing as accessory to an agricultural use. But the problem is, is none of our County parks that are in the Ag District are really accessory to any kind of agricultural use. So I would, as we were making this discussion I was looking on the State Land Use District Map and we have a number of parks, State and County parks in the Ag District that are...it might be nice if we could just permit them. For instance, Kula Park by the Kula Elementary School, 4th Marine Division Park out in Haiku, Rice Park in Kula. You have a number of State parks on the way to Hana you know with rest stations and picnic grounds and those kinds of things. The Keanae Ballfield is within the County Ag District and the State Ag District as well. There's a ballfield in Ulupalakua. Sun Yat Sen Park in Keokea is entirely within the Ag District. I'm not sure if that one's private or not, but we also have, we also have a number of beach parks including Hookipa Beach Park. It appears that a part of Hamoa Beach might be within the Ag District, certainly most of it is within the State Conservation District but it appears from the map that a portion might be Agriculture. Perhaps a portion of the beach parks along the Pali, you know, along the way to Lahaina. Most of it is within the Conservation District, but there might be portions of it in the Ag. You know, if we wanna do improvements or something it might be beneficial to allow these things. I said, Hookipa. The launching facility at Maliko Bay.

You know, so we have this use quite a bit in the Ag District and it's desirable you know, to service the more rural communities. We also have the, you know, the Lieutenant Governor is a promoting a park out here at Waiale, as part of the Waiale project, actually central park with a number of baseball, softball, soccer fields and though that happens to be in the State Urban District and it turned urban with A&B's application to the State Land Use Commission, it's still County zoned Ag. And even though that's gonna be built up around there, in order to establish that facility for Maui's residents, they're gonna have to get a special use permit. So it just seems to me, I mean it's permitted under the State District, why wouldn't we wanna consider making that a permitted use within the County Ag District. And as some of these may be private, I would just, you know, the way it's....I would suggest language either right out of the State or possibly something within...we permit parks within our Residential Districts. It's in our R-1, R-2, R-3 and the way we say that it's just noncommercial parks. So you can have a pocket park held by the homeowners association and you know, we could allow that but saying noncommercial, you're saying they couldn't set up, you know, some kind of...couldn't do the-

Mr. Alueta: The zipline, commercial.

Mr. Spence: Yes, you couldn't do ziplines, you couldn't do some of the things that we're concerned about in the Ag District and certainly couldn't do another War Memorial Stadium. It would have to be a noncommercial ...(inaudible)... So anyway, I don't know if wanna see exact language or if this is something the Commission would like us to come up with language for this and just pass it along, excuse me, or to work on it with Corp. Counsel. We're open to suggestions.

Mr. Shibuya: Commissioners, any comments? Commissioner Wakida?

Ms. Wakida: I like what you're proposing, what you're working on in an effort to streamline the use of parks in these ag areas which are already happening. So what kind of language are you thinking about?

Mr. Spence: What we would do is go into, and I'll get to Rural in a second, 19.30A just under the permitted, under the list of permitted uses, it would be 19.30A.050 under Principal Uses we would say...Joe's suggestion out of the State, reading out of State law, it says, public and private open area type recreational uses including day camp, picnic grounds, parks, riding stables, but not including drag strips, airports, drive-in theaters, golf courses, golf driving ranges, country clubs, and overnight camps. So in other words, you would allow the picnic grounds and the parks, et cetera, but you wouldn't be allowing drag strips, airport, ...(inaudible)...

Mr. Shibuya: Commissioner Wakida?

Ms. Wakida: You said public and private. So someone could have a private picnic ground?

Mr. Spence: Yes. Like the ballfield at Ulupalakua is generally it's used by the residents out there, you know, in their community, but it's owned by Ulupalakua Ranch. There's probably, there's probably others that I'm not aware of.

Mr. Shibuya: Commissioner Wakida?

Ms. Wakida: I'm just, excuse me, thinking ahead trying to see that we have language that doesn't allow any misuse or take unscrupulous advantage of this permit.

Mr. Spence: And one thing, one thing I liked out of the language in the Residential District and I can read that if you want. It says noncommercial and I think if, if we insert that somewhere you would, people wouldn't be taking advantage because if there's no monetary benefit, nobody is gonna just open up a ballfield unless it's just genuinely for the benefit of that community.

Mr. Shibuya: Okay. Commissioner Hedani?

Mr. Hedani: If the recommendation is to add that as an accessory use in the Agricultural District the only concern I would have is bed and breakfast, short-term rentals coming in and saying we have a park inside of our property lines that's gonna qualify as an accessory use and that's my agriculture. So I don't know if you can consider that commercial or noncommercial as a designation. When you're saying noncommercial park. That would be the only concern I would have.

Mr. Spence: Okay, I understand. I think if we named it separately, if we named park as a different use we're not identifying it as an agricultural. So I understand what you're saying though. And we would, if it was a part of a bed and breakfast or a short-term rental ...(inaudible)...

Mr. Hedani: Yeah, my concern is that the existing ordinance on bed and breakfast and short-term rentals in Ag Districts is already so contorted but it's hard to, it's hard to handle.

Mr. Shibuya: Continue Director.

Mr. Spence: Commissioner Hedani said as an accessory use, what we're saying is we would allow parks as a permitted use, not accessory, but it's accessory to some kind of agriculture. You know,

I don't think those things need to connect. Certainly 4th Marine Division Park, Hookipa Beach Park those are not connected to any kind of agriculture and technically we could consider those a nonconforming use and we would like to be able to ...(inaudible)...

Mr. Shibuya: Director, maybe you can help me understand it. I believe there's one zoning that's Public/Quasi-Public. Is that another type of zoning other than Agriculture?

Mr. Spence: Yes, that's a entirely different zoning district.

Mr. Shibuya: Okay, so if you did it as Public/Quasi-Public then you won't have a nonconforming type of use would it not?

Mr. Spence: Well, because we have so many actual parks within the Ag District that are actually designated in our community plans for park, it would be hard to zone them for...go in and rezoned them for that use. If we were to say, if parks are a permitted use within the Ag District then it would just make them conforming.

Mr. Shibuya: Okay, thank you. Commissioner Medeiros?

Mr. Medeiros: You know, I would support the—

Mr. Shibuya: Can you be closer to the mic?

Mr. Medeiros: I would support the Director and Corp. Counsel coming up with language that would protect the community and also allow for additional uses. You know, I think that would be a great idea. You guys are a lot brighter than I am on these things coming up with the language. I'm just off work.

Mr. Shibuya: Planner, Joe?

Mr. Alueta: Thank you, Mr. Chair. Following the line of the Director it would be like a public and private noncommercial park facility such as, and you would list out the type of uses that you think would be appropriate within the Agriculture and Rural Districts, so if you wanted...and that way would say, it can be private or public but as long as it's noncommercial facility and then you say such as campgrounds. If you wanted to be broader you could say such as but not limited to campgrounds, you know, outdoor recreational facilities or open land recreational facilities, and we could then insert that language as a permitted use within the Ag and Rural District. We just wanted to have it as a discussion on the record as part of the Park Ordinance so that if we do add it then you know, it's been discussed by you at some point and the Council knows that also.

Mr. Shibuya: Okay, Commissioners any other questions or comments? I think we have a consensus in terms of supporting what Director Spence is mentioning and Planner Joe Alueta has mentioned too. I don't think we have any objections. Do you need a motion for support or maybe come up with some kind of draft and passing it by with us? We'd would love to interact with this.

Mr. Spence: I would hate to delay this, but I think that's a question for the Commission. Do you

wanna see language or is it good enough to say, Director, go submit language to the County Council?

Mr. Shibuya: Commissioner Medeiros?

Mr. Medeiros: I have ...(inaudible)...faith in the Commissioner.

Mr. Shibuya: I cannot...I can't...say that again?

Mr. Medeiros: I have total faith with the Commissioner coming up with adequate language.

Mr. Spence: You would like to see the Commission come up?

Mr. Medeiros: The Director coming up with—

Mr. Shibuya: The Director come up with the language and continue on.

Mr. Medeiros: Yeah.

Mr. Spence: So no need to come back to Commission then?

Mr. Shibuya: Any objections, Members? Right now, it's—

Mr. Medeiros: If you need a motion, I'll make the motion.

Mr. Shibuya: Members, do you need a motion or you'll have just a regular consensus. I'll just take a verbal consensus then. It's been recommended by Commissioner Medeiros that we accept the intent here of Director Spence and Planner Joe Alueta to come up with appropriate language to be supportive of this change.

Mr. Spence: And then the same would go for the Rural District. The Rural District already allows park for public use, but not including commercial camping campgrounds et cetera. How 'bout if we just say, my thought is, if we just say noncommercial parks?

Mr. Shibuya: Members, any objections to include that? Commissioner Hedani?

Mr. Hedani: This is not an objection, but it's just my...my understanding of how the zoning codes are written were that any use that is less intensive, you know, as they listed the uses by intensity, any use that is less intensive than the higher use is automatically allowed and if that's the case, I would think the parks would be on the bottom in terms of intensity of use, yeah. So it should be allowed in almost, almost all districts.

Mr. Shibuya: Okay, so...Planner Alueta?

Mr. Alueta: On that aspect, we're getting away from that pyramiding of the uses. It normally does work that way, but we would just add it. We wanna specifically add the uses to each of the districts

rather than create a pyramid system going down of the uses. We were doing that with the commercial, but we're moving away from that where we would list all of the uses that they would want. So it doesn't create confusion later on when we make certain amendments. But from my understanding like right now, there is support by the Commission for some type...to add private and public noncommercial park facilities to the Ag and Rural District, County Ag and Rural District.

Mr. Shibuya: Commissioners if there's no objections then we can give a verbal concurrence for both the Agriculture and the Rural areas for the Director and the Planner Joe Alueta to continue putting the appropriate language in. Thank you very much.

Mr. Spence: Thank you, Commissioners.

Mr. Shibuya: Director, can you introduce the...will you please introduce the next item on the agenda?

Mr. Spence: Commissioners, we're on Item B-2. This is a public hearing for Mr. Randall Leavitt requesting a State Land Use Commission for a short-term rental home in the Ag District and the Staff Planner this morning is Mr. Danny Dias.

2. MR. RANDALL LEAVITT requesting a State Land Use Commission Special Use Permit in order to operate the Plantation Short-Term Rental Home, a six (6)-bedroom short-term rental home in the State Agricultural District at 1025 Kauhikoa Road, TMK: 2-7-008: 168, Haiku, Island of Maui. (SUP2 2012/0019) (D. Dias)

Mr. Danny Dias: Thanks, Will. Good morning, Chair Shibuya and Members of the Maui Planning Commission. The applicant's representative has a power point presentation so I'll be very brief. As stated before you the item is for a State Land Use Commission Special Use Permit in order to operate a short-term rental home in Haiku. The Commission is tasked today with making a decision on the Special Use Permit and the Department will handle the short-term rental home permit. As of today, there are no STRHs or B&Bs within 500 feet of this property. Within the Paia-Haiku Community Plan area there are about 21 approved short-term rental homes, 16 of those are in Paia and 5 are in Haiku. The closest one in Haiku is located about a mile away, and the cap in Paia-Haiku is 88, so we're about a quarter way there. So with that, I'm going to hand over the mic to Cathy Clark for a brief presentation. And I also want to point out that the owner's wife is here for any questions. Thank you.

Mr. Shibuya: Excuse me, Danny, I didn't hear that last one. The owner is here?

Mr. Dias: Correct.

Mr. Shibuya: Okay, thank you very much.

Ms. Catherine Clark: Aloha, Commissioners. My name is Catherine Clark and I helped the Leavitt family with their application. So this is for a property that's called Plantation. It is located in Haiku.

So less than 10 years ago there was actually nothing where the property is located now. And when they purchased it, they did have a plan to grow an awful lot of different vegetation on the property and to build a house and a cottage with a swimming pool. So today the property has a full palm farm, organic vegetable gardens, a lot of tropical flowers and fruit trees.

Mr. Shibuya: Can you speak closer to mic or louder?

Ms. Clark: I heard your lesson, I thought I was doing good.

Mr. Shibuya: Thank you.

