

**LANA'I PLANNING COMMISSION  
REGULAR MEETING  
JULY 17, 2013**

**APPROVED 10-16-2013**

**A. CALL TO ORDER**

The regular meeting of the Lana'i Planning Commission (Commission) was called to order by Chair John Ornellas at approximately 6:00p.m., Wednesday, July 17, 2013, in the Lana'i Senior Center, Lana'i City, Hawaii.

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

Mr. John Ornellas: . . . Lana'i Planning Commission meeting, July 17<sup>th</sup>, 2013. I wanna say that we do have quorum, and do I –? Alright, we have Bev Zigmond, Shelly Barfield, Stacie Lee Koanui Nefalar, Kelli Gima, Stuart and myself. Thank you. Alright, let's go to item B, approval of the minutes for the May 29<sup>th</sup>, 2013 meeting – minutes of the meeting.

**B. APPROVAL OF THE MINUTES OF THE MAY 29, 2013 MEETING**

Ms. Beverly Zigmond: Mr. Chair, I sent around some minor corrections.

Mr. Ornellas: Yes you did. Did, Leilani, did you get those corrections? Alright. Any other changes or –? None seen. So all in favor of accepting the minutes with those corrections that Bev submitted.

Ms. Zigmond: I would like move first before we vote.

Mr. Ornellas: Okay. Go ahead and move it.

Ms. Zigmond: We approve the minutes of the May 29<sup>th</sup>, 2013 meeting as amended.

Mr. Ornellas: Thank you. Do I have a second?

Mr. Stuart Marlowe: . . . (inaudible) . . .

Mr. Ornellas: Thank you. Do we have any more discussion? Hearing none, all in favor of accepting the minutes with those corrections say aye. Any against? Alright, move on to – we'll move on to item C, Public Hearing. Actions to be taken at each of the public hearing. So the first up on the public hearing is 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. We have Joe Alueta from the County of Maui. So, go ahead and give your –

**It was moved by Commissioner Beverly Zigmond, seconded by Commissioner Stuart Marlowe, then unanimously**

**VOTED: to approve the May 29, 2013 meeting minutes as amended.**

(Assenting: J. Aoki, S. Barfield, K. Gima, S. Koanui Nefalar, S. Marlowe,  
B. Zigmond  
Excused: P. Felipe, B. Oshiro)

**C. PUBLIC HEARINGS (Action to be taken after each public hearing.)**

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)**
  - a. **Public Hearing**
  - b. **Action**

Mr. Joseph Alueta: Okay. Good evening. Commissioners, my name is Joe Alueta, I'm your administrative planning officer. I handle most of your rule amendments when you guys do either SMA or administrative rules amendments. I also handle all of Title 19 changes, amendments to the County Code. There's two methodologies in which you can amend Title 19. That is our zoning code. One is either by resolution which comes down from the County Council. You'll often see that. You'll probably get one next month dealing with another item of Title 19. And those in which you have a time limit by Charter. It requires that all three commissions review those and then they go back. The other methodology in which you can amend Title 19 is through the administration which is what I do. So if the director decides that there needs to be an update in the Code.

Currently we are in a, you could say, going systematically through Title 19 and amending or updating the code. Many of the codes have not been updated since the 60's. A lot of 'em are carry over actually from 1971. It was probably the last time it was ever -. And most of the 1971 changes was cut and paste from the 1967, and all they did was renumber it. We are currently going through it and a lot of the changes that we're making is mostly format. Updating it for the time, but also format, adding tables and simplifying. And what we're dealing with today is 19.27 which is the central - actually it's called the Maui Central Park District. Back in 1990 the County adopted a park ordinance which they conveniently put into 19.615. And if you look at 19.600, it's actually the enforcement section. So for some reason they put a whole parks district in the enforcement section of Title 19. So it's very kind of confusing.

So what we're doing is - so in reality is, what's happened is that there's two park districts, and they're not even next to each in the code book, nor are they sort of related. They just deal with basically one section of 19.27 deals only with Keopuolani Park which is was called Maui Central Park. And then 19.615 deals mostly - created what they called PK1, 2, 3 and 4. And the impetus or the real catalyst to get a park ordinance done in 1990 was to establish standards for the golf course or PK4. And that's pretty much was the main thrust. And at that time there was a comprehensive re-zoning of a lot of golf courses to a PK4 district and that was kind of what triggered it all. But they had - while they did this they created this whole PK1 which is your neighborhood park, PK2 which is kind of your community, and PK3 more regional.

If you look at the development standards – if you look at exhibit one of the, of the memo report I gave you, right, it has –. Actually, it will show you some of the – what I did was basically take all, the existing park districts, consolidate them down into one chapter which will 19.27. I then took all of the uses that were from all the different districts and just basically listed them and put them into a column and used a table to check off which uses could be. When I started this process the first thing I did was I kept all the districts the same. I wasn't trying to change anything, or eliminate anything. Everything was just basically word for word almost, replacement, put into a table format. While we're in the middle of this process, the Parks Department as well as staff said why do we need so many parks districts. We basically have – we just need a regular park and then PK4, and then Maui Central Park which is kind of an unusual in itself. We wanted to keep that separated out because it is a huge park district and there's some other mitigating factors such as cultural sites on the property so we separated that out as – and kept its own. So what I've done was I distilled down five park districts and we're going to end up with only three different zoning classes for park. So Maui Central Park, a PK1 which would be a general park district, and PK4 which is your golf courses because those are already zoned.

If you look back at the PK2 and PK3, the main rea – some of the primary distinctions between all of those park districts was size. Okay? So PK1 was like a two acre. PK – I mean, PK1 was two. PK3 I believe originally had like 20 acres, and then it was like the PK3 was like 100 acres or something like that. And realistically you're not going to get that kind of land in Hawaii or at least on Maui or even on Lana'i where you're gonna have that ability to the luxury of having 50 or 100 acres dedicated to one specific type of park, and have use, certain uses restricted. Some of the uses that – one classic example is in Hana, they wanted to do a skate park. Skate parks are only allowed in PK3, minimum lot area of like 50 or 100 acres – I can't remember. But they got donated five acres or something like that. Five or eight acres. So they had to do a change in zoning so they could build the skate park in Hana. They had to do a change in zoning to PK3, but it was substandard to begin with. Because the minimum lot size was, you know, way bigger than what the land area was.

And so in discussing this with parks as well as planning, it was like, all the uses that occur on a park or a private park, 99% of the time, if not, 100% of the time, the County or the Park Department is gonna have control over. So it's normally owned by the Park. It's either going to be –. Lands that are zoned park, right, are gonna be either owned by the County or have some type of private agreement or access agreement that the County have access to. Okay? The use of that land will be outlined within that private agreement if it's – if the land is privately owned. And most of the time the private park come in association with, I say, a subdivision. And then a lot of times those parks don't even get re-zoned to a park district. They stay the underlining zoning of residential because you can do a grass park facility in the residential district. I mean, if it's part of a subdivision. But for the most part, it's . . . (inaudible) . . .

If it's gonna be built facilities, you know, if you look at some of the uses, you may have concerns or a lack of development standards is that most of these facilities when they're being developed by the County has to go through, one, an EA because you're using County lands or funds, or two, and two, a budget. During the project hearing the Council is gonna say whether they're

gonna support building a stadium or building some type of facility on park, on a specific park. And so we feel that there's enough controls there that a lot of it, the uses, can be consolidated down to a PK1 and be addressed either at the Change in Zoning, at the EA process or at the budget process. So a lot of leeway was given when you look at the PK1 uses as well as on the development standards. If you look at some of the –. So again, we're trying to eliminate encumbrances that – so you have like minimum lot width. In the PK1 and PK4, there's NA. It's not applicable. So you could have a pathway and say we were trying to do green ways or bikeways. That green way or bikeway portion or parcel can be zoned park or PK1 and be dedicated to the County. We also – so there wouldn't a lot of these nonconforming uses.

Let's see, some of the other things that came out. We still have camp grounds would be allowed like in the PK1. A lot of it, like I say, a lot of the uses would be consolidated and would be controlled either during the development of each individual park or provide for larger facilities to redevelop. One of the things that gave concern over on Maui – I'll just point – was if you look at the maximum building height it says 120 feet. Okay. And I guess the concern at that time, however I should say the rationale behind that was that there are some master plans for some park facilities within Maui County that would be 120 feet. But again, it doesn't necessarily mean that you're gonna have postage sized stamp or neighborhood park and all of sudden the County is gonna put a 120 foot building in it because that structure would have to be reviewed, one, through an EA process, through, either a budgetary process and community review. So I don't think that was the main concern. I think at the planning commission the issue was we didn't want to have the County build a office building within the park district. And so that was, that was, was some of the comments that came back that if you are gonna get that kind of height then it should not be a office building. It should be a park facility or park use.

Other things that we're trying to avoid or try to get allowed in some of the districts as an outright permitted use, especially in the PK4 district was energy –. Not necessary energy facilities, but cellular towers and antennas because you do have, you know, 300 acres of ag, or, I mean, 300 acres of a golf course, or a large park facilities open land. It would make sense to collate – collocate, you know, cell towers within these areas. You already have either light poles, if they're, if they're a stadium situation. Or you have, a lot of times, park facilities will have a good location for tsunami warning sirens which are already high up. And so that was one of the reasons. Rather than – and that way there was a little bit of control on that rather than have everything, people doing it out in the boonies. It gives a little bit more flexibility to the County.

Again, just to summarize, it's pretty much a consolidation and simplification of the code, and dealing with parks. There are no real – a lot of lands that are actually zoned park facilities at this time. Mostly golf courses, Maui Central Park and a few PK1. Any lands that do have a PK2 or PK3 will be automatically re-zoned to PK1 at the adoption of this ordinance. But there's no proposal to zone any land, new lands, park at this time.

Mr. Ornellas: Thank you Joe. At this time I wanna ask any body out in the audience that would like to testify on this, this particular subject. Not hearing none. Hearing none. Members, do we have any questions for Joe?

Ms. Zigmond: Mr. Chair? They're not actually questions. I have one, two – I have like about five things that I want to comment on if I may. And remember in being on the commission previously when there was something for Maui County, for each of our commissions, that often times if there was something that we just didn't want on Lana'i, we could specify that. So, can I just do them all?

Mr. Ornellas: Sure. Go ahead.

Ms. Zigmond: Okay, on page 2, which is exhibit 1, page 2, for PK4 golf course, the last sentence, potable ground water for irrigation be discouraged. I would like to see the word discouraged removed, and the word prohibited. And then, let's see, on page 3, trail activities, I would like to exclude motorbikes and automobiles on Lana'i, on the trails. Page 3 of exhibit 1, trail activities, I think it saying that we can have motorbikes and automobiles. Currently it's just excluded from MCP, I want them excluded from Lana'i. I don't think we need to have anything over 35 feet on Lana'i. And let's see, light fixtures should be shielded and downward. Because right now it just says we don't want the birds to run into them, and I think that's a good idea. But they should be shielded and downward. And if Pat Reilly was here, he would talk about that interfering with the stars, so I'll say it for him. Thank you.

Mr. Ornellas: Alright Bev, can you go back to the first one again, and we'll go through each one, alright?

Ms. Zigmond: Okay. Page 2 of exhibit 1, under PK4, golf course, the very last sentence, that potable ground water for irrigation be discouraged. I'd like the word discouraged removed, and have the word prohibited inserted for Lana'i. I really – I think it should be for the whole County, but I'm mostly concerned about here.

Mr. Ornellas: Alright. In, in reading it and my interpretation would be that, that you basically don't want to use any water, ground water, to, to irrigate golf courses.

