

**MOLOKAI PLANNING COMMISSION  
REGULAR MEETING  
APRIL 9, 2014**

*\*\* All documents, including written testimony, that was submitted for or at this meeting are filed in the minutes' file and are available for public viewing at the Maui County Department of Planning, 2200 Main St., Suite 315, Wailuku, Maui, and at the Planning Commission Office at the Mitchell Pauole Center, Kaunakakai, Molokai. \*\**

**A. CALL TO ORDER**

The regular meeting of the Molokai Planning Commission was called to order by Vice-Chairperson, Michael Jennings, at 12:00 p.m., Wednesday, April 9, 2014, at the Department of Accounting and General Services (DAGS) Conference Room, 45 Makaena St., Phase I, Kaunakakai, Molokai.

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

Mr. Michael Jennings: Well, this being the April 9<sup>th</sup> meeting, I'm going to call the meeting to order, being the Vice-Chair, the last time this group got together.

**B. INTRODUCTION OF NEW MEMBERS - LAWRENCE LASUA and MARSHALL RACINE**

Mr. Jennings: So first on the agenda is the introduction of the new members. So our new members are, and, Lawrence, you're going to have to help with your last name, Lawrence Lasua? L-A-SUA, that sounds like Lasua. And Marshall Racine. So congratulations. It's nice to have you on the Commission. You want to stand up and -- or just raise your hand? Okay, sounds good. Sounds good. Welcome. We appreciate you taking the time to be on the Commission and I'm sure you both will have great input into what needs to be done.

**C. Election of Officers for 2014-2015 Year**

**1. Chairperson**

Mr. Jennings: Okay, now that we have the introduction, the election of officers for 2014-2015. So the first one -- can everybody hear me? Is this -- okay, election of officers for 2014-2015. So the first will be for chairperson. Do I hear a nominee for chairperson? Doug?

Mr. Doug Rogers: I nominate you.

Mr. Jennings: God forbid. You people don't know what you're getting into. Okay, I, under duress, accept the nomination. Is there a second? Diane. Any other nominees? Thanks, for Richelle, she's the attorney here. If not, it's all closed, and we're going to call for a vote.

There being no further nominations, a vote was taken.

***It has been nominated by Commissioner Rogers, seconded by Commissioner Swenson, then unanimously***

**VOTED:       that Commissioner Michael Jennings serve as Chairperson for the 2014-2015 year.**

Chair Jennings: Okay, passed. Oh my gosh, you guys. You don't know what you're getting into. Yeah, okay. I heard that. Write down the minutes.

## **2.     Vice-Chairperson**

Chair Jennings: Okay, nominees for vice-chairperson? Any nominees for vice-chair? May I vote?

Ms. Diane Swenson: ...(inaudible)... Doug Rogers.

Chair Jennings: And if Mike Rogers is here, I'll --

Ms. Swenson: No, no. Doug. Doug. Sorry.

Chair Jennings: I'll second that motion. Okay, all those in favor? Oh, excuse me. Any other nominees? Okay.

***It has been nominated by Commissioner Swenson, seconded by Commissioner Jennings, then unanimously***

**VOTED:       that Commissioner Douglas Rogers serve as Vice-Chairperson for the 2014-2015 year.**

Chair Jennings: Welcome, Mike Rogers. Okay, here we go. There's Billy. Okay, item D, is there any public testimony? You can either speak now or wait till the item comes up. Okay, yes?

**D.     PUBLIC TESTIMONY** - At the discretion of the Chair, public testimony may also be taken when each agenda item is discussed, except for contested cases under Chapter 91, HRS. Individuals who cannot be present when the agenda item is discussed may testify at the beginning of the meeting instead and will not be allowed to testify again when the agenda item is discussed unless new or additional information will be offered.