Ms. Clark: So this is a plot plan of the property. Gives you the idea of where everything is located. As you come into the main driveway, the palm farm is off to your left, the fruit trees wrap from there around to the front, and then the cottage is located in the bottom corner of the property. Access to the property is directly off Kauhikoa. So they don't go down any lane ways. It is a direct entrance from Kauhikoa Road.

The property has three types of agricultural activity. The first is to generate farm income. The second was to support the sustainability of the workers that come to the property, the owner, and the guests that would be staying at the property. And a third, a wide variety of tropical flowers including some rare heliconias.

So in the first category, the palm farm was planted in 2007, and this is what it looked like at the time. All of the trees were quite small. They put in over 200 different palms trees and fully irrigated them. The trees are actually ready now and the first sale will be delivered to the west side in August. The palms are marketed through ads on Craig's List, e-mails to landscapers, word of mouth, so if anybody needs palm trees just let us know. When the farm plan inspector came out to the property he took a look at the rows and rows of trees and said, this is what we like to see. In other words, there is an actual crop growing and that crop is for sale.

The second crop for income is fruit. There is a wide variety of fruit trees on the property and Mana Foods is interested and has been purchasing the more unusual types. So they're interested in things like Sapote, Cherimoya, Rambutan, the Jack Fruit, and the Dragon Eyes. We've put together a little list of the different types of trees because there is a lot of variety. So it's Bananas, Jack Fruit, Avocados, Soursap, Dragon Eyes, Star Fruit, Oranges and Tangerines, Lemons, Limes, Cherimoya, Lychee, Mango, Papaya, Edible Sugar Cane, Rambutan and Sapote.

But then they also wanted to be more sustainable, and so they did do a chicken coop. There are chickens that do lay eggs. They have organic vegetable gardens nurtured with compost generated right the property, and of course, the fruit trees are also for the use of whoever might be at the property.

So just to give you a visual view of it. We have our hens over at the hen house. Compost bin where there's compost generated for the vegetable gardens. A little work area for working at the vegetable gardens. The vegetable gardens are done in raised beds. Part of that was to keep the chickens out, but that didn't really help too much. Definitely grape tomatoes, herbs, peppers, kale,

lettuce and the crops rotate from time to time or season to season. And then of course there's flowers. There's a lot of flowers, a lot of different varieties. Some that do you don't see very often other's that are more common.

We also wanted to address the idea of fire protection and we are very fortunate that there is a full hydrant directly across the street. The Makawao Fire Station is 6.3 miles away, and if necessary, they could also use the 40,000 of water that's in the pool.

We also wanted to address being energy conscious because that's a deep concern for this owner. The whole irrigation system is solar powered. It puts the water only where needed. So they're not using sprayers that spreads the water in a larger area. LED lights are throughout the house. There's solar hot water, gas for stove and dryer. Low flow fixtures throughout and a new energy efficient pool pump which by the way we highly recommend. They actually do deliver the savings that they say they do.

The neighborhood to the back and east of the property is open undeveloped land. Below the property is a home in foreclosure. It's actually been in foreclosure for quite a while and is quite an overgrown lot at this point. Across the street are three homes that are really well-protected from the Plantation property by a thick wall of vegetation both on our side and then another one over on their side. The property is also fully fenced so that guests wouldn't be able to wander onto any neighboring property. Thank you so much for your time and consideration.

Mr. Shibuya: Okay, Commissioners, at this time do you have any questions of the presentation? And we'll have your public testimony following your questions to clarify the presentation. Having none, then we'll come back to you with specific questions on the project.

a) Public Hearing

Mr. Shibuya: Opening up for public testimony. Anyone has comments, you'll have...be limited to three minutes. No one coming up. So the public testimony is closed. Commissioners, your questions, please. Commissioner Wakida?

Ms. Wakida: Yes Danny please. I'm a little confused about the application. It says it's for in some place it's a six-bedroom house, but then there's two houses, right?

Mr. Dias: Correct.

Ms. Wakida: So, I'm not sure how this works when you go in for a short-term rental permit for a house, how...is it allowed to expand to more than one house on a piece of property?

Mr. Dias: Yes, it's allowed. So you could do it for the entire property. So in this case there's a main house which has four bedrooms and then there's an ohana which has two bedrooms. So they can rent out both for a total of six bedrooms on the entire property.

Mr. Shibuya: Commissioner Ball?

Mr. Ball: Was there any contact with this person that is against this application?

Ms. Clark: We did speak with him. It's actually...the person that actually wrote the letter doesn't live in that area, but his mother does. Her property is, the way her house is situated it's so far away that it wouldn't be an impact, but Mr. Sobaje simply feels that vacation rentals aren't something that he wants to see in Haiku and he came one before on an application and I think he made that point clear. It's not that it disturbs him, he just doesn't like the idea of the rentals.

Mr. Ball: Okay, but this person is Helen, I don't know who that it.

Ms. Clark: Yes, but Steve...actually the phone number goes to her son, Steve.

Mr. Ball: But the Helen address is Kauhikoa?

Ms. Clark: Yes, that's correct. So her property is if you were to look at where the main house is at Plantation and where her property is...

Mr. Ball: But the question was, was there any contact to her?

Ms. Clark: Yes. Actually no. He didn't give us her phone number, and her property is gated. We did feel that it would be inappropriate to try and hop over that.

Mr. Ball: There was no attempt to mail her a thing saying we wanna contact you to see what you...(inaudible)...

Ms. Clark: Actually, no, we didn't do that. Sorry.

Mr. Shibuya: Commissioner Tsai?

Mr. Tsai: As a follow up, can you point out I guess in the handout where this person's property is? It says, across the street. I have a lot plan.

Ms. Clark: So if you're looking at Exhibit 2, she's Parcel 29, and she's lower into her property.

Mr. Shibuya: Commissioner Wakida?

Ms. Wakida: Yes, you have chickens in this farm.

Ms. Clark: Yes, we do.

Ms. Wakida: How many?

Ms. Clark: Oh, probably 20.

Ms. Wakida: And who takes care of the gardens and the chickens, who does that?

Ms. Clark: The gardeners, there's a group of gardeners that come to take care of the palms and the fruit trees, et cetera, and there's a young gentleman by the name of Ryan that comes to do the chickens and vegetable garden.

Mr. Shibuya: Commissioner Wakida?

Ms. Wakida: When I look at the picture that's in our packet, those palm trees look like they're significantly large.

Ms. Clark: They are. It's for somebody that wants to put in landscaping that will look mature right now.

Ms. Wakida: And so you've got a buyer for somebody in August?

Ms. Clark: Well, they haven't even started to grade their property yet, so that's why they won't go to them until August.

Mr. Shibuya: Any other questions, Members? Commissioner Hedani?

Mr. Hedani: Is there any income that's generated from the farm plan at this point?

Ms. Clark: I'm sorry, any?

Mr. Hedani: Is there any income that's generated from the farm plan at this point?

Ms. Clark: At this point, until the palm trees are delivered, it's only from fruit sales.

Mr. Hedani: And what would that be?

Ms. Clark: It goes up and down depending on what's ready and what Mana Foods is prepared to take. So in some weeks it might only be \$20 or \$30.

Mr. Hedani: I guess my question would be for Staff, you know, is there an economic hurdle for farm plans to be approved?

Mr. Shibuya: Director?

Mr. Spence: No, there's not. The question was is any kind of economic hurdle or level for farm plans? No, there's not. Although certainly we would like to see some kind of commercial farming. You know, there's always subsistence farming, you know, we're, I think we're...and I know some people who do extensive subsistence farming and then share, et cetera. We're really happy if they are actually doing agriculture on their property, however.

Mr. Shibuya: Any other questions, Commissioners? Any other comments, none?
Commissioner Medeiros?

Mr. Medeiros: While I'd like to see an economic hurdle for them to jump over that is not the way it is, you know. However, an attempt is being made with these palm trees and you know, unfortunately it's a little too late. If they're not developing hotels or big projects where that would be a marketable commodity. But an attempt is being made, and unlike a lot of applications that I've been, I have seen, at least these people are making an attempt, and that's just statement.

Mr. Shibuya: Okay, thank you. Any other comments? If none, then I have a question. I understand ag is very difficult to keep yourself afloat and to sustain yourself financially. What is the going rate at this point? How often are you planning to have the units rented out or leased out to make yourselves at least break even or comfortable?

Ms. Clark: I think the hope would be to rent it as much as possible whenever the family isn't here. How much that will be, we can't really say yet, but looking forward, if only those properties with permits are allowed to advertise, we're actually thinking they'll be rented quite a lot. That would be the expectation.

Mr. Shibuya: Okay, Members, anything else? Commissioner Wakida?

Ms. Wakida: Are the units currently being rented?

Ms. Clark: Yes, they are.

Ms. Wakida: Are they being rented on a short-term basis or long-term?

Ms. Clark: The main house is being rented short-term.

Mr. Shibuya: Question. When you say short-term what is the term?

Ms. Clark: Actually, there has been people that have come for several months at a time. People that like to come for the entire winter, for example. But there have been shorter rentals than that as well.

Mr. Shibuya: And so the short-term is how long?

Ms. Clark: Normally it would be anywhere from 7 days to a 180 days. That particular one has been fortunate that there have been people come for two to three months at a time.

Mr. Shibuya: Okay, in terms of the seven days, what is the frequency of that being accomplished?

Ms. Clark: People that come to Haiku are generally a different sort of traveler and they do generally come for longer stays. So the more common occupancy would be 14 to 20 days. But mixed in with that, just based on how the calendar would be developed there would be as short as 7 days, but at this point to say how many there would be of each would be really difficult.

Mr. Shibuya: Okay. Commissioner Tsai, you wanna?

Mr. Tsai: Yeah, since we have the owner here, I'd like to have the owner come forward and just...

Ms. Kasha Leavitt: Hi.

Mr. Tsai: Hi, how you're doing? My question goes along with the question that's on the floor right now it's regarding your plan. It seems to me that you have a variety of, I guess, options in terms of rental. What is your actual plan as far as you trying to rent it out as often as you can? Are you trying to stay more upward to the higher, you know, term, longer term rentals?

Mr. Shibuya: For the record, please state your name and then speak into the microphone, please?

Ms. Leavitt: Okay, my name is Kasha Leavitt. My husband's name is on the application, Randall Leavitt. So to answer your question, Commissioner, our goal is to, you know, do short-term rentals so we can as family, and our friends can come to the property as often as possible and enjoy it. If we would rent that property for a long-term tenant that would limit our enjoyment of the property.

Mr. Shibuya: Commissioner Tsai?

Mr. Tsai: If you're doing short-term rental you're gonna have yourself managing it or are you gonna have someone else managing the...

Ms. Leavitt: Yeah, we have a, we have a manager.

Mr. Tsai: On site or near?

Ms. Leavitt: Yes, we have a person who managing it for us on site...you mean, on site in Haiku.

Mr. Shibuya: Commissioner Wakida?

Ms. Wakida: Mrs. Leavitt, you do understand that this is ag property and that the primary use is to be agriculture. If you were simply a homeowner, how many fruit trees or how much ag you did wouldn't come under scrutiny, but since you wanna do something special it comes under very close scrutiny and the ag end of this needs to be...you need to put energy into that. Planting a palm forest is, I'm sure it's lovely. I don't know if there's a huge market for mature palm trees 'cause they get them all over the place. But I...Haiku wants to maintain its agricultural zoning look and you...and what I'm getting at is I need to encourage you in this application to remember that this is an ag property and that the agriculture nature is something that we always give close scrutiny to.

Ms. Leavitt: I totally understand.

Mr. Shibuya: Okay, any other questions, comments, Commissioners? Commissioner Ball?

Mr. Ball: This is more of a comment I guess that you know, if we approve this I think it's gonna be one of the more unique ones where the entire property is being rented out where usually we're just you know, allowing a rental of a cottage or the main house where the owners actually still live on

property and not in a B&B, but they're renting out the other dwelling. In this case, it's you know, it's the whole property's being rented out which is kind of a concern to me, but...and the fact that the neighbor was not notified, really I mean, there were some attempts but there wasn't a direct attempt to contact her.

Ms. Leavitt: We made an attempt.

Mr. Ball: I mean, you got a hold of whoever the other guy is, but I have some concerns with that renting out of the whole property.