Ms. Zigmond: But discouraged is a whole lot different than prohibited.

Mr. Ornellas: Under – understood. Hang on. Is the term potable should be –? Go ahead. I mean, I'm, I'm thinking back. I think it's, it's potable or is it –? Yeah, okay. John, please grab Joe's mic, please and then –.

Mr. John Stubbart: I believe that the County has a new ordinance passed a couple of years ago for golf course irrigation. And it has a value of 200. Water has to be over 250 chlorides. It has a definition of water. So, the – you might – Joe, you might want to research that County Code for, it's already existing, for this portion.

Ms. Zigmond: John, and a definition of what kind of water. You said water.

Mr. Stubbart: It didn't –. Yeah, they didn't put the word potable, non-potable. It's just 250 chlorides was the definition they used.

Mr. Alueta: . . . (inaudible) . . .

Mr. Stubbart: I'll, I'll repeat – potable water as a secondary standard in the EPA and Department of Health Standards is less than 250 chlorides. Over 250 chlorides is then considered a non-potable water, right, Ron? I mean, that's – that's what their code says, so they didn't use a term of definition. They used the scientific measurement.

Mr. Alueta: And it's pretty much moot because this is not set in a standard. It's just saying what they're calling in a call-out, PK4 was the description of the district. So if there's a standard or a restriction on the use of water, that would obviously take precedent. This wouldn't change. This doesn't change that law. And this is existing language. It's just saying that they should be discouraged because that's what it was. I mean, when they wrote it in 1990 their issue of potable water being used for, for golf courses was also an issue back then. But it doesn't say – this doesn't say you can or cannot use potable water. It's just says, it's just describing the district pretty much.

Ms. Zigmond: But I'm, I'm asking that it, it be specific because this is 2013.

Mr. Alueta: Right.

Ms. Zigmond: That we prohibit it.

Mr. Alueta: Yeah, we can make that recommendation to Council. So you want to say, and then prohibited for Lana'i? Okay.

Mr. Ornellas: Okay, we already had existing ordinances pertaining just to Lana'i.

Mr. Alueta: Right. And that would change this.

Mr. Ornellas: Okay. Alright. Alright, so let's deal with this first one. Anybody have any objections of using discouraged? Using the term –

Mr. Alueta: Prohibited.

Mr. Ornellas: – prohibited versus discouraged? Go ahead.

Mr. Marlowe: Perhaps restricted is a better word than anything else that's been proposed because the law already exists.

Mr. Ornellas: Alright. Anybody have any –? Let's, let's choose between the two. Restricted versus prohibited?

Ms. Zigmond: If you say restricted, what are the restrictions? Prohibited is like there's no, no doubt.

Mr. Ornellas: Understood. So, anybody have any –? Who would rather see the word restricted versus prohibited?

Mr. Marlowe: If the existing rules or law prohibits it, then discouraged is proper.

Mr. Ornellas: I understand that. But, we're basically talking for Maui County now. We're not just talking about Lana'i. So, if we wanna, if we wanna move this County to the way we do things here on Lana'i which I think is done pretty well, then maybe we should. And plus this is only a recommendation to the Maui County Council. This is not gonna be – this is not going to be etched in stone once we get done with it, so –

Mr. Marlowe: Then perhaps both words should be recommended.

Mr. Ornellas: Alright, let's – let's –.

Ms. Stacie Koanui Nefalar: So how's about you say something like and the – that use of potable ground water for irrigation be followed per island water code, or some kind of direction to the rules that we currently have.

Mr. Ornellas: Okay, we have a, we have a private water system, so our rules, our rules are different than the County of Maui rules because that belongs to the Board of Water Supply if I'm not mistaken. So, the rules that were created for Lana'i basically is only for Lana'i, and not a rule that's followed throughout Maui County. So I understand what you're saying, but I don't think that is basically pertaining to, to our island. And I understand where Bev's coming from, and I understand where, where Stuart's coming from, so let's just – we'll end this – let's just take a show of hands who wants to use, who would rather use the word restricted raise your hand. One. Now who would rather see the word – what is the word I'm looking for?

Mr. Alueta: Prohibited.

Mr. Ornellas: Prohibited. Who would rather see the word prohibited raise your hand. Okay, and so that's everybody else that's present. Alright, so let's use the word. Anybody have any objections of using this word in that statement? So after we –. And this is, and this is what I'm gonna be looking for. It is further intended that the variable agricultural uses to be encouraged to continue and that the use of potable ground water for irrigation be prohibited. You have something to say?

Ms. Shelly Barfield: What if you just say discouraged, but prohibited on Lana'i? That way it pertains to Maui County, but prohibited on Lana'i. That way it's not for the whole County of Maui.

Mr. Ornellas: Bev, is –? It works? It works? Yes? Okay. So anybody have any objections to that other than Stuart? Alright, let's just make it official then. Can I have motion then? To use the word "prohibited on Lana'i."

Mr. Alueta: I think, I think you have a consensus on that right now. I mean, you can probably go through the rest of the changes – the rest of any changes and have one motion at the end. Would that work?

Mr. Ornellas: Well, it might, it might – they might be different. So I just wanna do one at a time.

Mr. Alueta: Alright.

Mr. Ornellas: Okay. Alright.

Ms. Zigmond: Alright, I'll move that we use the word “prohibited on Lana'i, and discouraged –“

Mr. Alueta: But, but “prohibited on Lana'i.”

Mr. Ornellas: Yeah, the word discouraged, but prohibited on Lana'i. Okay. Do I have a second?

Ms. Joelle Aoki: I second the motion.

Mr. Ornellas: Thank you Joelle. Any more discussion on this? Hearing none, all in favor of the changes say aye. And against? One, Stuart. Thank you. Bev, what is number two, here, on your changes?

**It was moved by Commissioner Beverly Zigmond, seconded by Commissioner Joelle Aoki, then**

**VOTED: to amend PK4 Golf Course on page 2, of Exhibit 1, to include  
“but prohibited on Lana'i.”**

**(Assenting: J. Aoki, S. Barfield, K. Gima, S. Koanui Nefalar, S. Marlowe,  
B. Zigmond**

**Excused: P. Felipe, B. Oshiro)**

Ms. Zigmond: Okay, on page 3, about midway down the table, trail activities, if you look on the comment section, comments section, it says motor bike and/or automobiles shall be excluded from – bad typo – MCP. I would like to see motor bikes and automobiles excluded on Lana'i.

Mr. Ornellas: Do we have any discussions on that?

Ms. Barfield: Can we say that if it's a private landowner?

Mr. Alueta: This again only applies to the park districts. Something that's zoned park. So if it's in the ag district and it's whatever, then – so something has to be zoned PK1.



Ms. Barfield: So like right now, I mean, they use – it's not an ATV, but the mules – right, the County people, that enables them to do, perform, their work duty. So if we say something like that, wouldn't that be prohibiting the use of that in a park area? Because that's what they use in order to clean the parks, haul the rubbish and everything else.

Ms. Zigmond: Did you say mules?

Ms. Barfield: Yeah, it's like ATVs with –. Yeah. That's what they use right now to pick up the trash, clean the parks, the little league field, the soft ball field, and so forth.

Mr. Alueta: Right. But, it wouldn't be considered a trail activity. A trail activities is where you're doing a, where you're doing a tour or you're having a, yeah.

Ms. Barfield: So the next question is because it's a private landowner can we say that?

Mr. Alueta: It's not zoned park.

*(Commissioner Joelle Aoki leaves the Lana'i Planning Commission meeting at approximately 6:30 p.m.)*

Ms. Barfield: Correct.

Mr. Alueta: It has to be zoned park for the thing to apply.

Mr. Ornellas: And that was one of my questions. I can only come up with Dole Park.

Ms. Zigmond: There's four John. I looked them up on the map – K-pau and Manele Road, Dole Park over by the school, and Cavendish which is PK-golf course. There's four.

Mr. Ornellas: Can you give that again slowly?

Ms. Zigmond: Okay, this is in, in our map. It's K-pau slash Manele Road. They consider that a park.

Mr. Alueta: Is that on your community plan map or –?

Ms. Zigmond: Yup, I got it here. I'll be glad to pull it out. Dole Park –

Mr. Alueta: But this wouldn't, this wouldn't apply to it unless they actually zoned it.

Ms. Zigmond: Well, no, it said –

Mr. Alueta: That's a community plan map. If it's a zoning map. This is only dealing with zoning. So if they followed the community plan and they went ahead and zoned it PK which, you know, during the implementation, then it would apply to it.

Ms. Barfield: So the only park would be the one down by the soccer field. That's park. It's blue, if I'm not mistaken on the legend, for the zone.

Mr. Alueta: That's public/quasi-public. Blue on the legend would be public quasi-public so it wouldn't necessarily be park. You – again, you don't – I don't think you actually have any lands that's zoned park. But you should think about because if you have a park designations on your community plan, at some point, you're gonna want to re-zone those properties to match your community plan. So if you feel there needs to be a restriction, that restriction on trail activities could be done at that time of Change of Zoning, as I've indicated. But, if you wanted to make sure it doesn't fall through the cracks, someone forgets about it, and you want to have a comprehensive restriction on those trail activities then I would say put it into the ordinance. But like I say don't, don't cut your throat like some other community where they put that restriction on the zoning ordinance and then later on when they do it they go, oh, we kind of wanted that later on 10 years down the line.

Ms. Zigmond: I can't see why we would ever want that here.

Mr. Alueta: That's up to you guys. So you need to put it in the – you could always amend the ordinance if, if it becomes an issue.

Mr. Ornellas: Okay. So, I mean, let's, let's look at the places that you're talking about. Dole Park, they're not using ATVs in Dole Park.

Ms. Zigmond: That's not trail. It's not a trail activity, okay. And, I, I understand what Joe is saying that, that they're not zoned – the places I mentioned – aren't zoned because it's just on the community. But it's not really zoned that way. But it could be in the future. So it would behoove us, I think, to put the restrictions on now. It would be a lot easier.

Mr. Alueta: No, that's, that's – I agree that it would make sense to put the restriction if you feel that's restriction you want now, then put it in now in the code. That way when you do your change in zoning, if those properties get changed to a PK designation you'd be covered.

Mr. Ornellas: But would that change have to come before us?

Mr. Alueta: Your recommendation, yeah. Chances are that change in zoning would come before you for a recommendation.

Mr. Ornellas: Okay. So we would be able to do that at that time.

Mr. Alueta: Yes. And that's what I'm saying. You can always, at each time, someone, they come in for that change in zoning, that specific land area could have restrictions on the type of park activities that they would want to see within that area. And that's, that's normally what would happen is that during your, during the more specific change in zoning, you would have, you'd do that more specific analysis as to whether that use is –. I'm just saying is that if you already have this community wide belief that that type of activity should be restricted altogether

within the park district, then you can add it within the ordinance as we speak, in one fell sweep. Otherwise at each time somebody comes in for the change in zoning – which is gonna be rare – that you would add the restrictions if you want to see most appropriately. My only concern is that depending on how the change in zoning is done. If the change in zoning is done on a one on one basis, right, you're going to have that opportunity to tear it out all of the concerns that you have, and maybe site specific to that project. If it's done on a comprehensive manner in which you're dealing with the whole island, it's all gonna be, okay, all these lands are now commercial, all these lands are now all park, all these lands – you may not have that where with all at the time because it's being done on a comprehensive basis to make a specific – a site specific restriction that you may think needs to be done.

Mr. Ornellas: Anybody else have any questions? Comments?