Ms. Collette Machado: Aloha, everyone. My name is Collette Machado, and you'll be reviewing a petition, and I'll come back again at that time, but I wanted to acknowledge that for the -- what is this number called? What the docket number? The docket SMX2012/0061, this is in regards to the Puko`o Lagoon. I wanted to acknowledge that the parcels that the full lagoon property, including the waterway and the fast lands that are located there, has been subdivided some years back into Parcel A and B. And I wanted to acknowledge that I am the abutting property owner with the Ke Kua Aina Hanauna Hou as the owner of the property and we've been paying the -- I've asked for an exemption so we've been paying the high rate already, at almost \$4,000, and I've asked for an exemption because we are a 501(c)(3). So I have been consistently on the property since 1985. I've been in the resident caretaker's house, and I've been on the property physically with my husband, Myron Akutagawa, for all these years. I have worked with Christopher Schroll and his family for all those years, and I have advised him on some of the issues relating to his house and for the utilities that are coming in for the 1.2 expenditures. What I'm trying to emphasize is this, although it may appear to be a large valuation at 1.242 million, the house is, basically, a one-bedroom. They've done all of the work that is required, such as a shoreline survey. They've hired the best architects, and the applicants have come forward today. In addition to that, I recommended strongly to Ron Fukumoto that they needed to put in some solar panels, and they went ahead and hired The Rising Sun. Who is that person on this island? Mat Yamashita. So he's been here consulting with them on design of the solar panels. There's going to be underground utility from the roadway all the way into where the property -- where their property is.

So out of the 32 acres there, they transferred 28 acres to Ke Kua Aina and they're developing the 4 acres that they've maintained all these years. So this is really an exceptional opportunity for them to begin to settle and to live on the property. Every time they come and visit, I have to order the Molokai porta-potties to come to the property and setup for them to use it, and then the water is very limited that we can pull in from existing water source that we have run the line into that area. So it has it's challenges and this is the first time they are willing to kinda anchor down and make a commitment to have a home there.

So you can already see that I'm in support of this project wholeheartedly, and as being the abutting landowner along the shoreline with them, I support this. Okay, so that's all I wanted say. I wanted to get that out of the air 'cause many of you, I know Diane is my neighbor down the road, I know Lawrence from previous, I know Zhantell, and I just wanted to get that out of the air and then try to put that on the table as to where I stand on this project. Okay, so when I come back the next round, you folks can ask questions. Okay, aloha.

Chair Jennings: Thank you. Thank you very much. Is there any questions? Okay. Thank you again. Is there any other public testimony at this time? Yes?

Ms. Judy Caparida: Aloha. I've been reading this and I know this place where it's at 'cause I used to live on the East End and I just recently moved to Ho`olehua, and th question I had for Sister Collette --

Chair Jennings: Excuse me. I don't mean to bust in, could you state your name, please?

Ms. Caparida: Oh, my name is Judy Caparida.

Chair Jennings: Thanks, Judy.

Ms. Caparida: Okay. And I was looking at the cost and all that, yeah, and because he's doing a lot of stuff, you know, it does cost money for everything because I was thinking to myself, oh wow, what is all this? And then as I read down, that is a nice place he's going to build and it's not a really big place where he's going to setup, but that was all I was confused on, the cost of it. But then I asked Sister Collette about this, because she lives right there, and then she explained to me, and then I turned the paper, and I started reading again. And I agree and support if, you know, he's doing everything right, then I support.

Chair Jennings: Okay. I appreciate your comments. Are there any other public statement? Okay, seeing none, we'll go on to the, like I say, this is really -- we'll go on to the approval of the minutes of the December 11, 2013, and the January 22, 2014, and February 12, 2014 meetings. Do I hear approval? Do I --

**E. APPROVAL OF MINUTES OF THE DECEMBER 11, 2013 and JANUARY 22, 2014 MEETINGS**

Ms. Swenson: I have a correction on the January 22 meeting.

Chair Jennings: Yes, Diane.

Ms. Swenson: It says that the -- that they working with a contractor by the name of Glen Brigg, and it should be "Brake," B-R-A-K-E.

Chair Jennings: Okay.

Ms. Swenson: And I'll move to approve the minutes --

Chair Jennings: Okay.