Mr. Shibuya: Okay, thank you. Commissioner Tsai?

Mr. Tsai: Yeah, as follow up...ma'am I'm sorry, I didn't get your name?

Ms. Leavitt: My name is Kasha Leavitt.

Mr. Tsai: I'm sorry. Kasha, where do you reside and your husband reside?

Ms. Leavitt: We reside in California, a little town called Ojai.

Mr. Shibuya: Okay, Commissioners? Commissioner Duvauchelle?

Ms. Duvauchelle: I have a question, I'm not sure who it's for. You pointed out that the applicant is not taking the homeowner's exemption as verified by the Real Property Tax Records. What is the impact of that? Is that just the normal homeowner's exemption dollar wise or?

Mr. Shibuya: Director?

Mr. Spence: That would be normal homeowners' exemption. I forget how much that is.

Mr. Ball: Two hundred.

Mr. Spence: Two hundred thousand. So they're not taking advantage of that. They would lose that anyway as part of the approval.

Ms. Duvauchelle: That's what I thought.

Mr. Spence: I can't say if they're taking an Ag exemption or not.

Ms. Duvauchelle: Thank you.

Mr. Shibuya: Okay, Commissioner Hedani?

Mr. Hedani: I guess this question is for Staff. On Page 9, of the write up for this particular project under the policies of the community plan, I guess the Maui Island Plan, Objectives and Policies under No. 6, Item 3, prohibit hotel resort development within the region, and No. 13, limit visitor

accommodations to owner-occupied bed and breakfast establishments. How do we reconcile the short-term rental home with the two policy statements that are accepted within the Maui Island Plan?

Mr. Dias: Well, for one thing, you know, the community plan is, I wanna say around 20 years old, so you know, as time goes on, you know, things change and the reality of the area changes. For No. 3, prohibit hotel and resort development within the region, you know, when I think of a hotel or resort, you know, we think of something that's large, something that's big. You know, like a resort would be something like Grand Wailea and so forth. In this case, it's still an ag property, two acres with a main house and an ohana. With respect to No. 13, limiting visitor accommodations to B&Bs, with that, you know, going back this is a 20-year-old document. The Council did pass, you know, a short-term rental bill to accommodate this type of use, short-term rental homes where you're renting out the entire property and the owners don't reside on property. So we think it's just a matter of, you know, as time goes on, things change and in this case, you know, short-term rentals are an allowed use now. So...

Mr. Shibuya: Planner Dias can you share with the Commissioner here in terms of the density, you have how many already approved and what is the Council's approved limit?

Mr. Dias: Okay, in the Paia-Haiku Community Plan, the limit is 88. Right now there have been 21 approved within Paia and Haiku. The majority are in Paia, 16 of them are in Paia. There are five in Haiku. The closest one is about a mile away. There are two others about that distance away and then Numbers 4 and 5 are in Huelo and Peahi which is like, you know, about five miles away. So if this were to be approved it would be the sixth in the entire Haiku area.

Mr. Shibuya: Commissioners, you have any?

Mr. Tsai: I have a question.

Mr. Shibuya: Commissioner Tsai?

Mr. Tsai: Yeah, Danny, to your recollection, is this the only nonowner occupied, short-term rental of the six in Haiku?

Mr. Dias: I really don't know. I believe most of them that came before you so far I believe were owner-occupied, but you know, we're still, there's still a lot more that we're processing and to be honest, a lot of the ones that are gonna come before you folks are gonna be, you know, where the owners aren't occupying the property and that's kind of the whole intent of a short-term rental versus a B&B is so that people can rent out their properties when they don't actually live there. Okay, the one that I was talking about that was within a mile, Kurt was saying that's another one that's not occupied by the owner. So...

Mr. Shibuya: Director, you wanna say something?

Mr. Spence: No, I'm agreeing with Staff on this thing. The Council saw fit to approve a maximum of 88 short-term rental homes within the Paia-Haiku area. You know, they made no differentiations

you know, with...(inaudible)... in the Ag Districts or whatever, I mean, they purposely allowed them within the Ag District. So with the, you know, the caveat that they have to get a special use permit. So that was the intent of the Council with approving that ordinance. So these things could be allowed.

Mr. Shibuya: Commissioner Ball?

Mr. Ball: And with that maybe you can explain how someone would check into the place?

Mr. Dias: All of these are required to have a manager. And so, okay, maybe I can have the applicant kinda give you an idea of how this happens.

Ms. Clark: The manager is--

Mr. Shibuya: Please identify yourself, please?

Ms. Clark: --Oh, I'm sorry, Catherine Clark. And the manager is actually my husband. I'm the paperwork end. But basically when somebody would go stay at the property, we have their flight arrival time and shortly after they get there, then he will go to the property to do a full walkthrough with them, make sure they understand how everything works, what they should do, what they shouldn't do, park in the appropriate places. In this case, there are no close neighbors, but generally you know, you have to be very sure that they understand the people next door might need to get up for work tomorrow and to behave accordingly. Anytime that they have an issue, we live in Haiku. He can literally be on the doorstep in five minutes. That's all that he does. He stays in Haiku to basically look after those properties.

Mr. Shibuya: Commissioner Tsai?

Mr. Tsai: So does your husband as the manager handles all those contact communication going on between the potential people who are gonna rent, I mean, advertising or marketing part of that as well or the--

Ms. Clark: Okay, so that's the paperwork end that we would do. And we are very careful not to take online bookings because we do feel an obligation to speak with the people and know what they're like before we would put them into somebody's house. So unlike a lot of condo companies and whatnot where you can click the button online and say I wanna stay at this house, we do not do that and never intend to do that because we do feel an obligation to protect not just the neighbors but the owners property.

Mr. Tsai: You have a particular screening process?

Ms. Clark: We actually have quite a lengthy list of questions that we go through with them and I know this may not sound great but one of the first questions is whether they're coming to visit friends or family on the island. And unfortunately, the way the new ordinance works they would not be allowed to invite those friends or family to the property. The ordinance is very clear that use of the property is only for the people staying there. They can't even invite grandma over for dinner.

So that initial question helps us to determine whether there might be that issue crop up or not in which case we explain it very clearly and have them sign in the rental agreement that they understand that. Because I think Maui Meadows had a very big problem with a lot of extra people at a property and some neighbors would feel impacted by it. So not only do we want, not want that to happen, but owners don't want their homes overused either. So that's...that starts the question and answer period.

Mr. Shibuya: Commissioner Ball?

Mr. Ball: With that being said, then what is the max amount of people that would be on the property at one time?

Ms. Clark: Two people per bedroom. So in the main house they could potentially have eight. In the cottage, they could potentially have four. A lot of times it would be a lot less. We get two people that come because they want a spaciousness of a larger home with a swimming pool.

Mr. Shibuya: Commissioner Wakida?

Ms. Wakida: Actually this question is for our Director. On the 88 homes ordinance is that 88 homes or 88 properties?

Mr. Spence: That would 88 permits. So whether there's two homes on a property or whatever or a single home on a property there would be 88 permits total.

Ms. Wakida: Okay.

Mr. Shibuya: Commissioner Hedani?

Mr. Hedani: On the letter that we received from Jesse Souki, the Director of the Office of State Planning, he states, where bonafide agricultural activities are occurring the allowance of short-term rental homes could help support viability of continued agricultural operations. As such, the applicant should be required to demonstrate the nature and extent including the income and economic value of agricultural operations occurring on the site. Provisions of Maui County Code 19.30 relating to B&Bs in Agricultural Districts offer reasonable guidelines in this regard. We recommend the short-term rental home applicants be required to comply with these provisions so that the use is consistent with HRS Chapter 205. My question is, is this being done?

Mr. Dias: We feel that it is.

Mr. Shibuya: Please identify yourself?

Mr. Dias: This is Danny Dias

Mr. Shibuya: Yes, thank you.

Mr. Dias: We feel that it is. You know, in the presentation they did show that, you know the vast

majority of the property is in Ag. I mean, they are growing things and they are selling things. Of course, you know, there is no lower limit threshold. They're not making thousands of dollars a month but they are doing ag and to the extent possible, they are either selling it, selling the items that are grown on the property.

Mr. Shibuya: Commissioner Hedani again.

Mr. Hedani: Follow up. Is there a economic threshold to the B&B side and no economic threshold to the short-term rental home side?

Mr. Shibuya: Director?

Mr. Spence: No. And I'll come a little bit on Jesse Souki's letter. We had this discussion with the Office of Planning and there was a concern, you know, as Commissioners are expressing that, you know, there's no agriculture being done on the property, and we said, well as a part of our Bed and Breakfast Ordinance we have within the Ag District we have a requirement for a farm plan, and they said, well, in so many words, if you could apply that short-term rental home, that should be fine. So as a part of your exhibits, Exhibit No. 7 is the approval of the farm plan for this property. So that was...we are following along with Director Souki's comments saying let's make this consistent with what you're doing with bed and breakfasts essentially, and so they do have an approved farm plan for their property and at least till now anyway that has been, you know, what Office of Planning has been looking for. And we'll probably amend the Code at some point to make that a requirement. We'll clarify the ag requirements for short-term rental homes within the Ag District.

Mr. Shibuya: Okay, Commissioners? Commissioner Medeiros?

Mr. Medeiros: Well, I can agree an attempt was made. The...I disagree with your comment that this is not a resort. You take a look at the pictures, you take a look at their, you know, their business plan, okay, their business plan makes this a predominantly a short-term rental, okay. And it is a resort, a mini resort but a resort nonetheless. Okay, the attempt to come up with a farm plan and everything like that is the first one that I actually saw that they were doing that. However there is no market and I agree with Jesse Souki that there should be some kind of threshold, unfortunately there isn't. So, I just don't know about this permit.

Mr. Shibuya: Is there a time frame in here on how long this permit is?

Mr. Dias: Three years.

Mr. Ball: Should that be in the recommendation...(inaudible)...

Mr. Spence: It's in the first condition. Shall be valid until June 30, 2016.

Mr. Ball: Usually, I guess usually it's on the, on this, sort of on the top. I mean, it can be added in the motion.

Mr. Spence: Well, it is a proposed condition.

Mr. Shibuya: On the green. Okay, thank you. Anybody else? No? Any other comments, questions? Commissioner Wakida?

Ms. Wakida: I'd be a little happier if the applicant came in and they weren't doing short-term rentals right now and they weren't advertising because they don't have their permit. So if they had sort of put a cease on these kinds of things, I have a little bit of a concern with two rental homes on here that will be short-term and the impact this has on the neighborhood. I don't know how to resolve these concerns that I have, but I'm just, I'm expressing these as concerns.

Mr. Shibuya: Commissioners, what is the...Commissioner Hedani?

Mr. Hedani: This is a comment and it's beating on a dead horse again I guess, but from my perspective it's really difficult to come up with a reasonable decision in cases like this because the way the laws are structured, it doesn't make a hell of a lot of sense. There's no threshold for agricultural production and I think at some point, the Council should consider establishing a threshold within the ordinances so that at least the players know what the hurdle is in terms of agricultural production. We go through the exercise every time one of these comes up. There's gonna be 85 more of these that come before the Commission that we're gonna wrestle and it would be nice to have something logical to base our decisions on. In this particular case, agricultural land permits, permits a farm dwelling for the person doing the agriculture which is the main house. It permits a second agricultural home for the workers that are gonna be working on the farm to dwell in. And in this particular case, both of those homes are not occupied by the farmer or the farm workers. They are commuting from some place else and managing, you know, long distance basically. So somewhere along the line, somehow, the Council needs to consider all of these things in their bill and make it logical so everybody understands it.

Mr. Shibuya: Okay, thank you. Any other comments, suggestions, questions? If not, are you ready for the question? Danny?

b) Action

Mr. Dias: The Maui Planning Department recommends that the Maui Planning Commission approve the Land Use Commission Special Use Permit subject to six conditions.

Mr. Shibuya: Commissioner Ball?

Mr. Ball: Back to Penny's question. I guess it's the practice of the Department to allow the use until...if they're in the process of getting the permit?