Ms. Barfield: I wouldn't want to take out that from the trails. What if it's someone's livelihood, or what if it connects to something, or, you know, there's a lot of questions to that. Why exclude something when you don't even know what holds out there. You can designate it as a walking park. You can designate it as motor bike park. Honolulu has them, you know. It's designated for the use of motor bikes. Why use a broad spectrum of saying just trail activities when you can designate it as walking, running, motor cross and so forth?

Ms. Zigmond: Well Maui Central Park doesn't want them, so I don't want them either.

Ms. Barfield: Maui Central Park has a softball field, I think, a baseball field and it's a walking course, so that's why.

Mr. Alueta: Right. And that's why in that restriction because it's a, it's a site specific. They say we want trail activities, which they do have. But we want to restrict specifically, they would say we don't want to have any motorized trail activities. And I guess, like, you know, do you guys – Commissioner Zigmond's position is that do we want, do we want the same, do we want motor bikes or ATV trails in any of the lands that we are planning to designate or zone park in the future? If you don't want that then it makes sense to add that same restriction. If you think somewhere down the line you may want to have those or you think those types of activities work well with a certain park lands, then you probably would just keep it in and not have the restriction. For us it's more about like dual use, like golf courses on Maui, you know, Makena or whatever. I mean, it's 100's of acres and having trail activities tie into that golf course makes sense because they have so much open land, and they have so much raw land that goes with there – or, it's integrated within agricultural lands that are adjacent by that they use to tie in to it. And so that's where the reason it's in there.

Mr. Ornellas: Alright. Thank you Joe. Anybody in the community there, the audience, have anything to say about this? Okay, well, I'm just trying to give you guys –. We were talking –. We were talking about the whole thing, and now we're just going through individual changes, so giving you the opportunity to voice your opinion on the individual changes. Ron, you have nothing to say?

Mr. McOmber: . . . (inaudible) . . .

Mr. Ornellas: Thank you Ron. Alright Bev, can you put this in a motion, and then, then we'll just vote on it.

Ms. Zigmond: Okay, I would move to exclude motor bikes and/or automobiles from trail activities on Lana'i.

Mr. Marlowe: What about ATVs?

Ms. Zigmond: And ATVs.

Mr. Ornellas: Wait a minute. Wait a minute Bev. This is pertaining strictly to parks. County parks. Not the whole island. Yes we have that so –

Ms. Zigmond: That was Stu's idea.

Mr. Ornellas: What, for the whole island?

Ms. Zigmond: No, the, the ATVs.

Mr. Ornellas: I understand that. But can rephrase it to say it's just strictly for County of Maui Parks designation, not – because they way you said it, it sounded like the whole island.

Mr. Alueta: She's, she's only making reference to this one section that is dealing with only parks, in the park district. So this would only apply to this park district on page, page 3.

Mr. Ornellas: Okay. So go ahead. Just repeat one more time. Just for a hard headed Portuguese.

Ms. Zigmond: Okay. I move that trail activities in the park districts on Lana'i exclude motor bikes and automobiles.

Mr. Ornellas: Do I hear a second?

Mr. Marlowe: Second.

Mr. Ornellas: Second by Stu. Any more discussions? And that included ATVs too, yeah? Okay. Understood. I figured if you seconded it you might want something. Alright. So since there's no discussion, all in favor of the motion please raise your hand. We have three. All those against, raise your hand. I can't vote? Then it's –. Well I love motorcycles, so – alright okay I hear you. So it passes.

Mr. Alueta: There's no, there no change. There's no change in the ordinance.

Mr. Ornellas: No change, right. Oh yeah, and we lost Joelle so –. But we still have quorum. Then the motion dies. Need a majority.

**It was moved by Commissioner Beverly Zigmond, seconded by Commissioner Stuart Marlowe, then**

**VOTED: that trail activities in the park districts, on Lana'i, exclude motor bikes and automobiles.**

**(Assenting: S. Koanui Nefalar, S. Marlowe, B. Zigmond**

**Dissenting: S. Barfield, K. Gima, J. Ornellas**

**Excused: J. Aoki, P. Felipe, B. Oshiro)**

**MOTION FAILED**

Mr. James Giroux: Because you have nine members, so to make an affirmative action, you have to get five affirmative votes to pass a motion. So, now you have seven, I believe. So five, five – you need five votes.

Mr. Ornellas: Okay. Next item. You have one more item?

Ms. Zigmond: Yes sir. That light fixtures be shielded and downward.

Mr. Ornellas: Yeah, if I'm not mistaken that is, that is already a County Code. It's in the County Code that these lights.

Ms. Zigmond: Is it?

Mr. Ornellas: Yes, I think it is.

Ms. Barfield: Yes it is.

Mr. Ornellas: Because when we've gone through this process for the parks, the lighting, and also the tennis courts and all the other stuff, parking lots, they all have restrictions as far as lighting.

Mr. Alueta: Yeah, we'll be – and it will read provided that lighting or lamp post and lighting controls shall be full – the word full is gonna – we'll need to add that later on for the planning commission – full cut off luminaries to lessen possible seabirds strikes. If you guys are satisfied with then that should work.

Mr. Ornellas: Yeah.

Mr. Alueta: Okay.

Mr. Ornellas: I am. Bev, are you?

Mr. Alueta: Okay.

Mr. Ornellas: So we're okay with it. We don't need to –

Ms. Zigmond: There was one more.

Mr. Ornellas: Okay.

Ms. Zigmond: It's the over 35 feet.

Mr. Ornellas: Is that page 7?

Ms. Zigmond: That would be –

Mr. Alueta: Page 7.

Ms. Zigmond: Page 7. Yes.

Mr. Alueta: So building heights.

Ms. Zigmond: On Lana'i, I can't see 120 feet.

Mr. Alueta: Okay. For Molokai, the put except on Molokai for structures. Okay. Because they didn't want to eliminate the poles. Light poles and stuff like that for structures. That structures should be limited.

Mr. Ornellas: How did –? I mean, when I think 120 feet I'm thinking about a brand new gym.

Mr. Alueta: Right. That was –

Mr. Ornellas: Or an auditorium or some sort of like, something like that.

Mr. Alueta: Correct. And the reason it went out – I mean besides the 120 feet is because there's this master plan that somebody has that wants to do a Blaisdell like facility on Maui, and so that's the 120 feet is what they need. But the 35, the existing 35 feet is not enough I can tell you right now, it would not be enough for most gymnasiums, for basketball, volleyball. Yeah, I mean, if you're doing, even baseball stadiums. So you should think about what your limitation most. We've been doing a lot of variances, you know, in most, in a lot of districts where you have a limitation of 30 or 35 feet. Most of these dealt with the public/quasi-public where you – your bill you saw that earlier in the year and that where we had to raise – we wanted to raise the height on the public/quasi-public because again you got schools, gymnasiums, they're always coming in for variances. Huh? And theaters, correct. Fire, but –. And these are –. Again, but that was public/quasi-public. This is for the park districts so you've got to think of

what kind of facilities would be in the PK district, park district. So your, your school gymnasium could either be –. I mean your gymnasium could be – not gymnasium, but your basketball facility could be in the park district.

Ms. Barfield: So is the 120 a standard as far as, you know, for baseball lights?

Mr. Alueta: No.

Ms. Barfield: How tall are they anyway?

Mr. Alueta: They, they range –. I mean, they're site specific depending on what type of light facility. But they can be, I mean, most light poles can be anywhere between 30 – as low as 35 or they can be up to 100 feet. They're a 120 feet I believe at the stadium for Maui. But that's the stadium, so you gotta look at that.

Ms. Barfield: So if we wanted a stadium here. I mean, if it was 35 feet, that would be ridiculous because you can't have a baseball stadium 35 feet height restriction.

Mr. Alueta: But again, you may not, you may not choose to zone it PK, a park district. You may zone it a district where you could do it. But it would make sense to have it in a PK and that's why the 120 feet was also – but it was also – that was pretty much limited for a structure. Molokai wanted to restrict structure so they would not cut out the lights.

Mr. Ornellas: Alright. Do we want to follow Molokai's lead? Everybody ok with that following Molokai's lead? Stacie? Alright. Okay. Then we can do that Joe. We'll go along with basically what Molokai Planning Commission.

Mr. Alueta: Do you have a height on the building? They put 35. For Molokai they said – what they did was 35 feet was for Molokai. And then anything higher than 35 feet they listed under special uses. And if you look under, page 7, you have special uses, section 19.27.040, and then they listed structures taller than a 35 feet height. So that way if somebody came – if County did come in with a, a large facility that was taller than 35 feet it would have to go to the planning commission to get that height because it's taken into for the height for the use. It's kind of interesting because it's not technically a use. It's actually reviewing of the height. But they wanted to be given out. I guess they felt it was a simpler out than BVA because it's harder to get a variance than it is –. So special use was – can be site specific on the location and the design to take into consideration the height. So that's what Molokai did. So if you wanted to do that, you can also say that.

Mr. Ornellas: Do we –? How do we want to – Commissioners, how do we want to stand on it? 35? You wanna just stick with the 35? And then with the lights above that?

Ms. Barfield: I wouldn't.

Mr. Ornellas: You want, you wanna – what is, what is your recommendation then?

Ms. Barfield: I mean, I'm into sports, so why would you want a 35 foot limitation and for it to come before us that's – I mean, we have other pending issues to discuss 35 feet. I'd just leave it as 120.

Mr. Ornellas: Okay. Anybody else?

Ms. Koanui Nefalar: So what – I'm trying to figure out exactly what you said for Molokai. So they decided that they're going to limit 35, not to include the, the lights, and they wanted to make it more – if there's an out to go over 35 for specific projects to be in, in front of the Planning Commission.

Mr. Alueta: Yeah, that is correct. If you look at the table on your, on your, the proposed bill, under special uses we put down cellular towers like for the Maui Central Park, but for all of those other districts that is allowed. But for Molokai what they did was they said, except for Molokai structures shall be limited to 35 feet. And then under special uses, where it says, right below cell towers, we just extended the table, added another column and suggested for Molokai, structures taller than 35 feet would be a special use permit. And then that way the special use permits, the final authority is planning commission.

Ms. Koanui Nefalar: I'm okay with that. As long as there's an out.

Mr. Ornellas: Yeah.

Ms. Koanui Nefalar: And we can make the decision what projects we want to say yes to and no to.

Mr. Ornellas: And anything over 35 feet I would – I mean, I want one of the planning commission to know what's, what's the plan. I mean, so –. I mean, if they're gonna build a stadium and, or if they're gonna build something that's gonna require even 50 feet, then I'd want that to come before us. So is that –? Shelly? Okay. Let's –. Shelly, do you want to do the motion and then we'll vote on that?

Ms. Barfield: Go right ahead, you guys can do it.

Mr. Ornellas: Anybody else wanna make that motion? Okay, somebody.

Ms. Koanui Nefalar: I motion that we follow the lead that Molokai did to include limit it at 35 and have anything above come to the planning commission.

Mr. Alueta: And that is for, for building structures, and so anything – like, like non-habitual structures, like – sorry – light, light poles would not be limited to the 35.

Ms. Koanui Nefalar: Yes.

Mr. Alueta: Okay. I just wanted to make sure. Thank you.



Mr. Ornellas: Do I have a second? Second by Kelli. Any discussion? Hearing none. All those in favor of the motion raise their hand. So that's, that's five. So, and so, yeah. So Kelli, myself, Stacie, Bev and Stuart voted yes, and –. And then those against? There we go.

**It was moved by Commissioner Stacie Koanui Nefalar, seconded by Commissioner Kelli Gima, then**

**VOTED: to amend section 19.27.050 that “building heights shall be limited to 35 feet.” And to include under section 19.27.040 that “structures over 35 feet requires a special use permit.”**

**(Assenting: K. Gima, S. Koanui Nefalar, S. Marlowe, J. Ornellas, B. Zigmond**

**Dissenting: S. Barfield**

**Excused: J. Aoki, P. Felipe, B. Oshiro)**

Ms. Zigmond: Mr. Chair, I'm just curious why, why did you vote here and on the trail activities you didn't?