Mr. Spence: That a really difficult question and when...they're really not supposed to operate while they're getting a permit. That said, I mean, for a lot of different reasons, the...part of the reason we haven't had so many people come forward and apply for permits, I mean even when you could get a Conditional Permit is because, I mean, if it takes six months or a year to go through the process, you know, you're saying okay, I'm going to have no income for six months to a year at all, and I mean, and apply that to bed and breakfast as well, where the owner actually does reside on the property, so you would not ever get anybody to come in and apply and so people would...we're

trying to correct it so there's actually an incentive to come in and apply and get a permit and if you just punish people by applying then there's you know, I mean, you're again stuck 'cause nobody's gonna apply. So we're trying to...it is a quandary because we do have some places, some instances where people apply and then they just sit on it for years and we send them letters and we say, would you please provide us with this information and they don't. And we've had people sit in our office for you know, years who don't actively pursue a permit. They just think that, you know, because we've applied, we're okay and that's not the case. Once you've applied, we expect you to, you know, follow through and this applicant has. So, I mean, they're actually pursuing it and the provisions ...(inaudible)...

Mr. Shibuya: Commissioner Ball?

Mr. Ball: With that, even though I don't agree with some of things, I think the applicant has met all the requirements as they stand today. I think some of the things as we're going along and learning may have to be readdressed with Council and whatever. But my recommendation would be to allow the operation of Plantation short-term rental home until 2016 with the following six recommendations by the Staff.

Mr. Shibuya: Okay, that's the motion?

Mr. Ball: Yes.

Mr. Shibuya: Yes, thank you. It's been moved by Commissioner Ball. Any second? Did you second it?

Mr. Tsai: I didn't.

Mr. Shibuya: No, you did not.

Mr. Medeiros: I'll second it.

Mr. Shibuya: It's been seconded by Commissioner Medeiros. So it's moved by, motion made by Commissioner Ball, seconded by Commissioner Medeiros. Director, will you please repeat the motion please?

Mr. Spence: The motion is to approve as recommended by Staff.

Mr. Shibuya: Members, any discussion at this point? All in favor?

Ms. Wakida: Question.

Mr. Shibuya: Question, okay. Commissioner Hedani?

Mr. Hedani: Discussion.

Mr. Shibuya: Discussion, okay.

Mr. Hedani: You called for discussion, right?

Mr. Shibuya: Yes.

Mr. Hedani: The farm plan I guess in my head just so I can reconcile this and go to bed tonight is that they have 100 or 200 trees. The brown trunk height of each tree is worth a \$100 per foot essentially for palm trees so a 10-foot tree would be a \$1,000 worth of valuation. Two hundred trees, 10 feet high would be \$200,000 worth of value. It takes 20 years to get to that point and then you sell it I guess and you recoup \$200,000 over the course of 20 years. So that's the criteria I'm using as an economic threshold for this particular operation.

Mr. Shibuya: Okay, thank you. Commissioner Medeiros, then Commissioner Tsai.

Mr. Medeiros: Like Commissioner Ball, I think they have met their obligations and I don't know, I reluctantly, you know, will vote in favor of the motion because I'm stuck on the economic threshold of ag, you know.

Mr. Shibuya: Thank you. Commissioner Tsai?

Mr. Tsai: Just a clarification on the motion on the floor. I think a date on this that's lacking so I think Commissioner Ball stated...

Mr. Spence: it's in the first condition.

Mr. Tsai: It is on there. Okay. Oh, never mind.

Mr. Shibuya: No problem. Any other discussion items, matters? Commissioner Hedani?

Mr. Hedani: One other comment for staff, yeah, when I looked at the photographs of the entry driveway for this particular operation, I thought one of the criteria is the safety of the people that are gonna be using the utilizing the transient accommodation and I wanted to make sure that any sight distances of oncoming traffic coming down the roadway fronting this particular parcel be checked and complied with so that nobody gets broadsided and killed. I know we have approved rental operations in the past where the rental home went makai down the river, so just so nobody gets hurt.

Mr. Shibuya: Planner Danny, you have a comment?

Mr. Dias: You know, we send it to Police for that purpose and you know, we expect that if they have an issue with it then they'll let us know.

Mr. Shibuya: For our edification, I believe one of the pictures shows a speed table I believe on the highway. I see a crosshatching that indicates some kinda speed bump or speed hatching. Is that existing, Danny?

Mr. Dias: Correct, yeah, and that's right in front of their property. The picture on Exhibit 9 is that

driveway is sort of on the extreme south side of the property. The property extends I think past that speed bump sign so that bump is actually kinda in the middle of the property.

Mr. Shibuya: Okay, thank you. Members, any other items? None? Oh, Commissioner Tsai?

Mr. Tsai: Yeah, I'm gonna echo Commissioner Ball and Commissioner Medeiros' points on the motion and I'm gonna state that I'm reluctantly supporting this as well. I think they met all the criterias as stated, so therefore, I'm gonna vote in favor.

Mr. Shibuya: Okay, Commissioner Wakida?

Ms. Wakida: A question for the Director, refresh my memory. How many farm dwellings are allowed on an ag property?

Mr. Shibuya: Director?

Mr. Spence: With the County Ag District there are two. There are two farm dwellings, one cannot exceed a 1,000 square feet.

Mr. Shibuya: Okay, thank you. Members, are you ready for the question? Yes, all those in favor...well, let's repeat the motion again.

Mr. Spence: The motion is to approve as recommended by Staff.

Mr. Shibuya: Okay, Members, all in favor raise your hand.

Mr. Spence: That's six ayes.

Mr. Shibuya: Thank you, Members. No objections.

It was moved by Mr. Ball, seconded by Mr. Medeiros, then

**VOTED: To Approve the State Land Use Commission Special Use Permit as Recommended by the Department with Conditions.
(Assenting - K. Ball, J. Medeiros, M. Tsai, W. Hedani, S. Duvauchelle,
P. Wakida)
(Excused - I. Lay, J. Freitas)**

Mr. Spence: I will comment to the Members, I'll speak with Land Use Chair, Don Couch about, you know, when we go to revise this ordinance let's talk about a threshold, income threshold and let's also, you know, make sure that there's something more substantial with agriculture. We'll deal with the subject a little more thoroughly than what we did with the original ordinance.

Mr. Shibuya: Okay, thank you very much. Congratulations. You wanna introduce the next item? Director, please introduce the next agenda item?

Mr. Spence: Yes, Commissioners. Item No. 3 is Ms. Jan Hendrix requesting a State Land Use Commission Special Use Permit for a short-term rental home in Makila Plantation up in Launiupoko and the Staff Planner is Mr. Kurt Wollenhaupt.

3. MS. JAN HENDRIX requesting a State Land Use Commission Special Use Permit in order to operate the Makila Plantation Home Short-Term Rental Home on approximately 6.089 acres in the State Agricultural District at 88 South Lauhoe Place, TMK: 4-7-012: 009, Lahaina, Island of Maui. (SUP2 2013/0014) (K. Wollenhaupt)

Mr. Kurt Wollenhaupt: Good morning, Members of the Maui Planning Commission. The item in front of you we're moving from lush Haiku to –

Mr. Shibuya: Please introduce yourself.

Mr. Wollenhaupt: Oh, hello, hi. My name is Kurt Wollenhaupt and I'm the Staff Planner with the County of Maui for the Item Docket No. State Land Use Commission Special Use Permit 2 2013/0014. As indicated this is the application for Ms. Jan Hendrix, Mrs. Jan Hendrix to obtain a State Land Use Commission Special Use Permit to operate a short-term rental home in the County and State Agricultural Districts on approximately 6.089 acres of land located at 88 South Lauhoe Place in Lahaina at TMK: (2)4-7-012: 009. The applicant, Mrs. Hendrix is requesting to operate a three-bedroom, short-term rental home in the Makila Plantation area of Launiupoko on the west side.

Some of the critical elements with this is that as these Members of this Commission are very much aware, the climate of Launiupoko is radically different from the operation which you have just seen in Haiku. Therefore, that being the case it should be considered in the totality of this what kinds of ag operations could be done on land that's considered "B" which was mono cropped for cane and part of her lot which is "E" which is the poorest, which is very rocky and stony soil. In addition to that consideration, this area is sandwiched between the Launiupoko rural growth boundary and the Makila planned growth boundary area. Now why is that important? It's important because in reality this is really a rural type of community. It's not the lush agricultural communities of the East Maui region, it's very much of a rural community and in the future we may in fact see much of this being rezoned into rural. But it's important to understand the agricultural aspects of this particular case and in cases which this Commission has seen and has approved in the past in this immediate area.

The subject parcel is a rectangular lot, governed by the Makila Plantation Homeowners Association which have given a letter of approval. It's also important to note that Mrs. Hendrix has an approved and implemented site plan and farm plan following all the requirements and regulations of the code regarding short-term rentals. It does have a—focusing on a three-acre fenced grassed pastureland with horses and a one and a half acre conservation land use area. The farm plan was approved as farm plan 2004/0159 with over 50 percent of the land being used in this agricultural use.

It's also important to note that the land being rated B 87 I which was sugar cane, and E 73, grazing does fit with the parameters that are currently occurring there. There are not permitted short-term

operations with 500 feet of the subject property. The application was sent out to the neighbors and notice of application to the neighbors. There were no, there were no objections. That was the first notice. The second notice was notice of this public hearing for the State Land Use Commission Ag Permit there were no objections. There have been no objections to this at all. The third point is that Mrs. Hendrix lives on the property. She has not been renting this. She has not been renting this property. The fourth point that's often mentioned is about fire suppression. The house is actually fully sprinklered. It has met all the requirements of the safety and the Zoning Code. It has full permits on the review that has already occurred through the B&B process.

The property as indicated before according to the...(inaudible)...records from the Detailed Land Classification Island of Maui Land Study Bureau of 1967 is that the productivity as represented is "B" and "E". "B" being the sugar cane use, the machine tillability, poorly suited with stony to very stony land and then also in addition, there's part of the land that are "E" which are rocky, not suited for really many agriculture uses except those which have been indicated in the 1967 report that indicates grazing and forest. She does have the horses grazing on the property and then there is a dryland conservation area that Mrs. Hendrix would hope in the future to be able to expand her egg activities. That being said, that's an overview, and Mrs. Hendrix would like to present with your permission her presentation as the owner, property owner, manager to give her view on this application.

Mr. Shibuya: Okay, thank you.

Ms. Jan Hendrix: Good morning. I'm Jan Hendrix. I own the property, and thank you for letting me present to you today.

Mr. Shibuya: Please speak into the mic.

Ms. Hendrix: Would you like me to repeat that?

Mr. Shibuya: No, it's fine, but speak into the mic, please?

Ms. Hendrix: Okay. So, this is my home. It's a three-bedroom home on a six acres. It's the only structure on the acreage. There is a three plus acre fenced pasture that's irrigated and we've made sure to, you know, deal with the erosion and that's...that's really not an issue 'cause it's...it doesn't rain often up there, but when it rains it's, you know, can be very harsh so we are very, very aware of that and have put in trenching. There's a culvert that goes down the property and through some other...the makai neighbor and then into a holding, a big holding area, a pond it would be, but right now it's a big empty hole. Yeah, so we need to, we're coming to you today hopefully to get a permit to put the house in vacation rental and we think it's a great, a great place for people because it's a really beautiful handcrafted home. It's a very modest home but in sort of a old Hawaii plantation style home. And the use would be pretty much like me and my family living there. You know, six people, sort of just average use not any extraordinary density kind of use than other than like what goes on right now.

So this is a close up of the neighborhood. Lauhoe is a...I'm in the cul de sac if you can see, so there's no traffic really if you come down into that cul de sac, you're there to go to my place or Lot 8

or Lot 7 driveways there. So there's three driveways in that cul de sac and 10 and 6, 5 and 11 have their driveways elsewhere not in the cul de sac. There is also a fire hydrant in the cul de sac. And this is the broader overview. I don't know if you can see, I kinda blacked out where it is in relative to the whole Launiupoko District. It's off in a area where it's five acres the minimum lot size, but as you can see my neighbor immediately mauka it has like 26 acres. So there's quite a few lots in there that are huge compared to mine. Mine's one of the larger for the five-acre parcels 'cause it's 6.089.

And this is the site plan and also, I just addressed the farm plan in there. Up the driveway we've planted palms and there's banana trees, papaya trees, fruit trees, the pasture of course, is irrigated. And off to the side, there's...it's about one and half acres which is just in conservation 'cause you know we have Sphinx Moth in the neighborhood, they're all over the place, and I think it's important not to, you know, cut too much other stuff going on. But I would like to have some more money generated from the farming activity so I would like to, I've kind of done some research and people are interested like the farmer's market in Honokowai they would buy pomegranates, you know, naturally not fertilized type. I can't get organic farming, but you know, some local grown pomegranates. So yeah, that takes some time and it's gonna take a lot of soil mitigation because that soil there is bad. We have a tractor. We've had to replace the backhoe blades because like it tears 'em those rocks. So yeah, one of my goals is to have it subsidize some expansion of it because I'd like to make money. I'd like to move back to the house, and I'd like to make money, have money coming in from farming activities, but I can't afford it right now. So this is our plan, our family plan like the five-year plan we call it. So I think Kurt pretty much went through this. It's a three-acre fenced grassed pasture and it's irrigated and the land has two horses and we're grazing on it. It was sugar cane farming and it's really nutrient poor as a result of that. Everything we've planted we've had to basically buy dirt for because there's a cup of dirt for every square foot of rock. And as you can see the views, this is from the grass, the building...whatever, the immediate yard of the house looking to the west, there's basically nothing out there and that's east and I don't know if you can see there's a little green thing, that's my, that's the big lot, the 26-acre, she has like a fence, a big, green plastic fence so it's not actually a home. And this is the view south. There is a home there, Theresa...Lahaina Animal Farm, and the view to the north is currently an empty lot, five-acre lot. And this is the pasture, fenced pasture, irrigated, the horses, and it's a...the farm plan was submitted in 2004 when the house was built, and so it's Farm Plan No. 159.

And Kurt when through the soil rating, everything. It is really rocky and this, the bottom picture shows the...that's a nice, big slightly sloping area where I'd like to put in the greenhouse and put in some bird netting so that we can grow pomegranates and actually get a pomegranate to the market without the birds eating it.

And okay, about me. I've lived here for 12 years. I moved out here in 2001. My husband has been here much, much longer than that. He's been here for I'd say over 30 years and he's run his dive shop in Lahaina for 25 of those years. When he first came here he ran, you know, a charter fishing boat and then he switched over to scuba. And I'm gonna live, we're gonna move to Lahaina. We've already got a place scoped out and I'll be the direct onsite, not onsite, but direct manager and I'll do very similar to the folks in Haiku. I'll meet them and walk through the house with them 'cause it's my house, and I don't want it to be a wreck when I get it back. And yeah, so we haven't rented it. I pretty much said that. Happy to entertain any questions you have.

Mr. Shibuya: Commissioners, questions? After this, I'll open it up to public testimony. Commissioner Hedani?

Mr. Hedani: Yes, Jan, you have three acres that are in pasture and you say it's grassed and irrigated.

Ms. Hendrix: It's irrigated. Yeah, nothing would grow.

Mr. Hedani: How do you manage to irrigate three acres of property?

Ms. Hendrix: We have, well we're lucky in Launiupoko we have ag water. So it's cheap compared to the potable water. It's nonpotable water and we have PVC pipe and sprinklers and yeah, they're on a timer. We have six stations.

Mr. Hedani: So all three acres is irrigated?

Ms. Hendrix: Well, actually right now we're just irrigating the lower part to keep a green belt. So three of the stations are running and the top three are not running. If you... I don't know...see from the picture where the horses feed and water station is, it's dry 'cause they've eaten pretty much all that and it does rain once in a while and grass will grow, but the irrigated part is the bottom three, the bottom three stations. So I'd say halfy, halfy.

Mr. Hedani: Okay, my concern basically is for areas that are trampled on by the horses and then end up being, you know, dirt that's pulverized and washes away and ends up in the ocean over time, you know, and it kills the reef basically.

Ms. Hendrix: Yeah. Well, that's one of the reasons why we irrigate the lower three stations because that's lots of grass, it holds everything.

Mr. Hedani: Is there a plan to irrigate all three acres?

Ms. Hendrix: Well, I could turn on the irrigation at any time, and sometimes we have just to have stuff grow there. It's just currently--

Mr. Hedani: So if the short-term rental was approved then you had more income to cover the cost of the water it would be a lot easier to go ahead and irrigate all three acres?

Ms. Hendrix: I guess. They don't eat up what's there as you can see. You know, I mean, they're, they're fine and there's a lot of grass there to keep...I mean, there's really not going to be any soil running off because it will all get caught with that heavy grass right there. But yeah, I could.

Mr. Shibuya: Any more questions, Commissioners? Commissioner Wakida?

Ms. Wakida: Are you, Vice-Chairperson are you entertaining now all of our specific questions about this or general questions?

Mr. Shibuya: Just general questions, and then later on I'll open it up for specific questions following the public testimony. Commissioner Medeiros?

Mr. Medeiros: I'm sorry, I had to step out for a while. How many horses do you have?

Ms. Hendrix: Two.

Mr. Medeiros: Two. And these are your horses?

Ms. Hendrix: Yes.

Mr. Medeiros: And what are your plans with these horses, I mean is it...do you eventually wanna have more horses and have a mini ranch or are these just pets or?

Ms. Hendrix: Yeah, I mean, right now they're just pets. I actually, I've looked into boarding horses and it's so expensive because of the liability and whatnot. I'll never make any money doing that. So, you know, I had this vision of it, but it's not, it doesn't work out very well to be more economically viable, the horses.

Mr. Medeiros: This isn't the first time that Launiupoko has come up that I've been involved in. I know that they've been coming to the Commission for a long time now. And just out of curiosity why is it whenever pictures are submitted it just have basically mauka views. That bottom picture over there is the first time I ever saw an ocean view, you know, I'm from Lahaina. I know what the view is.

Ms. Hendrix: Yeah, there's lots of ocean view all over. Well, actually the top picture you can't see the ocean. That's looking out over like Kahoolawe would be out in the distance. You just can't see it 'cause what do you call the contrast isn't very good. So it's was so sunny. Remember, remember sunny.

Mr. Medeiros: And when you initially bought the property did you intend on using it like—

Ms. Hendrix: We bought the property in 2007, so the farm plan was already in place. There weren't horses there, but the farm plan was there so we implemented the farm plan. We didn't change the farm plan. From when you submit your building permit, you have to have a farm plan and it has to be approved before you can build in the Ag District. So when we bought it it was...the irrigation was there, but it wasn't fenced and there weren't animals grazing on it. So we implemented...what I view is we implemented the farm plan back in 2007.

Mr. Medeiros: And the farm plan is two pets?

Ms. Hendrix: Well, no, the farm plan is three acres fenced pasture, but the builder just didn't fence it. He submitted the farm plan, and that's what was approved, Farm Plan 159 2004.

Mr. Medeiros: Okay, thank you.

Mr. Shibuya: Any general questions, Commissioners? If not, then I'll thank you now for your presentation and we'll have testimony from the public if it's available.

a) Public Hearing

Mr. Shibuya: Anybody wants to testify, please step to the mic and then please sign in later. Okay, thank you. Please identify yourself.

Mr. Dean Frampton: Hello, Mr. Chairman. My name is Dean Frampton. I support this application, but I just...I heard the Council or the Commission discussing income thresholds. I've had some experience working as a property tax appraiser for specifically ag properties a long time ago. And what I just generally say is it's really difficult to establish one standard for ag across the board. You've got professional farmers. You've got subsistence farmers or hobby farmers whether these are palms in Haiku, cattle in Kaupo, flowers in Hana or cabbage in Kula, right, you know, there's so many types of, different types of farming and all of them have different productivity rates, Productivity rates equal income, income equals threshold if that's what you're looking at. And there's just a lot of different challenges involved. What happens to the farmer who has a drought and doesn't have any income for one year or get hits by a fungus or gets hit pests, you know? That threshold is a very difficult thing to harness and the sad reality is, if you establish a threshold, the folks with the financial resources will find a way to meet it and the little guys, oftentimes their lives depend on the threshold, they may not be able to meet that threshold. So I don't really necessarily have any good answers but the department has a method and that's utilizing approved farm plans and they look to approved farm plans that's one method, Property Tax has a different method, and Water Department has a different method for doing rates. So there's a lot of different standards out there and you guys have a tough decision, but personally I have a hard time with thresholds and I heard the discussion and I just wanted to state my opinion that it's a...I'd hate to see the little guys get hurt by a threshold. Thank you.

Mr. Shibuya: Thank you. Thank you very much for sharing your mana`o. Anybody else with public testimony? None. Public testimony is closed. Commissioners, you have specific questions that you'd like to address at this point? Commissioner Wakida?

Ms. Wakida: I have two questions for the applicant.

Ms. Hendrix: Yes ma'am.

Ms. Wakida: Who will be taking care of your horses if this is approved and you're renting out your house?

Ms. Hendrix: I will.

Ms. Wakida: So every day you'll go up there and check on stuff?

Ms. Hendrix: Oh yeah. Oh yeah.

Ms. Wakida: I can yield if others have questions?

Mr. Shibuya: Any other questions? Continue.

Ms. Wakida: It's mostly just for information purposes. Tell me about how you raise pomegranates? In other words, what do you start with and then how long before you get some fruit?

Ms. Hendrix: We have a few test trees, and you start either sometimes...Kula Ace carries them and sometimes you can find them at Lowes or Home Depot. The ones at Lowes and Home Depot are already little trees. Kula Ace they tend to be what they call bare root which is basically a stick kinda. And they start bearing fruit, it's a...that's one of the reasons why I like 'em. I like 'em for a couple reasons. Well, they start bearing fruit in about two years and I like 'em because they're not as, how would say, friable, they don't degenerate quick like you know, bananas, mangoes, figs. I could grow a ton of figs, but just by picking 'em you basically damage 'em. So the pomegranates have a good shelf life. Yeah, so you, you know, they're kinda bushy and if you trim 'em, there's a word, prune 'em into more of a tree type shape, the fruit comes out better. You can just let 'em get, you know, big, bushy, kinda hedgy looking, but you get better fruit if you trim it better.

Ms. Wakida: Thank you very much.

Ms. Hendrix: Thank you.

Mr. Shibuya: Other questions, Commissioners? No? No questions. If not, Kurt would you like to summarize?

b) Action

Mr. Wollenhaupt: Mrs. Hendrix has met the requirements that have been laid out for a State Land Use Special Use Permit. In addition to the farm plan that she's described, it should also be noted that the conservation area it does have the Blackburn Sphinx Moth which I actually did see when I was out there so that it is important that she's also going to allow some of this to be set aside for preservation of that. That being the case, the Maui Planning Department would recommend that the Commission approve the Land Use Commission subject to the six conditions that are in the recommendation, that the Land Use Commission Special Use Permit would be valid until June 30, 2016 as stated in Condition 1, and the other conditions are the standard conditions.

Mr. Shibuya: Commissioners? Commissioner Wakida?

Ms. Wakida: I like the idea on this that the applicant is trying to do some farming and so do a lot of people up there and it is, as she says, it is a tough place, you gotta practically haul in all the soil if you wanna grow anything. All of you have seen those great big piles of rocks the plantation's pulled out there when they did sugar cane farming. So I'm glad to see her ambitious efforts at farming.

Mr. Shibuya: Is that a motion? Oh, you're making a motion?

Ms. Wakida: I would like to move if we're ready for that. To approve the recommendation for a Land Use Commission, I'm sorry I'm looking for the wording here.

Mr. Ball: Permit to operate a short-term rental in the County Ag District, State Ag District.

Ms. Wakida: Commissioner Ball would you phrase that, please?

Mr. Ball: Would you like me to make the motion?

Ms. Wakida: Yes, please.

Mr. Ball: Would be happy to. Motion is to allow the Special Use Permit to operate a short-term rental in the County Agricultural District, also the State Agricultural District.

Mr. Tsai: Second.

Mr. Ball: And associated recommendations.

Mr. Tsai: Second.

Mr. Shibuya: Okay, moved by Commissioner Ball and seconded by Commissioner Tsai. Any other discussions, Members? Commissioner Hedani?