Mr. Alueta: Because he can only vote to break a tie, or to make quorum, or to make five. Yes I am.

Mr. Ornellas: Okay so the motion passes. Bev, is there another one?

Ms. Zigmond: No.

Mr. Ornellas: Okay, thank you. So, so, let's –. So let's move this forward then. Can I get a motion to, to the bill relating to the parks? Can I get a motion to accept as –

Mr. Alueta: As amended.

Mr. Ornellas: – as amended? Can I get a motion for that?

Ms. Zigmond: Alright Mr. Chair, I will make a motion to recommend adoption of Joe's handy work as amended on the parks bill.

Mr. Ornellas: As amended.

Ms. Zigmond: Yes sir, as amended.

Mr. Ornellas: Alright, can I get a second? Stu? Okay, we got a second from Stuart. Any discussion? Hearing none all those in favor raise their hand. Say aye. So that's everybody but –. Shelly you voted no?

Ms. Barfield: Sure.

Mr. Ornellas: Alright, so do I have to vote on this one? Okay, with my vote it makes it pass. Thank you. Okay, we'll, we'll move on to the next item. Hang on.

**It was moved by Commissioner Beverly Zigmond, seconded by Commissioners Stuart Marlowe, then**

**VOTED: to recommend approval of the proposed bill, with amendments, to County Council.**

**(Assenting: K. Gima, S. Koanui Nefalar, J. Ornellas, S. Marlowe, B. Zigmond**

**Dissenting: S. Barfield**

**Excused: J. Aoki, P. Felipe, B. Oshiro)**

**2. MR. WILLIAM SPENCE, Planning Director, transmitting A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.04, MAUI COUNTY CODE, TO INCLUDE A DEFINITION OF "WET BAR." (J. Alueta)**

**a. Public Hearing**

**b. Action**

Mr. Ornellas: Okay, second item on our agenda, C2, Mr. William Spence, Planning Director, transmitting a bill for an ordinance amending Chapter 19.04, Maui County Code, to include a definition of wet bar. Joe?

Mr. Alueta: Good evening commissioners. This matter deals with amending two definitions within the Maui County Code. One deals with dwelling unit to include – to allow for – contains a single kitchen – contains a single kitchen and may contain a single wet bar. And to establish a new definition of for what a wet bar is. The issue arisen basically codifies a lot of times standard planning department policy. We've been in some aspects enforcing it, some places, some places it gets enforced sporadically. This sort, this codification makes it easier not only for the developing community, but also staff to enforce as well as the plans review people to know what to be looking for in approval of building plans. It should –. The amendment is more to speed up the process for those who are truly trying to do a wet bar. Giving the, the, most municipalities, including Maui County, the distinction between a single-family dwelling and a multi-family dwelling is the number of kitchens in each dwelling units. So we consider it – we define what a dwelling unit and that's where the restriction is on the number of kitchens. It's left unsaid, I guess, with regards to wet bars, butler pantries, or what not. And so what will happen is to skirt the law many people will often come in and have multiple wet bars. And what they're really trying to do is have multiple kitchens in the thing.

And so the County Code's definition for what a kitchen is, as I pointed out, is pretty broad. And so if the County wished too it can be very draconian which I prefer and, and go in and just say everything is – you've got a microwave, that's wet bar – I mean, that's a kitchen. You got an extra sink and a toaster, that's another kitchen, you can't do it. But we try not to be that way. We try to say, hey, is that reasonable? I mean, is that really a kitchen facility and a lot of times

it comes down to judgement. Sometimes it comes down to sob stories. Sometimes it comes down to the word of the designer or the architect that no it's not going to be a kitchen, it's really just an extra wet bar.

This law will make it easy for those who are truly trying to do a wet bar. It's going to allow them to have one wet bar, and it has the restrictions and limitations on it so it shows it on the plans. Inspectors, somebody gets a complaint, they can go and inspect to see whether it meets the definition of a kitchen or a wet bar. But it will also will, it will probably cut down on those who come in and we get five wet bars. A wet bar in every bedroom. The way we're defining it is you won't be able to have a wet bar in every bedroom because it can't be in a bedroom. But you also can only have one wet bar. So you can have a kitchen and one wet bar. So it will help again help those that are truly trying to have a man cave with a little wet bar, and, but those that are trying to maybe turn a single-family into a multi-family dwelling unit it will help police that in, in essence.

And again, it pretty much codifies a lot of our administratively what we have already been doing for the most part but it just puts it out in writing, and like I say, codifies it. Once you do that, the public knows, pretty has, pretty good standard of what we're gonna be looking for. And that's pretty much it. It's a straight forward change. We kind of looked at all the different communities – Honolulu, the Big Island – and they all have, kind of follow the same line as we have.

Mr. Ornellas: Alright, thank you Joe. Members? I'm sorry. Ron, Ron's got something to say. You know, if we have – we should – the County should invest in some cordless mics so that way –

Mr. Ron McOmber: We haven't gotten on the back side of this. My name is Ron McOmber. I'm a resident. 43 year resident. Not 43 years old, but 43 years on Lana'i. Obviously I'm older than that.

There's a lot more to this than what it says in the front, just looking at a wet bar. They're giving a definition of what is a single-family home and who can live in it. And to me the new definition contains a single kitchen and a unit for a family. And the old, the old regulation was a single-family. As we know on Lana'i there's more than one family living sometimes in homes. And I don't – I really don't want these people to get in trouble because they've got two families living in there in a house. And we need to get that definition cleared up. A single-family dwelling means a building consisting of only one dwelling unit designed and occupied exclusively by one family. A lot of houses here have more than one family in it.

The wet bar is nonsense. That is – I just don't understand that. Why –. We have two houses on this island right now that got nine bedrooms or 10 bedrooms in them. Has the County come over and inspected those two houses and see how many kitchens are in those homes, the one on Third Street, and the one on Lana'i Avenue? They ought to come over and inspect them if they're gonna follow this. And you don't have to have a complaint. You can just see by the massive building that there's got to be more than one kitchen in those places. And from our – from connections with those people there is more than one.

I just think the County is getting into too much of our private space on Lana'i, and it's gotta stop. I, I don't understand it. It's a waste of time. A wet bar? I mean, if that's the case then you come to my house I'm living downstairs, I have a microwave, so I have second kitchen? That's ridiculous. I don't have a second kitchen, but I do have a microwave, and I don't have kitchen sink, but I've got a bathroom sink right there right around the corner. So is that – am I, I have got two kitchens in my house? No, I don't. I just think it's infringing on people on Lana'i, particularly that have a hard time having people live in their homes and –. I just don't understand this. It's beyond my recog – understanding of this. Given a definition of what a dwelling unit is. And most dwellings, they're not worried about it, a wet bar in their house, they're worried about a place to sleep probably. So anyway in my humble opinion, this is a waste of time folks, and that's all I've got to say about it. Thank you.

Mr. Ornellas: Thank you Ron. Anybody else would like to weigh in? Seeing none. Commissioners, any comments?

Mr. Marlowe: There's no restriction in the word family as to the amount or quantity of people that can be there. I think these restrictions are scheduled for safety purposes. Often times plans will be submitted and a good review is made of the plans they'll find that in certain rooms there are closets that are later converted to kitchens, wet bars, et cetera. So as long as there's no restriction on the word family and the limitation as to how many people constitute a family. I think the rule should go into effect.

Mr. Alueta: Right and then the definition of, several years ago the definition of family was amended to include up to, I believe, up to six unrelated individuals. So if you're related there's not a issue. So, yeah, multi-generational families is pretty common here in Hawaii and so that, this does not affect that, nor does it change the definition of family. Family can be up to –. The reason it was amended back in, I believe, in 91 or 89 for six unrelated so that they, so they could do these sort of – I don't want to say half way houses – but these . . . (inaudible) . . . facilities where the state were doing and they could have six unrelated people within a home could still be done within a single-family unit.

Mr. Ornellas: Anybody else commissioners? Alright, hearing none. Go ahead Stacie.

Ms. Koanui Nefalar: So what you're asking is you just want to include wet bar. We're not changing the definition of kitchen, dwelling single-family. We're just including wet bar?

Mr. Alueta: The two amendments on page 2 of the memo report, the two areas that are being changed in 19.04 which is the definition section is gonna be dwelling units. So you see the underlined, underlined section? That will be added to dwelling unit. And then wet bar which is all underlined, and that's a new definition. That will be added to 19.04. Those are the only two changes that are occurring. That we are recommending at this time.

Mr. Ornellas: Alright. Thank you. Commissioners, anybody else wanna have something to say? If not, then can I hear motion to accept the, to accept the amendment as written by the County?

Mr. Marlowe: So move.

Mr. Ornellas: Moved by, moved by Stuart, second by?

Ms. Koanui Nefalar: . . .(inaudible) . . .

Mr. Ornellas: And second by Stacie. Anymore discussion? Hearing none, all those in favor raise their hand and say aye. That's unanimous. Alright.

Mr. Alueta: Thank you very much.

**It was moved by Commissioner Stuart Marlowe, seconded by Commissioner Stacie Koanui Nefalar, then unanimously**

**VOTED: to recommend approval of the proposed bill to the County Council as presented.**  
**(Assenting: S. Barfield, K. Gima, S. Koanui Nefalar, S. Marlowe, and B. Zigmund**  
**Excused: J. Aoki, P. Felipe, B. Oshiro)**

Mr. Ornellas: Thank you. Next up is D. You okay Joe? Alright I don't want you to get hurt or anything. Workman's comp or anything like that. Almost. Okay, so next up is our workshop.

**D. WORKSHOP NO. 2**

- 1. Coastal Zone Management Introduction - Jim Buika, Coastal Resources Planner**
- 2. Sea Level Rise and the Future of Our Shorelines - Tara Owens, Sea Grant agent**
- 3. Special Management Area (SMA) Rules - Jim Buika, Coastal Resources Planner**
- 4. Shoreline Rules - Jim Buika, Coastal Resources Planner**

Mr. Yoshida: Before we get too much further along Mr. Chair, I would notify the commission that we have a time restriction in that we have to leave – well, the plane have to leave by nine o'clock as the pilot has another charter tomorrow. So we have to end the meeting at 8:30, and I guess Leilani will be by to pick up the name plates at 8:30 if we're not there by then. So if we can get – I know we have the Coastal Zone Management Workshop as well as the project update report from Pulama Lana'i. But if we're not at the agenda items for the next meeting by 8:20 I would ask that we move to that because it – I need to discuss a few things with you regarding the items for the August meeting.

Mr. Ornellas: 10-4. Alright, so, first up, Coast Management Introduction. Jim, Coastal

Resource Planner. Let's hold our questions for Jim for the end of his, his presentation.

Mr. Jim Buika: Thank you chair and commissioners. My name is Jim Buika. I'm the Coastal Resource Planner in the Coastal Zone Management Program for Maui County. And what we'll do is we'll have a planning workshop no. 2 on the Coastal Zone Management Act, and we'll cover these three topics – Coastal Zone Management Act, your Special Management Area Rules, and the Shoreline Setback Rules and Regulations. And I'll cover these in one slide set, and prior to that I have Tara Owens who is with the University of Hawaii Sea Grant Program who is located within the Planning Department on Maui and is a resource to all of you and a resource to the Planning Department. And she'll begin with a presentation on managing Hawaii's dynamic shorelines. And then the next three topics I will cover Coastal Zone Management Act, HRS 205A, Lana'i Planning Commission roles under both your Special Management Area Rules and your Shoreline Setback Rules and Regulations for Lana'i Planning Commission. And then we'll conclude with some final remarks, and Q&A if we have time. Hopefully we'll have a little time. There are three handouts there. There's Tara's handout is the first one, my slides, and then I did also give you two pages on an excerpt from the, on amending the Special Management Area boundaries that are in your SMA Rules that I have a slide on that. So I'll turn it over to Tara Owens for the first presentation. Thank you.