Mr. Hedani: I would suggest that the Department consider in the community plan process taking a look at these particular subdivisions for reclassification from Agricultural to Rural.

Mr. Ball: I'll second that.

Mr. Shibuya: Director?

Mr. Spence: I'll say, we did. So it's, well we did on the Maui Island Plan designate it for Rural classification. So yeah, ...(inaudible)... I agree.

Mr. Shibuya: Okay, any other discussion items? None. Director, will you repeat the motion please?

Mr. Spence: I don't think I can be as eloquent as Commissioner Ball, but to recommend approval...to approve as recommended by Staff.

Mr. Shibuya: Okay, Members, all in favor raise your hand.

Mr. Spence: That's six ayes.

Mr. Shibuya: Six ayes. Thank you very much, Commissioners. Motions passed.

It was moved by Mr. Ball, seconded by Mr. Tsai, then

**VOTED: To Approve the State Land Use Commission Special Use Permit as Recommended by the Department with Conditions.
(Assenting - K. Ball, M. Tsai, J. Medeiros, W. Hedani, S. Duvauchelle,
P. Wakida)
(Excused - I. Lay, J. Freitas)**

Mr. Shibuya: At this time, I'd like to call a recess and we'll be back at 1 o'clock. Thank you.

A recess was called at 12:04 p.m., and the meeting was reconvened at 1:01 p.m.

Mr. Shibuya: Maui Planning Commission meeting to order. The first item?

Mr. Spence: Commissioners, we're on Item C, Communications, and this is...the one Communication item is Ms. Nancy McMillan of the Kihei Seventh Day Adventist Church requesting an amendment to No. 1 for the Special Use Permit for a six-year time extension for a church and Staff Planner is Ms. Candace Thackerson.

C. COMMUNICATIONS

- 1. MS. NANCY MCMILLAN on behalf of KIHEI SEVENTH-DAY ADVENTIST CHURCH requesting an amendment to Condition No. 1 of the County Special Use Permit for a six-year time extension to operate a church and preschool in the A-1 Apartment District and to amend Condition No. 1 of the Special Management Area Use Permit for a two-year time extension for the development of a church and preschool on approximately 5.77 acres of land at TMK: 3-9-001: 149, Kihei, Island of Maui. (CUP 2004/0001) (SM1 2004/0003) (C. Thackerson).**

Ms. Candace Thackerson: So the applicant is requesting a six-year time extension to the County Special Use Permit to operate Kihei Seventh Day Adventist Church and Preschool and a two-year time extension to the Special Management Area Use Permit for the development of said church and preschool located on 5.77 acres of land in the State Urban District situated in Kihei. The applicant proposes to construct and operate the Kihei Seventh Adventist Church and preschool within a one-story U-shape building.

So I'll give you a brief history of this application. This project originally came in, in 2004, and they got their entitlements for a District Boundary Amendment, Change in Zoning. So they have gone through quite a couple hurdles. In 2005, they were granted their SMA and CUP. So this body, the Maui Planning Commission approved the permit in January 24, 2006. And this is the second time extension request for this project. The current time extension request was routed out to agencies for review.

When I read the minutes back from the original meeting when they approved this permit water was

a major issue and was discussed heavily at this body. That was back in 2006. Due to the Water Department discontinuing its practice of accepting meter reservations and issuances of temporary meters since the date of the designation for the Iao aquifer, and I have that exhibit in there. Between the time that the Commission granted approval for this permit in 2006 and the application's time extension request came up, the Department of Water Supply enacted the Show Me the Water Ordinance, and when the Show Me the Water Ordinance came up that was kind of a project stopper in many permits. So if you look at the date, this was approved in 2006, Show Me the Water was enacted on December 14, 2007 relating to water availability for proposed development projects. In order to proceed with construction plans and building permit approval pursuant to the new availability ordinance, the applicant must secure a long-term source of water supply. So as of February 15, 2011, the Department of Water Supply was still in review of this project due to regulations for Show Me the Water. According to the applicant, they have not been able to proceed with the construction of the project due to the applicant's...lack of the applicant's ability to secure the long-term water supply.

This past year, in April 2012, County Council revised and softened Show Me the Water, so now projects can move forward from that point. So on August 21st, so if you just follow the date, so in April 2012, County Council took back Show Me the Water, on August 2012, then the Department of Water Supply was able to give comments and say that it can go forward, and I have those comments there as Exhibit 12. The applicant responded, acknowledged the comments in April of 2013, and they acknowledge acceptance of them. So while this was all going on, you know, the applicant continued to raise funds for the church so that they could continue when they were ready and the Water Department was clear with their comments.

They received a grading permit from Public Works on October 12, 2012. So, and I have...the only thing I had for that on Exhibit 14 was just the printout on the computer, but I do have a copy of the grading permit here. So technically, Condition No. 1 of the SMA Permit has been met because we define it as initiation of construction or issuance of grading permit. But since it expired, we have to backtrack and give them a time extension so that all the dates will match up. Okay, I hope everybody is following that. And then CUP, I put six years just because I want all the dates to run together. So since they've now technically initiated, Condition No. 2 of your SMA Permit comes in which is you have to finish constructing it within five years of the date of your initiation. The date of initiation is the grading permit so that's 2012, and five years onto that will be 2017, which they think they can move forward and build it by then. So I just put the CUP to run with the same date. That's why there's a two-year and six-year just to keep it easy for the church so everything runs at the same time.

The applicant is here to answer any questions you have about it. I didn't include the drainage report but I do have the minutes from the last meeting back in 2005 where drainage was discussed by this body. They asked about the runoff and whether or not the retention ponds were large enough to hold it. The Commission asked, "onsite will your project comply with the rules for drainage, the design of the storm drain facilities, have you considered that? How is the applicant going to deal with that?" The applicant responded, "the amount of the post development runoff will require 18,000 cubic feet of retention area. Our grass retention ponds total 36,000 cubic feet. So we have way more area for retention". At that time, that satisfied the body, but we have a church representative, we have the architect, construction team, we've got everybody on board. I think

they're finally excited that now with the issuance of the grading permit they can move forward and build the church. They're hoping they can get it done in the five years. So that would be nice. That's about it. We'll see what's gonna happen.

Mr. Shibuya: Okay, thank you, Candace. At this time, we'll have the general comments or questions from the Commissioners and then followed with the public testimony and then we'll get back to the details.

Ms. Thackerson: Thank you.

Mr. Shibuya: Commissioners, any questions, general questions? Commissioner Duvauchelle?

Ms. Duvauchelle: Since the grading permit was issued has there been any grading done or has the site not been touched yet?

Ms. Thackerson: It has not been touched yet. They have not moved with it. That was issued...oh, there was a little bit of an issue with the grading permit. That's why I only had the copy in the computer because...and we only have a copy here too. The original, we don't know where it is. For a little while the church didn't know where their original grading permit was so they were going back and forth with Public Works trying to get a copy and I don't think Public Works even cashed their check until May of this year or something. So that was kind of an issue. But the grading permitted is dated, the issuance is October 2012. So they'll have, yeah unfortunately we don't go from when they go and do it, it's from when you pick it up because then the ball's in, the responsibility is in your court, so the date has to be five years from that date.

Ms. Duvauchelle: Thank you.

Ms. Thackerson: Yeah, you're welcome.

Mr. Shibuya: Any other questions, Commissioners? So, I'll just open it up at this point for public testimony. Are there any testifiers at this time? You have three minutes. We'll ask that you limit your testimony to three minutes and then after please sign in as a testifier.

Mr. Daniel Palakiko: Okay, my name is Daniel Palakiko. I'm a member of the Seventh Day Adventist Church, long standing member and an elder in good standings. I'm also been blessed to be asked to the general contractor on the project as I am the owner of Kanaka Construction, local construction company and have been in business since 2008 under my own license, my BC license. I'll try to keep it under three minutes 'cause when I preach I can't even keep it under 30 minutes folks, so...

Basically I just want to mahalo you folks for putting us on the docket and giving us the opportunity move forward with this project. As you can tell, it's been a walk of faith from the beginning to the end and it will make a great novel one day probably. But, you know, we'd like to see this have a happy ending to this novel and as we get right at the doors, we have all these things in place to help us help it be a smooth transition. We set a whole time line. Of course, because we are a nonprofit, once we are able to receive our building permit we can start the process for grant writing and those

kinds of things and that will help us visualize and come to a completion of the project, but at the present time it's amazing what a small church like ours with how many people on the books? Thirty--five members on the books, what we've been able to raise by the grace of God and it's been amazing. And so, you know, I just wanna say that, I don't have a doubt, you know, that the building will be built and that many people will be blessed in the Kihei community.

As you heard, we also are looking to open a preschool which, of course, would be a community asset I would think and then also, other outreach programs that we always facilitate through our Seventh Day Adventist Church such as health and temperance classes, cooking classes, those kinds of things. All of these opportunities that we would now be able to facilitate in Kihei because we'll have a church structure. At the present time, we are renting out the teachers lounge at Kalama, not Kalama, Kamalii Elementary and it's where we have worship on Sabbath or Saturday mornings. And so it's going to be nice when we have our own base of operation, you know, and we'll be able to expand our services for the community, and so we're really excited and once again, this is a miracle. Around the three minutes I believe, has anybody been timing. I think we're okay. God bless you folks. Aloha.

Mr. Shibuya: Thank you very much. Questions, Commissioners of the testifier? None, thank you. Any other testifiers? If none, public testimony is closed. Thank you. Candace, for the details now.

Ms. Thackerson: Okay, which there are lots of.

Mr. Shibuya: Commissioners? Commissioner Wakida?

Ms. Wakida: This question is for Director Spence and it's just...

Mr. Shibuya: Can you speak into the mic please?

Ms. Wakida: Is this mic on, 1, 2?

Mr. Shibuya: Yes, it is.

Ms. Wakida: Clarification on this process. Is it, apparently this organization and it's not a criticism of the organization, I just want clarification on the process. They had a permit to operate a church and preschool before they built the church and preschool. And then how does that work?

Mr. Shibuya: Director?

Mr. Spence: You would need that just to do construction because, I mean, you would have to end, and Candace can answer that too, but--

Ms. Thackerson: Yeah, I was thinking the same thing. But you need the use entitlement before you can build what you're going to be doing there. So you need permission from this body to run a church and preschool. That's why the permits go hand in hand. You have an SMA to build it with the use at the same time or else it's not a legal construction. You can't build it and then get a use permit after the fact. So yeah, that's why it's funny like their five years, it's gonna run out just when

it's gonna be built 'cause they have five years to construct it and I'm giving them six years to back date it one year and then five years. So, but I just wanted them to match and so they can come in when it's built at that time and then ask for maybe, five year, whatever this body would like to grant at that time for them to then operate, to open...(inaudible)... but it has to run at the same time.

Mr. Shibuya: Candace, in terms of complying with the Show me the Water, did they find a source or how did find a source or how did they get to that?

Ms. Thackerson: I don't know if they found a source directly or not. It really was just that Council kind of softened the ordinance so now the restrictions aren't as strict anymore. So I have the new Water Department comments on page, on Exhibit 12. Those are the new comments from after Show Me the Water was softened and then the applicant's response. So they still do have a lot of things that they have to get figured out through the Water Department which will probably be at time of building permit.

Mr. Shibuya: Okay, thank you.

Ms. Thackerson: Yeah, you're welcome.

Mr. Shibuya: Commissioner Hedani?

Mr. Hedani: I'm sorry, this might be premature. I was actually looking at the recommendation, the staff recommendation under second item, No. 1, the date February 28, 2013 has already passed and it says the construction of the proposed project shall be initiated by that date and initiation of construction shall be determined by and it lists a whole bunch of things, but issuance of the grading permit is not among them. So is that an oversight or...

Ms. Thackerson: Oh yeah, it was an oversight. It should be issuance of a grading permit, 'cause that's what...that's what the trigger is, yes.

Mr. Shibuya: Commissioner Wakida?

Ms. Wakida: Can you clarify where that's gonna be inserted?

Ms. Thackerson: Yes. It will be initiation of construction shall be determined as construction of offsite improvements, issuance of a grading permit.

Ms. Wakida: Okay.

Mr. Shibuya: Okay, thank you. Any other questions, Commissioners? Commissioner Wakida?

Ms. Wakida: Question on the preschool that they're proposing. Would this be year-round preschool?

Ms. Thackerson: The applicant can answer that. I'm seeing nods, yes, yes it would. Do you wanna someone...will there be follow up questions?

Ms. Wakida: Yes.

Ms. Thackerson: Okay.

Mr. Shibuya: Please identify yourself.

Ms. Nancy McMillan: My name's Nancy McMillan. I'm with the Kihei Seventh Day Adventist Church. I'm the church clerk, building liaison, and building cheerleader is what I'd like to call myself because it's all new to me. We will have a preschool. It's operated by a licensed...we'll have a licensed director, she already has her license. She's working at a preschool over in Lahaina side and she's been experienced for I don't know how many years, 20 plus years I know that.

Unidentified Speaker: Thirty-five.

Ms. McMillan: Okay, 35 years. So she's well versed as far as opening and it will be year-round and just as preschool. It will not be above that.

Mr. Shibuya: Commissioner Wakida, follow up?

Ms. Wakida: Yes, one more. I know it's still quite a while off yet, but have you thought about hours of operation on the preschool?

Ms. McMillan: At ours I think we had it 7 to 5, 7 to 5. We do have a business plan that we've started to formulate as well as we have a budget that's gone to our ...(inaudible)... as well.

Ms. Wakida: Thank you.

Ms. McMillan: Thank you.

Mr. Shibuya: Commissioner Hedani?

Mr. Hedani: On Page 2 of the description of the project it says, the preschool shall be operated Monday through Friday from 8:00 a.m. to 5:00 p.m., so that should be probably revised to 7:00 a.m. to 6:00 p.m. or something like that.

Ms. McMillan: 7:00 a.m. because of drop off. Yeah, it'll be seven is what we're looking at. I think at one time 8 o'clock was discussed but I think since then we've thought seven was better for working people to drop their children off.

Mr. Hedani: Right, because a lot of them start at 8 o'clock and they finish at 5 o'clock so they won't be able to pick them up on time otherwise.

Ms. McMillan: Exactly.

Mr. Shibuya: Any other questions, Members? Okay, Candace can you summarize for us?

Ms. Thackerson: Yes, I can. So the Department recommends approval of the applicant's request to amend Condition No. 1 of their County Special Use Permit time extension as follows: That the County Special Use Permit shall be valid until February 28, 2017 subject to extension by the Maui Planning Commission upon a timely request for extension filed at least 90 days prior to its expiration. And the Maui Planning Department further recommends approval of the time extension to Condition No. 1 of the Special Management Area Use Permit subject to the follow revision: That construction of the proposed project shall be initiated by February 28, 2013, and since that's already happened, and initiation of construction shall be determined as construction of offsite improvements, issuance of a grading permit and initiation of construction of foundation or issuance of a building permit initiation of building construction whichever occurs first.

Mr. Shibuya: Okay, Commissioners? Commissioner Wakida?

Ms. Wakida: You want two separate motions?

Mr. Shibuya: Yes, let's do it.

Ms. Wakida: One by one?

Mr. Shibuya: One by one, yes.

Ms. Wakida: Okay, I move that the Planning Department accepts the approval of the applicant's request to amend Condition 1 for the County Special Use Permit extension.

Mr. Hedani: Second.

Mr. Shibuya: Seconded by Commissioner Hedani. Director, you wanna please repeat the motion here? Any discussions, Members?

Mr. Spence: The motion is to grant the time extension as recommended by Staff.

Mr. Shibuya: This is for the Special Use Permit.

Mr. Spence: That's correct.

Mr. Shibuya: Okay, thank you. All in favor, Members, raise your hand?

Mr. Spence: Six ayes.

Mr. Shibuya: No opposition. Thank you very much. So the Special Use permit is granted.

County Special Use Permit

It was moved by Ms. Wakida, seconded by Mr. Hedani, then

**VOTED: To Approve the Amendment to the County Special Use Permit as Recommended by the Department.
(Assenting - P. Wakida, W. Hedani, J. Medeiros, K. Ball, M Tsai, S. Duvauchelle)
(Excused - I. Lay, J. Freitas)**

Mr. Shibuya: Now for the conditional use.

Mr. Spence: SMA.

Mr. Shibuya: Special Management Area. Commissioner Hedani?

Mr. Hedani: Move to approve as recommended by Staff, and as amended.

Mr. Ball: Second.

Mr. Shibuya: Seconded by Commissioner Ball. Any discussion, Members? Commissioner Medeiros?

Mr. Medeiros: Yeah, I'll supporting it. I just like to say to you people, you know, I'm impressed with the determination of your group and wish you guys the best.

Mr. Shibuya: Thank you very much. Anybody else? Director, will you repeat the motion?

Mr. Spence: The motion is to approve the time extension as recommended by Staff and as amended.

Mr. Shibuya: Members, all in favor raise your hand.

Mr. Spence: That's six ayes.

Mr. Shibuya: Six ayes. Thank you very much, Members.

Special Management Area Use Permit

It was moved by Mr. Hedani, seconded by Mr. Ball, then

**VOTED: To Approve the Amendment to the Special Management Area Use Permit as Recommended by the Department with Amendment.
(Assenting - W. Hedani, K. Ball, J. Medeiros, M. Tsai, S. Duvauchelle, P. Wakida)
(Excused - I. Lay, J. Freitas)**

Ms. Thackerson: Thank you.

Mr. Shibuya: Thank you, Candace. Congratulations. Will you introduce the next item, Director?

Mr. Spence: Acceptance of the minutes of June 10, 2013 Action Minutes of June 10, 2013 and the Regular Minutes of May 14, 2013.

D. ACCEPTANCE OF THE ACTION MINUTES OF THE JUNE 10, 2013 MEETING AND REGULAR MINUTES OF THE MAY 14, 2013 MEETING

Mr. Ball: Move to approve, no changes.

Mr. Tsai: Second.

Mr. Shibuya: Moved by Commissioner Ball, and seconded by Commissioner Tsai to accept the minutes, Action Minutes of both June 10 and May 14 meeting. Members, all in concurrence say, "aye".

Commission Members: Aye.

Mr. Shibuya: Any opposed? Hearing none, it's unanimous.

It was moved by Mr. Ball, seconded by Mr. Tsai, then

**VOTED: To Accept the Action Minutes of the June 10, 2013 Meeting and the Regular Minutes of the 14, 2013 Meeting.
(Assenting - K. Ball, M. Tsai, J. Medeiros, W. Hedani, S Duvauchelle,
P. Wakida)
(Excused - I Lay, J. Freitas)**

Mr. Shibuya: Director's Report.

Mr. Spence: Commissioners we have something for you and it's for streamlining our SMA permit application process. We handed out a memo Tuesday, June 25, 2013. Mr. Jeffrey Dack is here to go through it.

E. DIRECTOR'S REPORT

- 1. Commission review and comment on a proposal for streamlining the Department's SMA Assessment review function by identifying 1) exempt actions in the SMA which longer need an SMA Assessment because they have no impact on the SMA and 2) other minor actions which could use a shorter application form than now in use for all applications. (J. Dack)**

Mr. Spence: What prompts this and Jeffrey will explain a little bit more, but what prompts this action is, of course, to streamline the permitting process, but so many things within the Special Management Area basically if you breath in the SMA and the County knows about it, you need an

SMA Assessment for it. You know, serious if somebody says you know, can I put in my...put in a new mail box? Well, technically you should...any action by an applicant, you know, you're digging a hole in the SMA, you're moving dirt, technically you probably need an SMA Assessment. We think that's pretty silly as Commissioners are chuckling. So what we're going to do, is we're going to propose some changes to your rules and we're at the initial stages of that and Mr. Dack has worked very hard on helping to determine what things should be assessed, maybe what things don't even need to ask the questions ...(inaudible)...so Jeffrey?

Mr. Jeffrey Dack: Yeah, good afternoon. I'm Jeffrey Dack, Current Planning Supervisor. As your Director mentioned there's a great number of applications that need to come in for what are considered to be "actions" under your SMA Rules, "actions" in the Special Management Area. There was some court action about 10 years or so ago. We had the...there were recommendations from the Department of Corporation Counsel to...that basically led to the Department considering very broadly and applying very broadly the term, "action" in your rules when it says, "that all proposed actions within the Special Management Area shall be subject to assessment determination by the Director".

Since that time, as you can see from the memo, we've had a great volume of these SMA Assessment applications have to come anywhere from 818 in 2004 to last year, 560. That's a bulk...a great number of applications. Most of those lead to a determination that the project is exempt, and 20 years or so ago the way that the County acted was we'd see the project come in, this is before my time here but as I understand it, the Department would see a project come in, take a look at it and say okay, that looks exempt and maybe make no notation whatsoever, maybe make a notation to that effect on the building permit and that was done. But as I say with this, with this court action, all the determinations have to be based and have to be done in writing, has to be based on an application, a very formalized extensive process was created. And we've had enough experience with it now that we think that we can identify the types of, some of the types of projects or actions again to use the term which really don't warrant the coming in for an assessment as the Director mentioned, but that's also my favorite example is if, if somebody calls me on the phone and says, do I need an SMA application to put in a mailbox and we kinda cringe and say, "oh",...and say to ourselves, "boy, I sure wish you hadn't asked that question". But when you ask that question, I gotta give you the answer, yes. Yeah, you need that. So we're trying to pull back on that and that's, that's not to say that's way all the applications are.

There are a great number of SMA Assessment applications that are very complicated as referenced in your memo some for shoreline properties and environmentally sensitive areas. Takes a lot of negotiations. Sometimes something will actually come in as a major permit application and through negotiation we can basically get them to mitigate all their possible impacts and then it can be given an exemption. That's what we like to try to get to do, but you know, it ranges anywhere from the mailbox on up to that much more extensive example. All these assessment determinations, exemptions as well as minor permits get reported to the Commission. You have some numbers of exemptions that are also in your memo.

So about a year and a half ago, a committee of planners within the Zoning Administration Enforcement Division and the Current Division got together began to just seriously consider what kinds of things could we recommend, could we feel comfortable recommending to the Commission

that these have negligible chance of actually having an impact on the coastal environment. The Zoning Division does I'd say, probably...I don't know if they all, the bulk of SMA Assessment applications, but they do do a great number of them and many of them are for things like again, the example in the report, someone putting...applying a cabinet in a condo in the SMA technically they have to...you know, interior improvements, interior remodels they actually have a form where they just kinda sign it off quickly and they can be done with it quickly but it still takes time for an applicant to actually come in and go through the process, submit the plans, gets receipted, takes the staff a lot of time to get through it. So we got their input and in the Current Division we generally take the more complicated SMA Assessment applications and we put together the chart which you have attached to your memo and I'll go through that a little bit briefly because sometimes it can be a little bit overwhelmed if we're trying to put a lot of information in one page.

What we're proposing is that there would basically be three categories of what currently are considered actions with the coastal...under your SMA rules. One, the top one would be ones for which through your future amendment to your rules you could determine that they don't actually need to come in at all. We like to say in the Department, we'd say, no need. Just call us up, no need.

There's a second set of applications, the memo mentions that we have actually a rather long application for SMA Assessments. Any of you who have gone through the process know it's a long application. It goes on for 14 pages or so because we need to have information that covers the most extensive, complicated example, but now we're in the second category we're trying to identify kind of a midrange of activities which don't really warrant a 14-page form and hopefully can get by with a 4-page form or so like that. So that's what that second category is.

And then the third one is the bottom, that would be those that as they say, the more complicated ones that would still retain usage of the long form.

I'll go through the table a little bit more detail because it might be a little bit hard to interpret. I'll go down each of the, you know, the numbered categories in the left-hand column. I wanna do the first one, so no SMX required, okay, we have a whole set of possible activities that for which we would recommend by rules you no longer require an SMA Assessment application. However, realizing that there are particular sensitivities in the area such as in flood zones, dunes, and in the shoreline vicinity. Those, all those black lettered types of activities on the top half of the form would still need to come in for an Assessment if it was in a flood zone, a dune or shoreline vicinity. Those are identified environmentally sensitive areas so at least at this cut in the process we wanted to recommend to be sure that those still came in for review. Now I would think there might be a chance with some further iteration down the road we could cut back even further, but this was our suggestion right now.