Ms. Tara Owens: Good evening chair and members of the planning commission. My name is Tara Owens, and Jim already gave me a nice introduction. The good news is you have no more motions at this time. No more voting. Just listening. We typically visit the planning commissioners on each of the island about once a year for these training, but we didn't make it here last year, so it's good to be back again.

We, Jim and I, along with some of the other planners deal in the shoreline issues for all the islands. So things like coastal hazards and everything, all the challenges that come along with managing coastal hazards. We'll talk to you about, mostly I'll talk to you about the conceptual issues. I'm a coastal hazard specialist so I'll tell you a little about coastal processes and some of the issues that we deal with. And then Jim will follow up with the actual regulatory frame work which, which deals with these issues.

So coastal hazards there's a whole range of coastal hazards that we face as, you know, island communities. The potential threat of tsunamis, coastal storms and hurricanes and erosions which is one of the predominant issues that actually Jim and I and some of the shorelines planners deal with quite a bit on Maui in particular where we have lots of beaches. And something that you also have to deal with on this island, though, you certainly don't have as many sandy beaches here as we do on Maui.

This was an article from The Maui News just past year that characterizes the problem. Maui has lost more than four miles of sandy beach in the past century. And this article was based on a study that was done for the islands of Oahu, Kauai, and Maui. And while these statistics might not relate directly to Lana'i because we haven't done as, as much research on shoreline erosion on the island of Lana'i, this, the statistic probably still hold true. The trends are probably similar particularly for the sandy beaches that you have on the island. So 85% of Maui's

shoreline are experiencing long term erosion. 76% are experiencing short term erosion. Maui's beaches – so when I say Maui in this case I really mean Maui Nui – are experiencing the highest rates of erosions for the Hawaiian islands. So that's compared to Oahu and Kauai. Maui has higher rates of erosion and I'll come back to that in a minute. And Maui has the highest percentage of beach loss.

Just, just some background on beach geology so maybe this, you know, makes a little more sense. And, and some of this maybe stuff that's common knowledge since we all – many of you grew up in the islands and you have been observing the way the islands and beaches behave your whole lives. But Hawaiian beaches are typically narrow and steep. Compare that to somewhere like the west coast or the east coast on the mainland where there's a lot of more sand available to the system and the beaches are a lot wider, so sometimes development can, can be quite a bit farther from the shoreline. And one of the reasons our beaches are so narrow and steep is because we're an island in the middle of the Pacific Ocean and so there's just a thin ribbon of sand available around the island where there is sand even.

Most of our sand is biogenous. It means it's organic. It comes from living things like the shells of malus, calcareous algae, corals that get eroded and turn into sand grains over geologic time. And then there's some of terrestrial sands, terrigenous that, you know, wind up at the shoreline through . . . (inaudible) . . . processes, you know through rivers and gulches, from the land, so that's our red, green and black sand beaches where we have those. But so the reason I, I bring up this, this thought about the origin of our sand is because we've, we've dated it. We've taken some samples from around the island, and we know that our sand is probably somewhere in the range of 500 to several 1,000 years old, so it's been there for a while. It's not, there's not a lot of new sand being created today, in today's environment. And so what we have, has to be protected because once it disappears it's not coming back anytime soon.

And so where we have beaches and even where we don't have beaches on other types of shorelines, bluffs, and other types of geologic soils we do have erosion. But in particular on beaches there are circumstances and it's very common in Hawaii where erosion is a temporary situation. We have seasonal changes of our beaches, sometimes quite dramatic in Hawaii. And then there's some patterns that are constantly chronic that the shoreline is steadily moving in a landward direction and the beach is narrowing or moving landward.

So in terms of erosion, it can be beach erosion or coastal erosion. There are generally three causes. Lots of – there can be human impacts, the first cause. Second is the current and seasonal waves. That can include storms as well, just local storms or, or hurricanes. And the third is sea level rise, and we'll talk about, I'll talk about each of these just a little bit.

Human impact, so that's things like removing sand from the beach, mining. In the past, in Hawaii, mining of the beaches was pretty prevalent, and that is, of course, today illegal. You cannot take sand from the beach. And when you do that you take away the supply. And like I said, there's a limited supply of sand that we have available. So if you remove it you're taking away the sediment that we have in the, the budget like your bank account. You have a budget. Once you withdraw money it's gone until you put more back in. In this case we're not putting

a lot back in. So mining has had an impact on our beaches. Another human impact is shoreline hardening, and you know, I'm not as familiar with this island as I am on Maui, but Maui we have lots of shoreline protection structures. Many of them very old. And you know we, we know a lot more today about managing shoreline than we did when many of the shoreline protection structures that we on Maui and on the other islands were built.

But so this is a cartoon that shows you the impact of hard stabilization on a shoreline. Things like sea walls and revetments. A normal, natural beach, you have the water line, the shoreline, the dry beach, a lot of times there's a berm, and then you have the coastal dunes. As long as there's nothing in the way, and we're experiencing, you know, in modern geologic times, sea levels are rising, so shorelines tend to want to retreat as this sea level rises. And as long as there's nothing in the way, no development, and there's sand available to the beach the shoreline will retreat and a beach will maintain itself. As soon as you put something in the way like a sea wall you may potentially create several different types of impacts. One is if there was sand in the terrain, you, you impound the sand with the structure. It's now no longer available to feed the beach as the shoreline retreats landward. Another impact as the water, the structure will interact with waves, and as the waves come up and pound against the structure that energy is reflected away and it takes the sand away with it so eventually the beach will narrow and narrow and narrow until it disappears. So you can think of many sites particularly on Maui where there are sea walls, and almost always there's no beach. And another impact that you can't see from this cartoon relates to the structures or the properties adjacent to those walls. So if you have a structure protecting a property and the property is on either side protected, they're gonna bear the brunt of the wave energy as it refract around and focuses on the edge of the wall. So it can have a negative impact on adjacent properties.

So something that you – we generally recommend be avoided if possible – and this is just a real life example of that process. So again if, if beaches are allowed to retreat, the beach will maintain itself as it retreats landward. And so you can see side by side where you can actually see both circumstances, unprotected and protected. So can protect the land or you can protect the beach. Typically it's very difficult to do both at the same time, so it's a choice.

On Maui, we have lots of existing sea walls. You may have on Lana'i as well and what the planners are facing now is that a lot of these walls are failing. It's very common for sea walls to fail. And generally in this way the waves begin to undermine the tow of the structure from underneath and the sand becomes liquified, and it just floods out from underneath the structure and becomes sink holes behind the wall, and the walls fail. So planners on Maui are really faced with the situation of dealing with this pretty commonly.

So that's just some examples of human impacts. The second cause of erosion is, of course, waves, currents, storms. You, you probably seen graphics like this before that kind of show our different seasonal wave regimes. We have, of course, the north Pacific swell we get in winter time, northeast trade wind waves throughout the year but more heavy in the summer. You can get a southern swell during the summer time and then Kona storm waves also from the south. And so depending on your location and the orientation of the shoreline, any particular part of shoreline may be faced with, you know, different kind of wave or regime and different types of



seasonal impacts.

This is an example from Maui. This is the Kaanapali area that's so well known, and is a destination. This was a photo taken in March of 2003. Just a few months later you can see we went from a situation of a very nice wide beach to no beach in just a matter of months. And this is very common. Again, it's very common for beaches to have such large seasonal changes in Hawaii, and typically they recover. And that was the case – actually within a couple of weeks of this photo the beach sand began to return and the beach recovered.

We also have a history of hurricanes in Hawaii. Most notably Iniki and Iwa which had impacts on all the islands. Most, most probably emphasis on Kauai, but we had beach erosion on all the islands, and, you know, impacted development. This is just an example, another example, this is a beach in South Maui, Kihei area, called Keawakapu, and just to kind of focus your eyes here on this, this complex. This was the shoreline right after hurricane Iwa. But, the good news is in most cases beaches recover as long as we are careful about the decisions that are made to protect the development behind them.

So the third cause of sea level rise – of, of erosion is sea level rise. That's human impacts, waves, currents, storms, and sea level rise. And again we're in a period of geologic time where we're experiencing sea level rise. It's caused globally because we have heating atmosphere and heating ocean. And as the water gets warm, it takes up more volume, the water expands, and so sea level rise. And also as the water gets warm the ice caps begin to melt. Of course this is something you hear about regularly in the media these days, climate change and associated with that sea level rise. And then in addition to the global trends there are what's called relative changes in sea level that are caused by local tectonic processes. So what's really interesting is that this definitely affects us here on Maui. So this is where you have the earth's crust adjusting. It can be up or down because of heavy loading on the ocean crest, so for here in Hawaii what we have happening is the Big Island is still forming. There's new sediment everyday. And as the new land is that's being created cools it compacts, it becomes heavier, and it's pushing down on the lithosphere. And as it does that it kinds of carries Maui with it. So the Big Island if you look at our tide gauges we know that the Big Island has had a relative rate of sea level rise of about 1.6 inches per decade, Maui about one inch per decade, and you can see that the rates for Oahu and Kauai are quite a bit lower. So when I said at the beginning of the presentation that Maui has the highest rates of erosion and beach loss compared to the other islands, this is probably one of the contributing factors. It's related to sea level rise.

And so there's lots of talk about what does this mean for the future. Again, we know Hawaii sea level has risen six inches over the past century, and that's higher, it's higher for Maui, it's more like 10 – 9 or 10 inches. And globally the latest estimates for sea level rise are three to nine inches by 2030, seven to 18 inches by 2050, and 19 to 55 inches by 2100. And there are lots of new studies focused on the Pacific and Hawaii in particular, and there is some research that's suggesting that Hawaii will suffer more as global sea level rise for a variety of reasons, and I won't get into all of that today. But it's something to be starting to plan, to plan for especially if there is new development along the coast line.

We're actually getting really starting to get good data for Hawaii that will hopefully help us think about some of these things as we're planning for new development or redevelopment, or what to do with existing development as it, as it might be. And this tool just became available to us. This is the NOAA digital coast sea level rise viewer, and I'm gonna come back to this in just a minute, but, and show you some, show you some graphics for Lana'i. This is a really easy to use web base tool. It's, it's based on Google map, so you can go to Hawaii and you can zoom in on your area of interest and you can use this slider bar here to give you an indication of what sea level rise will look like on the island at different thresholds from zero to six feet above the current mean higher high water.

What does that mean in terms of impacts? There's, you know, a long list of challenges we may face in the future as a result of sea level rise including more erosions, rising water tables, salt water intrusion, newly forming wet lands, newly forming submerged lands, increase vulnerability of infrastructure near the shoreline. And that's homes, roads. In the case of Maui we have actually a lot of public utilities, waste water treatment, the MECo plant that are right near the shoreline. Probably, possibly increase. . . (inaudible) . . . and all of that has economic impacts. And one thing that's, that's notable – if you go back to the predicted, the predictions, the projections for the rise in sea level you might think, three to nine inches it doesn't sound like that much, but some studies have shown that there's a 150 times erosion multiplier where sea level rises particularly on sandy shorelines. So if you had a three foot rise in sea level the beach could recede by 450 feet. So that's really general guideline because it depends on your terrain, it depends on the slope of the land and the elevation, but it just shows you that a little vertical can mean a lot horizontal, and so that's important to keep in mind.