So 1a is a whole listing of a variety of types of activities that would be either minor site improvements with no ground disturbance or minor site improvements with minor ground disturbance and then there's temporary events. So you see a lot of examples listed. Structural, nonstructural interior repairs, renovations, et cetera. Those kind of examples I just gave. The mailbox would be in there et cetera. And you can go through those, the details as you wish.

The second category is category 1b, normal activity. That's just meant to clarify that, you know, when you actually have a development that's been established legally, you can just continue to use it normally. You can, you can just have a normal single-family residential use and all the activities that normally happen in a single-family residence in the SMA area doesn't need any kind of assessment. We just wanna make that clear when there's no physical improvement, repair or effect on water, those kind of activities again, no need. That's what we'd say right now anyway, but we just thought we'd wanna clarify. And then another one, no need for land title, easement, covenants, creation, termination easements, et cetera. So that's the whole set we'd suggest for to be the no need category.

Then kind of the midrange category, 2a, minor site improvement with more than minor ground disturbance. Okay, well we're saying you can have...ground disturbance gets to be of a concern for a variety of angles and one of them, one of the concerns is as I'm sure you've heard many times, possibly archaeological sensitivities so we've put a lot of attention into how we can categorize minor ground disturbance or still allowing some things that had a little bit more than minor ground disturbance.

2b is just explains within that basic category of No. 2 where the short form isn't available then it everts down to the long form which is basically everything else. So again, we're looking for your comments, your feedback at this point principally, then we would like to take that back within the Department, mull it around a little bit, and begin to prepare some draft rules amendments to bring you for formal hearing and consideration for adoption. So we could make the probably the biggest single strike of streamlining in the Planning Department, certainly in a good while if a table of this kind was actually put in rules and adopted. So certainly open to any questions now. We also have Candace Thackerson who was one of the five members of the committee who is still here. So questions, and then certainly any and all of your feedback would be appreciated. Thank you very much.

Mr. Shibuya: Thank you very much, Jeffrey. Looks like an outstanding summary of the way to submit your forms here or not have to submit your forms. Commissioner Ball, did you wanna...maybe you have a comment?

Mr. Ball: First I'd like to commend you on doing this, the Department, it's a long time coming and I'm sure there are a lot of people that are thrilled that this is around and wish it was around before they came in to do their permits and whatnot. Anyway, will there be a complete list of exemptions or will it just be more examples, like I don't see reroofing in here and where would that possibly fall under?

Mr. Dack: We won't really come up with a complete list 'cause we couldn't imagine how we could be totally exhaustive of it. So, the...and actually when the committee started we thought about putting together a list but it was getting just too long and ridiculous immediately so we began to focus on criteria and then these examples, so what you see are principally criteria in the larger type and then the smaller black type is examples. But for example, reroofing I would say that is exterior, nonstructural work to existing...well, you know, if it was existing to a lawfully established structure which is the second column down from the top and under Category 1. That's just an example, so we would have to...we would see how things would actually fit within the—kinda pigeon hole within

these cells or criteria.

Mr. Shibuya: Commissioners? Commissioner Wakida?

Ms. Wakida: I'm a big fan of charts, too. So I really like what you've attempt, what you've done here, and how you played this out. Is the final presentation gonna be in a chart form like this?

Mr. Dack: It will have to be put into rules which are textural. I would expect that there could be a chart that would be either part of the rules or accompany the presentation, accompany them, I'm not sure which actually at this point.

Ms. Wakida: Having gone through this process myself a couple of years ago to reroof on a shoreline property I'm sort of familiar with the complications. That would be exempt I know it's a long, still be a long form, but I found that trying to interpret and understand the language and what was needed on things was difficult.

Mr. Dack: Yes.

Ms. Wakida: The easier the Department makes it for the public to read and understand, the less you're gonna have people knocking on your door all the time with a thousand questions. So however you can present this so that it is...I love the chart idea just as a layperson and however you could present this as clearly as possible and have the language as simple possible so that the average guy walking through the door or homeowner isn't trying to read Planning Department language.

Mr. Dack: Thank you.

Mr. Shibuya: Commissioner Hedani?

Mr. Hedani: I have one comment and one correction. You know, the comment was good work. I thought it was an outstanding example of cooperation, advocacy, and initiative by the Department to come up with something like this. The correction is on line 1b, I'm sorry, line 1b under, Normal Activities. We live in a .com society but it says, normal.uses, so...

Mr. Dack: We'll certainly correct that. Thank you.

Mr. Hedani: That's the only correction I could find. I thought you guys did a great job.

Mr. Shibuya: Okay, any others? Commissioner Wakida?

Ms. Wakida: And just for clarity, hopefully the note at the bottom on the "Shore Vicinity" that you can figure out a way to present that information a little more...I mean, I think it's...it might be difficult for some people to figure this out. If you can come up with another way to present the same information, a little more graphically maybe?

Mr. Dack: Agree that that is, that's probably most complicated thing in here to understand. We'll

work on that, appreciate that.

Mr. Shibuya: Anything else, Commissioners? If not, because they're just asking for comments, we've expired our comments at this point, so we can say that we concur and we applaud your efforts, and we certainly appreciate it. And for those on Akaku, we've had two outstanding efforts here in streamlining the ordinances here for Maui County residents and this is very heartening and thank you very much Planning Department, and Director, for this outstanding achievement and initiative. We look forward to getting more.

Mr. Dack: Thank you very much for your very kind comments and support.

Mr. Spence: And I'll say, Mr. Chairman that Staff worked really hard on this. I mean, one, they're tired of processing SMA applications for no reason and, you know, I mean, I gave some direction on this, and they took it, and picked it up, and carried it, and came up with some really excellent ...(inaudible)... So I think the next thing you'll see will be draft rules, but definitely hang onto this chart and look at it and see if there are other things you wanna add or subtract or whatever you wanna do, something we didn't think of that perhaps the Commission will ...(inaudible)...

Mr. Shibuya: Yes, thank you very much, Director Spence. Because you know, I understand when you're actually under the workload of dealing with so many of these requests it's like dealing with alligators and then trying to drain the swamp at the same time, so it's really tough and I really appreciate. I understand, have been there, done that, and I appreciate your efforts. Thank you. The next item? E-2?

2. Planning Commission Projects/Issues

Mr. Spence: I'm looking at the memo from Clayton Yoshida, the Planning Program Administrator dated June 24th. So for your July 9th meeting there are, excuse me, one is a public hearing for another Special Use Permit for a short-term rental home in the Ag District. We also have amending Title 19 to include the definition of a wetbar. That's a good one. It's very interesting. And then some time extensions on existing permits, couple other projects. Any questions on those items? So that's coming and then also notification of waiving review on a couple of SMA time extension requests.

Ms. Wakida: Chairperson?

Mr. Shibuya: Yes, Commissioner Wakida?

Ms. Wakida: Did we, we just now skipped to E-6, correct?

Mr. Shibuya: No.

Mr. Spence: Well, No. 2, Planning Commission Projects/Issues, cause they sort of tied together.

Ms. Wakida: Oh, okay, I just wanted to emphasize on the Projects and Issues, something that keeps coming up and that is of our scrutinizing our criteria for a farm plan. And I also would like

to take a look at the short-term rental housing rules that allow how many dwellings you can on a property that can be short-term rental ...(inaudible)...you know, I raise my eyebrows at having two on this Ag that is permitted as the way things stand now. That and the criteria for a farm plan which that I think needs to be updated.

Mr. Spence: Mr. Chairman?

Mr. Shibuya: Yes, Director Spence?

Mr. Spence: The number of buildings and the number of rooms that can be done for short-term rental or bed and breakfast are set by law. So that's not within the Commission's purview. The farm plan is not technically within the Commission's purview either, those are Planning Commission Rules not...I mean, excuse me, Planning Department Rules not Planning Commission Rules. We do, however, at some point we're going to relook at the farm plan rules and so...they were adopted and they haven't been modified very much since. There's a number of pukas in it and a lot of consideration, so I know the Commission comments on lot, so perhaps when that comes, we can allow comments. You know, we have the Planning Commission comment on those rules.

Mr. Shibuya: Commissioner Wakida?

Ms. Wakida: Thank you. Because I think it's real difficult to make a determination between what's just landscaping and what's farming. You know, people plant a bunch of fruit trees and have a bunch of tropical flowers and it's difficult for anybody to come...you know, with the current criteria to say that is or is not a farm.

Mr. Spence: And I agree, and as you heard...but it's a difficult question, it's wrestled with across the state. Actually if you go to the APA National Conference, all the states wrestle with what is agriculture, what is not? I mean, everybody can look at real crops and agree, and everybody looks at a vacant lot and goes, yeah, there's no ag, but somewhere between, you know, like just like you heard testimony today, you know, a couple of horses that may be agriculture, but you know, maybe some palm trees aren't, you know, it comes in all shapes and sizes and colors and income levels and it's a big discussion.

Mr. Shibuya: Okay. Thank you very much. Okay, now let's move onto E-3, I guess.

Mr. Spence: Okay, the Commissioners have their SMA Minor and Exemption Report.

- 3. EA/EIS Report**
- 4. SMA Minor Permit Report**
- 5. SMA Exemptions Report**

Mr. Shibuya: Any comments, Members? None? I just have a clarification on Page 6 of 15, SMX 2012/0222 and 0223. This is the solar support structures for the Kihei Aquatics Center and the Kaunoa Senior Center. Are these the canopies for photo voltaic over the parking structure,

parking lot?

Ms. Candace Thackerson: Staff Planner Candace Thackerson. Yes, they are. And I believe they that they are installed. So those should probably be closed. If they're showing as open they should be showing as done. I don't have the chart that you have in front of you, but those are the solar canopy carports. I've been wrestling with having to approve those in parking lots, but also yet implement our landscape planting approval plans which call for one tree for every five spaces evenly spaced out throughout.

Mr. Shibuya: That's right.

Ms. Thackerson: So I try to look at the intent of the Code. Intent is for shade mostly, but the Arborist Committee would argue with me on that. So I usually...I've been fortunate enough right now that the applicants that have come in for it have been able to save, transplant, and relocate all of those trees on property. They've just moved them out and put them as a buffer around the parking area and then put in the solar carports because it's like our Code can't keep up with technology, right, so it's a give and take because I want, you know, we, the Department, the County wants to go green and have this great energy initiative but we don't wanna lose the trees, you know, so it's about taking them out, relocating them, keeping them on property so the tree count stays the same, but then still the intent of the Code is met that it's shaded and protected, but both of those were for the car canopies.

Mr. Shibuya: Yes, thank you. And it increases the amount of shade that's available both in Kihei and in Spreckelsville.

Ms. Thackerson: Yeah.

Mr. Shibuya: So that's a great plus because we always run and try to find the best shade tree slot and we don't have to do that now. Thank you. And the next item? Oh, Commissioner Medeiros?

Mr. Medeiros: I know where we can buy a whole bunch of palm trees.

Mr. Shibuya: Okay, next item please.

Mr. Spence: Okay, we kinda covered six.

6. Discussion of Future Maui Planning Commission Agendas

a. July 9, 2013 meeting agenda items

Mr. Spence: Next meeting date is July 9, 2013.

F. NEXT REGULAR MEETING DATE: JULY 9, 2013

Mr. Spence: Item G is if you so choose to adjourn.

Mr. Shibuya: Yes, if there's no other items, no discussion matters, the meeting is adjourned.
Thank you.

G. ADJOURNMENT

The meeting was adjourned at 1:51 p.m.

Submitted by,

CAROLYN J. TAKAYAMA-CORDEN
Secretary to Boards and Commissions II

RECORD OF ATTENDANCE

Present

Keone Ball
Sandy Duvauchelle
Wayne Hedani
Jason Medeiros
Warren Shibuya, Vice-Chair
Max Tsai
Penny Wakida

Excused

Ivan Lay, Chair
Jack Freitas

Others

William Spence, Director, Planning Department
James Giroux, Deputy Corporation Counsel, Department of the Corporation Counsel
Rowena Dagdag-Andaya, Department of Public Works