And then where the planners come in is here. What are the options for dealing with this? Ideally if for new development you do really smart planning, and you don't have to face reacting to the, to the impacts. But, you do have existing development at the shoreline and sometimes that's where we face the biggest challenges. At least the planners do in their permitting decisions. So there are a range of options, particularly for erosion from doing nothing, meaning letting buildings and homes and roads fall in the ocean which is generally pretty impractical. To the opposite end of the spectrum which is stabilize the shoreline with sea walls and revetment which can also have undesirable consequences. To things in between where we'll probably hope to emphasize our efforts such as, you know, temporary erosion control when it's needed like sand filled geo tech style bags or beach re-nourishment or dune restoration which we hope to focus on quite a bit on Maui. Adaption, you know, elevating structures so that they're not susceptible to the hazards. And manage retreat which we're actually already doing in the islands with our set back policy.

Which brings me to the setback rules, and Jim's going to get into this in a quite a bit more detail. But for Lana'i, the shoreline setback rules were adopted in 1994 with the purpose of ensuring shoreline access, limiting the types of structures and activities in the shoreline area, which is this area that's susceptible to coastal hazards. Protecting shoreline processes and moving things out of harms way. And the way it works on Lana'i as it exists now in the rules, these setback is based on lot depth, and so you can see that you can have a setback that's any where from 25 feet to 150 feet at the maximum. Now these are what's required. You could always

depending on the hazards that a particular site may face you could elect to do more if it makes sense.

And I know a lot of my examples are from Maui, so the one thing that came to mind when I was thinking about Lana'i is the possibility for future development at the existing Club Lana'i site. And I know probably most of you have probably seen just the early stages of planning for this development. And so it's a good case study I think for how you would begin to assess the hazards that any new development may face. So this is just sort of an overhead view of the area, the existing, the existing development. And there is some proposed development here for resort and this is going to be, I guess, residential area is what is proposed.

And so there are some resources available to us as we've thinking about planning any new development maybe such as this or any others. So I just wanted to pick a case study like this so I could begin to point you in the direction of the tools that are available. So this is from a document called the Hawaii Natural Hazard Atlas, and I had picked, selected the page for this same Club Lana'i area that we're looking which would be right about here on this page of the atlas. And so what this actually gives us is sort of an assessment of the hazard risk based on a variety of, of coastal hazard such as tsunami, steam flooding, waves, storms, erosions, sea level, and seismic activity. And then there's sort of an overall comprehensive hazard assessment.

So if you look at the area here where we were just looking at the photograph, you can go over here and this bar gives us the overall hazard assessment for this particular site. And it falls in the area of four to five on the overall hazard assessment which is, you know, moderately high hazard risk. And if you look closer at all the individual categories, the other hazards – tsunamis, stream flooding – you see that a tsunami erosion and sea level risk are moderately high here. Some of the others are, are lower on the scale. The reason being, the geology of this area is that it's, it's a low lying coastal terrace. There's not a lot of elevation right near the shoreline. So any kind of event that's going to cause an inundation, tsunami, sea level rise, or high waves, are, are going to make this area susceptible to coastal hazards.

So again here's another tool. These are the tsunami evacuation zones that are available for the whole state. And these evacuation zones, they're evacuation zones, but they're based on looking at inundation points, inundation marks from historic tsunami events. And what you notice – so here's the same Club Lana'i area – what you notice is there's quite a wide tsunami evacuation zone. Which means in the past, based on historic events, there's been the inundation from those tsunamis has extended quite far inland. So it's something to think about, planning for the future based on, on the past.

And then going back to the sea level rise viewer that I showed a few minutes ago. So I zoomed in, I went back to the viewer, and I've zoomed in here in that same area. We're looking at this area about right here. So this is today's condition, sea level at zero, plus zero feet mean higher high water. And then because the one limitation of this tool is that you're zoom limited, you can't, you can't zoom in any farther than I'm showing you here. You don't start to see a lot of change until you move the slider far up to plus four feet of sea level rise. But once you do that

you'll start to see some blue inundating the coast line here. So that's showing you the areas that may be. They're kind of the lowest areas that are most susceptible to water as it begins to rise. And this is just a bath tub model, so it's just showing you where are the lowest areas that are going to be flooded. It doesn't tell you how that sea level, increase sea level, will impact waves, or it doesn't include waves, and it doesn't tell you exactly how the erosion is going to occur. Just where is the water is going to go most likely. So zero, plus four, plus five, and plus six.

So that's something to, to just look at and play with on your own time. And in the end, what we want to avoid when we're dealing with new development and existing development to the degree that we can are situations like this. This is on Maui. This is a condominium that's had a lot of erosion history and over the years the building has been exposed to – where the erosion scarp has been within, you know, a few feet, maybe five feet of the actual foundation of the building. So right now on Maui we're dealing with a proposed new sea wall in front of this particular site. A couple of the areas, going out to the west side of Maui, where the highway is, has been susceptible to erosion have recently been protected by structures, so some, some graphics of those. You know, these are the kinds of situations you want to avoid if at all possible.

And one last way of dealing with that, that we, we promote quite a bit on Maui is the dune and beach restoration, and particular, dune restoration is my favorite. Where you have beaches, many times if they're, you know, especially in parks, beach parks or highly used areas like resorts, the dunes, they become degraded over time through human use and human traffic. And you want healthy dunes because they're your savings account for the beach. When you high waves, they use the dunes to supply sand to the beach and, and reduce wave energy. And there are ways of restoring dunes that have been degraded over time, and we do a lot of it on Maui. So it's always important when you're doing site planning to think about any opportunities for that. And we kind of have a prescription for it. Moving things out of the way. That can be hardscape or vegetation in some cases. Stabilizing the sand, providing access pathways, and then educating and monitoring.

It's always good to have for individual beaches, beach systems, dune management plans or beach management plans. So something to think about how, how you're going to manage your dunes and beaches especially as you're increasing human traffic through those areas. We've done a lot of it on Maui. This is just an example where over the last couple of years, we've done a major restoration project where we had a lot encroaching vegetation actually. And we've removed vegetation and allowed the dunes to kind of reclaim their territory and rebuild once again which will provide sand to the beach and protect the, the homeowners behind it from high waves in the future.

And so that is the extent of my portion of the presentation. I think – should I take questions or are we going to move on?

Mr. Ornellas: You can, you can take questions.

Ms. Owens: Okay.

Mr. Ornellas: Members? Audience? Thank you Tara. Oh, go ahead Butch. And can you use the mic please? Use her mic.

Mr. Reynold "Butch" Gima: That, that one slide where it showed 2030, 2050, 2100, and those were increases on top of each other or from the base line?

Ms. Owens: The question is the numbers that I'm showing. These are, these are numbers presented to us by the National Academy of the Science for predictions of sea level rise in to the future. So what these numbers are showing us is we may expect to see based on the current climate, three to nine inches above existing high water by 2030. It would be a total of seven to 18, not additional by the next time period. Any other questions?

Mr. Ornellas: Thank you Tara.

Ms. Owens: Thanks for having me.

Mr. Ornellas: Alright. Jim, can we do like a five minute break please? Thank you. We will be back at quarter till.

*(The Lana'i Planning Commission recessed at 7:40 p.m. and reconvened at 7:45 p.m.)*

Mr. Ornellas: Alright then we'll go to Jim, Coastal Zone Management introduction or did we did that already?

Mr. Buika: Thank you. Yeah, we're on the third part here. I'm starting out – I have the slide set in front of most everyone. Hopefully everyone got a set. There might be a few over there. I'm starting out with the third slide just so we're all synced properly here. So I'll talk about the Coastal Zone Management Act first, then your Special Management Area Rules and the Shoreline Setback Rules.

The Coastal Zone Management Act is a Federal law that, that is a State law that defers to the County. So it authorizes the county to develop and administer Special Management Area or SMA rules and shoreline rules. And it is further designated through the Maui County Charter Section 8-8.4 that designates the Planning Commissions – Lana'i, Maui and Molokai – as the authority in all matters relating to the Coastal Zone Management law for their islands. And the laws are delegated – delegate the authority to this body through this special management area rules for the Lana'i Planning Commission and the shoreline setback rules and regulations for the Lana'i Planning Commission. Chapters 402 and 403. So for projects in the SMA area you are the final authority. It does not go to County Council like some other zoning changes and community plan amendment changes, et cetera. This body is the final authority on those projects.

So the Coastal Management Act from a state level is a – it was enacted and codified as Hawaii Revised Statutes 205A in 1978 – 77 and approved in 78 – so it's now 35 years old. It's the State resource management policy umbrella. But what I mean by resource management, it is pretty much our environmental law for the, for the State of Hawaii. It manages all of the Hawaiian islands, and it again allows for a permit system through the special management area permit system and shoreline setback variance rules that you have. So that's how it's implemented. Specifically the SMA or the Special Management Area it's the subset of the coastal zone delineated by the county authority back in 1977 I believe. You have – I blew up basically the SMA area on Lana'i is very small. Down by Manele Bay you can see there is some yellow area here and it pretty much follows the coastal road and is fairly – I'm not sure if it's existent or non-existent along the west cliff shoreline here. I just blew up the same map a little bit so you can see it, where the SMA area is. Manele Bay area. Again, it follows the shoreline. And along the northern section and the western section of Lana'i you have those photos there.

So the SMA boundary is very, very limited in Lana'i. I know that the chair has asked for some explanation of how possibly we can look at changing the boundary. There is an amendment process, and this explains your role. So under your SMA Rules section 12-402-22 – and I printed it out. It's a one page handout that has two pages. I gave you the rules. They're fairly simple and I'll just read through this quickly. The SMA boundary on each island was delineated by the County authority. The SMA boundaries for Lana'i are dated June 8<sup>th</sup>, 1977, so they've been in existence for all this time as is. So by ordinance or rule the authority can expand the SMA boundary at any time. Once SMA boundary changes are accomplished a revised SMA map must be filed with the Office of Planning, Honolulu, as lead agency for the Coastal Zone Management Act to review for consistency with the Coastal Zone Management law. Basically it must be consistent with the objectives and policies of Coastal Zone Management Act which I'll share with you in a, in a minute.

The County must also find consistency with our, our General Plan and the Community Plans also. So by a two-thirds vote by the entire membership the Lana'i Planning can direct the director to initiate a review of the SMA boundaries and amendments to the SMA boundaries. So I guess that would take six votes out of nine, if there are nine commissioners. Public notice is required for the director's intent to revise SMA boundaries. And the LPC shall render a final decision and issue a written order finalizing the revised SMA boundary map and publication. So I paraphrased from the, the text that – from your rules you have in front of you. So if there's any follow up on that we can discuss further if you're –. But I did want to share that with you. I'll just sit down just because I think it's easier for everyone to see rather than through me here, hopefully.

So this is – this shows you the, the State Planning framework. Here you can see state – state rule, county rule, LPC rule here. So the Coastal Zone Management program is on, on a parallel in, under the State Constitution with the State Planning Act when you are – where you have the, the community plan advisory committee, looking at modifying your community plan. You have the Land Use where you have land use issues. You have zoning. Some of the zoning is managed by our County Code. And then the Coastal Zone Management which is managed

through the Lana'i Planning Commission here.

So the goals of the SMA Rules – this is – the goals of the SMA Rules is to further the policy of the state through the Coastal Zone Management Program, which is to preserve, protect, and where possible, restore the natural resources of the coastal zone. Back in, when the EPA was created, Environmental Protection Agency, back when development, along our coastlines was becoming pronounced back in the 70s, late 70s, it was probably too late already, but they did realize that there would be further and further development along the coast. So we did need some, some protection of the, of the coastal environment, together with how we develop. So that's the origins of, of the program. And really the goal of it is again is to preserve, protect, and wherever possible restore natural resources of the coastal zone.

This is the area of Charlie Young, Kamaole Beach Park, a vision of a year ago that Tara gave an example also. This is what it use to look like, the same inset here. This is what it looks like now. It's changed even more. But this was encroaching vegetation from 30 years of all the homeowners up on to a state parcel here. And what we did is we worked with the homeowners to remove all that vegetation. We've added probably 150 feet to this world class beach. And all of these dunes, Tara has been working technically with a bunch of non-profits to build the dunes in this area. So it's really transformed the beach and it's really meeting the goal of the SMA, of the SMA rules.

So the purpose really is to, is to set special controls on the SMA area through a permit process so that we can be consistent with the Coastal Zone Management Act. And there are objectives and policies and guidelines in the state law that transfers into your, your SMA rules. And basically again from a planning perspective, we seek to minimize coastal impacts as much as possible through our project reviews. So the Lana'i Planning Commission, your charge is you shall seek to minimize where possible dredging, filling, altering coastal areas, reduction in beach size, impediments to public beach access and coastal recreation, loss of coastal view plains, adverse effects to water quality, fisheries, wild life and habitat, and loss of existing and potential agricultural uses. So these are the general categories that you need to review projects, or to protect and minimize impacts of the coastal area. So really the bottom line is through the Coastal Zone Management Act, through the SMA guidelines above, and through your Planning Commission SMA Rules we seek to minimize, where reasonable, adverse impacts to the environment. And obviously every time we put a shovel in the ground we're going to have some kind of impact. And it's not to say that development cannot move forward. What we need to do is we need to build in mitigation, reduce the risk as much as possible so that we're protecting the environment and at the same time we're minimizing risks. We're building good development through the SMA process, through the Lana'i Planning Commission review of these projects.

So again this is kind of saying it in a different way these SMA guidelines, but we – your role is to ensure that we have adequate access to publically owned beaches, recreational areas, wildlife and natural reserves; adequate and properly located public recreation areas; adequately controlled, managed and minimize impacts from pollution and run off. That's very important through all the drainage review of projects as much as possible. Minimizing pollution into the

marine resource. And minimize adverse effects to water resources, scenic resources, recreational amenities. And minimize risk to proposed structures from coastal hazards. So again I underlined adequate and minimize. You know that it is a compromise. It's always a compromise, but we try to do the best environmental job with the, with projects in the SMA area that we can.

So there are 10 objectives that are defined in the Coastal Zone Management Act, and the list on the left hand column here summarize them. They're recreational. We need to look at recreational access to the public. Historic and cultural resources obviously are extremely important probably in order magnitude of importance that you should be looking at. Cultural and historic resources, scenic and open space, coastal eco-systems, economic uses, coastal hazards, managing development. That's basically streamlining our permit process. Public participation, beach protection and access and marine resources. So these are the objectives at the state level that are embedded in your SMA rules.

So specifically, moving from the Coastal Zone Management Act to your SMA rules, Chapter 12-402, the SMA rules provide authorities to the commission, your commission, and the planning director. So we kind of divide up our roles. Take some of the work off of your plate, and manage the SMA area. So any proposed action within the SMA requires an assessment by the authority. So an application must come in for an action in the SMA for review. The commission is the authority for major SMA Major Use Permits which are development that is over half a million dollars, and SMA Exemptions, in your rules. I put the quote there, 12-402-13.1 because yours are unique from the Molokai and the Maui rules. The director is the authority for SMA Minor Permits which are development under \$500,000, and SMA Emergency Permits. And I'll explain those. So those are our, our four types of permits.

And so if something comes – if a project does come to the Planning Commission, you are required to provide an assessment and evaluation of the project. In your SMA rules there are listed 12 criteria to evaluate a proposed action, and that's the section 12-402-12E. So there's listed criteria that you evaluate the project against. Again there maybe, end up being some adverse effects, but these are minimized in light of compelling public interest such as public health and safety as well as economic development. So we certainly want to make sure public health and safety is, is paramount, and economic development can move forward but within a, a minimized impact environment. And so that the proposed activity is consistent with the SMA guidelines which I already talked about under the CZM law. So again these are the guidelines. This is a repeat slide. Just really quickly, these are the areas that we talked about. Access, public access, properly located recreation areas, controlled run off, managed pollution, minimize adverse effects to water resources, and minimize risk to proposed structures.

So when we look at project, a project will come to you, a major project will come to you, the, the planner will have the evaluated the project against these criteria. That are 12 criteria. It involves a irrevokable loss of a natural or cultural resource. There should not – you should not be taking out a heiau, any cultural resource, any graves, any iwi, a beach, et cetera. Those things should not, should not be impacted. Significantly curtails a range of beneficial uses of the environment. We don't have access to that area. Public doesn't have access to the area.



That's a significant curtailment of the environment. It conflicts with the state or county's long term environmental policies and goals. Substantially effects the economic or social welfare of the community, positively or negatively. Results in secondary impacts and increased effects on infrastructure. We can't develop a whole side of Lana'i without adding roads and schools and all the other elements that are required. To make that project work is part of a cumulative effect or involves a commitment of a larger action. Substantially affects a rare, threatened or endangered species of an animal or plant or its habitat. As we develop new areas we need to look at the, the biological environmental resources, wet lands, endangered species, protected species, flora and fauna. It's contrary to the state plan, general – County's General Plan, community plan, zoning, subdivision ordinances. Detrimentially affects air quality or ambient noises. Affects environmentally sensitive areas such as flood plain, shorelines, tsunami zone, erosion prone areas, coastal waters, fresh waters. Substantially alters natural land forms and existing public views to and along the shoreline. So these are, are our major criteria that the project's evaluated on. And then the last one goes back to the Coastal Zone Management Act and says – and asks that you look at is it contrary to the objectives and policies of the Coastal Zone Management Act. So those are the 10 objectives that I listed previously. So that's our review criteria for a project.

Now just looking quickly at the types of permits under the SMA rules. I hid in white the, the, your authorities here. A major permit is one that is deemed a development, over half a million dollars. It requires a public hearing, a public notice. Owners within 500 feet are notified by certified mail. It's published on the agenda 30-days in advance. Published in the newspaper. Conditioned – and we do add – the commission can add conditions to avoid, minimize and mitigate impacts from that project. So that's your role.

Minor ones, minor SMA permits are less than \$500,000. They do not require a public hearing. They do, they can add conditions to avoid, minimize and mitigate impacts. And it's done by the Planning Director, by the Planning staff, and the Lana'i Planning Commission is notified at the next scheduled meeting of any of those, minor permits, that are, that have been approved.

Emergency permit, emergency SMA permits – something that endangers life or safety. Obviously it's gotta happen quickly. There are provisions for the director to give. It's done at the planning director level. A lot of the shoreline emergency permit usually come through myself or the shoreline staff who work with the planning director. Often gives verbal approval very quickly. We get engineers involved to understand the scope of what needs to be done. And then – but there is all of the follow up, within 10 days, they have to put in a permit. And within 180 days they have to come in with a permanent solution. So the emergency permits are usually temporary in nature. And then again, at the next scheduled meeting, we would give you a briefing in detail on what is happening out there. And again they're emergency, they have to happen. So convening the commission is difficult in those situation so that authority stays with the planning director.

These are examples of emergency permits we've had on Maui, up in the Napili and the west side. Kahana Sunset AOA, we have a sea wall, a beach. The waves get underneath. You know, again, it was improperly cited 40, 45 years ago. We've loss beach. All of the lanai that

was connected to the sea wall was built on sand. The sand liquified. The whole thing collapsed at three o'clock in the morning. People had to be moved out for three months. We had to stabilize the situation. The buildings were endanger of collapse. Another building, even bigger, way bigger than this one, on the other side of the complex was also undermined at the same. We're seeing more and more of this. We're seeing a lot of the old sea walls that don't have good foundations to bed rock, sitting on sand, they're all getting undermined now with encroaching sea level and coastal erosion, and it's becoming a fairly common problem around the islands. All of the older constructions.

This is one that was stabilized. Underneath here you can see the old sea wall down here. It was stabilized from behind. This Makani Sands AOA. A little farther down, again, on the west side, they had a lanai back here where all the sand was gone, the water would go in, and the concrete were collapsing, there were cracks in it. They actually had their own blow hole blowing up – wiped out the Plumeria tree. It was all salted out, and it was pretty incredible. A very dangerous situation.

But out of that, out of both of these projects, we've gotten shoreline access. This is the side, leading down to that sea wall that you can see back there. I think Tara's in the picture right here. We do have public access. This is in Honokawai, on Kaanapali, north of Kaanapali, where it's all sea wall. There's no access to that shoreline anymore, so they do have a public access here. And we have another one up at the Kahana Sunset that we're working with.

So the other category of permit is the exemption category. These are defined as not a development such as a single family home is one category. There's 17 different categories of exemptions that do not need SMA permits per se. However, a lot of the permits we do can – they come in – that are exemptible in the long run. We don't exempt them just because they're an exempted category. What we do is we exempt them only after mitigation. All types of mitigation is applied to the project such as making sure there are no adverse impacts on drainage, view plains, archaeology, historic, cultural natural coastal resources including cumulative impacts. So we will not authorize an exemption at the staff planning level until mitigation is in place on that project. So we go back and forth. Some projects last a year with the planning department, or maybe two years, before all the mitigation is in place before we exempt that project and allow it to go forward.

But for, for, for Lanai, the Planning Commission provides review and determinations and final approval on exemptions. So we would bring our recommendation to you, explain the mitigation in place, and you are the final authority on approving or disapproving the exemption for that project. So those do come to you.

And then there are some that get denied. Usually the ones that get denied are the ones that never see the light of day. They come to you. They drop out of sight after going back and forth with the Planning Department over some time, and then they usually withdraw. But sometimes some do come to the Planning Commission and we recommend denial if they're inconsistent with State Land Use, the General Plan, Community Plan, or zoning, or have adverse impacts on coastal resources. So again it can be either the Planning Commission or the Planning

Director that denies those.

So just a caveat here. You can see down below, all minor and emergency permits are recorded to your commission at its next regularly scheduled meeting. And any, any permit can be contested. Any decision by the Planning Department or the Planning Commission can be contested by the applicant or other parties by filing an appeal with the commission within 10 business days after the director's decision. So those are the permits.

These – just quickly – just the difference between an exemption and a, and a permit. And I have about five, six, seven minutes here so I'll finish up. But again an exemption cannot have conditions because it's exempted from the SMA permit application process. There are 17 categories of exemptions which I'll list some of the common ones. A proposed action may be exempted if it includes measures to avoid, mitigate or minimize adverse impacts, such as approval from State Historic Preservation Division for an archaeological monitor during all ground altering activities. So if it's breaking new ground, they're building – even though a single-family home is exempted, there still maybe a requirement from SHPD to have monitor in place in case any artifacts, any lwi, if it's a sensitive area. So we would require an archeological monitor to be onsite during all ground altering activities.

Mr. McOmber: Who pays for those?

Mr. Buika: The applicant pays for this, yes.

In contrast, an SMA Use Permit may contain formal conditions to avoid, mitigate and minimize adverse impacts on coastal resources. These are the standard project conditions and special conditions that are placed by the Planning Department, other departments. We often transmit the application, the larger application, to many different departments and the State for comments.

Some of the common exemptions, single-family residence not part of a larger action. So that would be one single-family resident. Structural, non-structural improvements to single-family residences. I don't think you want to see all of those. Repair and maintenance of roads and highways. Routine dredging of streams as maintenance. Repair and maintenance of underground utilities. Repair and maintenance of existing structures. And demolition of some structures which are deemed not to be historic in nature. Some of Lanai City, that would never happen under an exemption category. So you would review a lot of these that come forward.

So our shoreline setback rules and regulations of the Lanai Planning Commission – very quickly – these are focused on these CZM objectives highlighted in white – coastal eco-systems, coastal hazards, beach protection and access, marine resources. So we're looking at the zone within 150 feet of the shoreline here with your shoreline rules.

So the goals of the shoreline rules are really to regulate development so that shorelines are protected, beach resources are conserved, visual and physical access preserved, and land owners do not incur unnecessary risks or shoreline hardening expenses.

Again, we're looking at our shoreline rules, the same, parallel with your SMA Rules. You are the final authority on those. Shoreline setback objectives, they're fairly logical. We want to move out of harms way, plan for the obsolescence of older structures in the shoreline setback area as they become impacted by coastal erosion, et cetera, insure shoreline access, and limit types of structures and activities in the shoreline area.

There is a variance process here. The Planning Department deals with a shoreline setback determination for each individual parcel. And we can approve some very minor activities such as benches, or a shower, or a little sidewalk in, in the setback area. But a variance is something that requires compliance with Chapter 343, the Environmental Assessment process. If you want, if you want to do something large in the setback area, this requires a variance because they're not allowed under your rules. It requires a public hearing. All abutting landowners are notified, and it requires a State Certified Shoreline Survey. You are the final authority on approving any variance to the shoreline setback rules. And projects can be denied if they're non-conforming, illegal such an illegal sea wall, harden the shoreline, prevents sand transport, blocks public access to beaches or recreation areas, and they encroach on State owned lands such as beach reserves.

So there are some things that are permissible. Minor structures are limited to \$20,000 under your rules. They cannot impede the natural movement of the shoreline. They do not exist – alter the existing grade of the setback area. And new structures must comply with our flood hazard rule. They must be elevated. The County is held harmless. It doesn't harden the shoreline.

So your role in approving shoreline setback variances, they're, they're in your, in your rules. You may grant them for certain activities – crops and aqua culture, limited landscaping, drainage improvements, boating or water sports facilities, public facilities repairs or improvements to utilities that are in the setback, private facilities that are clearly in the interest, public interest, and some private facilities that may, that may artificially fix the shoreline provided that erosion will cause hardship. And private facilities or improvements which, again, do not adversely affect beach processes, artificially fix the shoreline, and would result in a hardship if not approved. And hardship is not financial. Something like a building falling into the ocean is hardship.

So that's pretty much it. There are mandatory variance conditions. Because of time I won't go into them. We have about one minute left. Safe lateral access, minimizing adverse effects to the beach, et cetera. So those are within any project. We do have rules for – your rules determine the shoreline setback area basically via the average lot depth. Tara did go into a little bit. And it requires a State Certified Shoreline.

Quickly the average lot depth for very small lot, less 100 feet, it's 25 feet. For something over 100 feet, it's, it jumps to 40 feet. And then anything over 160 feet, it, it is 25% of the lot. So it goes from 25 feet for a small lot, to 40 foot jump and then it goes to, as the lot gets larger, deeper than 160 feet, it goes up higher and higher according to the average lot depth which it's a simple calculation and usually the County does that for you. It can range from 25 feet, the

average lot depth, from 25 feet to a 150 foot setback.

So obviously our shoreline provides for tourism, economy, recreation, fishing and food, cultural practices and our quality of life. Our shoreline is threatened as I think Tara convincingly shared with you by coastal erosion that is accelerating. Our shoreline and coastal erosion processes are a system that really need to be fully understood when we develop their, from a scientific point of view. We have a lot of good scientific data now. And again, through our Coastal Zone Management Act, through the SMA Guidelines, and our SMA Rules for the Lanai Planning Commission seek to minimize where reasonable adverse impacts to the environment. So that's a quick overview. Here's our Coastal Zone Management Team. And any comments and questions very quickly and I'll turn it back to the chair. Thank you.

Mr. Ornellas: Thank you Jim? We have any questions for Jim?

Ms. Zigmond: Mr. Chair?

Mr. Ornellas: Go ahead.

Ms. Zigmond: I just have a comment. First of all, thank you for your presentation. I find it interesting that you said earlier when you were dividing the responsibilities and authorities between planning department and this commission, you said to help to take some work of our plate or something to that affect. When I was on the commission in 2008 we fought very hard to take some off of your plate because those were one of the few things, few areas, we have control over, so –

Mr. Buika: Right.

Ms. Zigmond: Different, different perspective.

Mr. Buika: I think I probably mis-spoke. I was thinking more of Maui where we have many, many exemptions and it would just impossible for the planning commission. But that's a very good comment. Thank you. Yes, thank you for taking some of the work off of our plate. We appreciate that.

Mr. Ornellas: Anybody else have any questions? Audience, go ahead.

Mr. McOmber: The only question I've got is some of us members of the CPAC were talking about changing the coastal zone area from 1,000 feet in to an elevation because we have a lot of steep shorelines which at 1,000 feet abuts right up against the shoreline. We're talking about an elevation and bringing it in to a certain elevation. So, is that something that we can, we can get done? Because that's what we're gonna ask for. We're gonna – with the coastal zone management area, that you not – it shows a real small area. The only reason is because we have a lot of steep areas. . . (inaudible) . . . that has been to the island.

Mr. Buika: Yes, I think that's a very logical approach to the coastal zone obviously.

Mr. McOmber: . . . (inaudible) . . .

Mr. Buika: Right. Right. Very good comment. Very good approach. Chair?

Mr. Ornellas: Anybody else? As you can see Leilani is telling us we've –

Mr. Buika: Thank you.

Mr. Ornellas: Thank you Jim. We appreciate it. Very information. Both you and Tara did a great job. Thank you.

Alright, so back to the agenda here. We're gonna ask – Item E we're going to defer until the next meeting please for the sake of time. And then Director's Report, I wanna defer F1, the Lanai Open Applications Report. One quick question.

#### **E. COMMUNICATIONS**

- 1. Pulama Lanai's Upcoming Projects Update - Lynn McCrory, Vice-President of Governmental Affairs, Pulama Lanai**

**This is for information purposes only.**

#### **F. DIRECTOR'S REPORT**

- 1. Open Lanai Applications Report**

Ms. Zigmond: Would – Clayton, would you be able to give us an update on the conditional use permit on the open project's report please? That would be the old purple church.

Mr. Yoshida: Yeah, the applicant has just filed a conditional permit application with us. We received it on July 3<sup>rd</sup>. So we are starting to process the conditional permit application.

- 2. 2013 Hawaii Congress of Planning Officials (HCPO) Conference - September 18-20, 2013, Big Island**

Mr. Ornellas: Alright. And then, so let's go to F2. Clayton has something to say.

Mr. Yoshida: There is the annual statewide planning conference. This year it's being hosted by the Hawaii County Planning Department on September 18<sup>th</sup> through the 20<sup>th</sup> on the west side of the Big Island. With that because it starts on September 18<sup>th</sup> which is your regular meeting date, we are proposing to see if you want to cancel that September 18<sup>th</sup> meeting.

- 3. Cancellation of the September 18, 2013 Lanai Planning Commission meeting due to the 2013 Hawaii Congress of Planning Officials (HCPO) Conference. The Commission may take action to cancel that meeting.**

Mr. Ornellas: We don't have to make a decision today do we? Can we make it for the August meeting?

Mr. Yoshida: Well, yeah we could but I guess it would relieve, you know, staff or whoever, including Corp Counsel who staffs this commission who may want to go to the planning conference and may want to make arrangement to go to that.

Mr. Ornellas: Alright. Any, any problems with cancelling the September 18<sup>th</sup> meeting?

Mr. Yoshida: Well, we can look at possibly rescheduling, but again September is a –. Well, we don't have that five Wednesdays that we had in May, so we could reschedule the May 15<sup>th</sup> to May 29<sup>th</sup>. We would just have to look at staff and room facility availability.

Mr. Ornellas: Alright. So you'll, you can tell us at the next, at the August meeting please?

Mr. Yoshida: Yes.

- 4. Agenda Items for the August 21, 2013 Lanai Planning Commission meeting.**
  - a. MR. WILLIAM SPENCE, Planning Director, transmitting Council Resolution No. 13-66 containing A Bill for an Ordinance Amending Section 19.510.040, Maui County Code relating to Change of Zoning Protests. (J. Alueta)**
  - b. Pulama Lanai's informational workshop on its proposed desalinization plant.**

Mr. Yoshida: I guess moving on to the August 21<sup>st</sup> meeting items. We have this council resolution that we distributed to you regarding the clarification of zoning protests that would necessitate super majority affirmative vote. You have 120 days of the receipt which was on June 13<sup>th</sup> to – we have to transmit your recommendations back to the County Council.

We also have the desalination plant workshop with Pulama Lanai as was reported on Hawaii News Now on Friday.

Mr. Ornellas: Alright.

Mr. Yoshida: The other item that we have is the concurrence or non concurrence with the SMA

exemption for the Adam Waterous single-family residence at 155 Kapihaa Place at Manele.

Mr. Ornellas: Okay, so, so you're gonna add that? There's an SMA part of the agenda for the 21<sup>st</sup>? Let me ask the members here since we have plenty of time, and they have to publish it a week in advance. Would anybody have any objections of starting the meeting earlier on the 21<sup>st</sup> so we can get these other items out? Because they've got people flying in from Florida to give us this desal presentation so I'd like to get all these other stuff out the way and we can go straight into the desal and then we can take the rest of the time until the plane leaves. And because it's gonna be a very informative. Anybody have any problems? Maybe start at five o'clock versus six o'clock? You guys are here anyways, right? You're here any ways aren't you?

Mr. Yoshida: We can make arrangements.

**G. NEXT REGULAR MEETING DATE: AUGUST 21, 2013**

**H. ADJOURNMENT**

Mr. Ornellas: Thank you very much. You're so accommodating. Alright. Wait for the, wait for the official announcement. We she – when Leilani sends me the draft minutes and stuff and we'll see it on there, I will then let you guys all know, and that gives us an week extra to plan. So you'll have two weeks before, before that meeting. Is that good enough? Okay. Shelly, you have – you okay? No, it just seems like you have a –. Alright, any other? So the next meeting is gonna be August 21<sup>st</sup>, and we're gonna schedule it for 5:00 p.m. If we have any objections please let us know as soon as possible. Other than that, can I get a motion to end this meeting. Okay, any objections? Hearing none, we're out of here.

There being no further discussion brought forward to the Commission, the meeting was adjourned at approximately 8:30 p.m.

Respectively submitted by,

LEILANI A. RAMORAN-QUEMADO  
Secretary to Boards and Commissions II



**RECORD OF ATTENDANCE**

**PRESENT:**

Joelle Aoki (6:00 p.m. to 6:30 p.m.)  
Shelly Barfield  
Kelli Gima  
Stacie Koanui Nefalar  
Stuart Marlowe  
John Ornellas  
Beverly Zigmond

**EXCUSED:**

Priscilla Felipe  
Bradford Oshiro

**OTHERS:**

Clayton Yoshida, Planning Program Administrator, Current Planning Division  
Joseph Alueta, Administrative Planning Officer  
Jim Buika, Staff Planner  
Tara Owens, Coastal Processes & Hazards Specialist, UH Sea Grant College Program  
James Giroux, Deputy Corporation Counsel, Department of Corporation Counsel  
Mich Hirano, Munekiyo & Hiraga, Inc.