Ms. Swenson: With that correction.

Chair Jennings: Okay. With that correction. It's second by Zhantell.

***It has been moved by Commissioner Swenson, seconded by Commissioner Dudoit, then unanimously***

***VOTED: to approve the minutes of the December 11, 2013 and January 22, 2014 minutes with correction.***

Chair Jennings: Vote carried. Okay, we're going down to F, concurrence of SMA area exemption.

Mr. Ben Sticka: Thank you, Chairman, Members of the Commission, and the new Members. The first item on your agenda is, I guess I'll retract and go back to:

*Planner Sticka read the following agenda item into the record:*

#### **F . CONCURRENCE WITH SPECIAL MANAGEMENT AREA EXEMPTION**

**MR. WILLIAM SPENCE, Planning Director, requesting concurrence from the Molokai Planning Commission pursuant to their Special Management Area Rules, as amended, that Special Management Area (SMA) exemptions can be issued for the following:**

**MR. RONALD FUKUMOTO of RONALD FUKUMOTO ENGINEERING, on behalf of MR. GRANT HOWE, submitting a Special Management Area (SMA) Assessment to construct a proposed 700 square foot (sq. ft.) single-family residence, a 1,700 sq. ft. covered terrace, solar panels, septic system, and related improvements on property adjacent to the Pukoo Lagoon on Kamehameha V Highway, TMK: 5-7-007: 087, Pukoo, Island of Molokai. (SMX 2012/0061) (Valuation: \$1.242 million) (B. Sticka)**

***The Commission may take action on this request to concur or not concur with the SMA exemption determination.***

Mr. Sticka: That leads into my introduction. Again, the first item on your agenda is the request for the proposed 700 square-foot single-family residence and the 1700 square-foot covered terrace. The proposal also include solar panels, septic system, and related improvements. The Department of Land and Natural Resources, State Historic Preservation Division has determined that there are no historic properties encountered during the survey activities within the subject area. The valuation of the proposed action

is 1,242,000. Standards for reviewing an SMA application are found under HRS 205A-26, and Sections 12-302-12, and 12D of Chapter 302, SMA rules of the Commissions, as amended. In addition, the proposed action is also subject to Maui County Code, as amended, Title 19, zoning, Section 19.29, rural district zoning regulations. Again, the state land use district is rural, along with the community plan, and the county zoning is rural.

Pursuant to the aforementioned findings of fact and determination, the department recommends concurrence with the finding that the subject application is eligible for an SMA exemption.

Today, we have the consultant, Ronald Fukumoto, is here for questions. I believe he does have a presentation for the Commission. I'll hand it over to him. Thank you.

Mr. Ronald Fukumoto: Good afternoon. I'm Ron Fukumoto with Fukumoto Engineering. We're the civil engineering, land surveying, and coordinating consultant for this project. Before I get started, I wanted to introduce our project team. We have Grant Howe, he's the trustee for the Maud Hill Schroll Puko`o Property Trust; Chris Schroll sitting there, he's one of the trust beneficiaries; we have Bill Mitchell, he's the landscape architect; and Anthony Riecke Gonzalez, he's the project architect.

We wanted to just do a real brief presentation with a powerpoint and a few slides, so if you could take a look at the slides. I'm going to just cover site improvements, Bill will talk about landscape improvements, and Anthony will cover the building improvements.

So the first slide, just as an overview of the project, you know, we are developing a single-family residence and related site improvements. It's on Kamehameha V Highway. It's about 15 miles from Kaunakakai. That's the tax map key listed, and the project area is a about 4.5 acres. This is a general vicinity map. We've highlighted the project site in yellow. Across the street from the project site is Manae Store. Sorry. Manae Goods and Grinds. Okay, and to the left on that slide is the Panahaha Fishpond.

It's a little dark, but we have this slide with the Kamehameha V Highway to the left, and the ocean to the right. It's a little hard to see, but you can see the project site is kind of the odd-shaped parcel. It kind of looks like a duck head. And this is a closeup of the project area. So the area outlined in red is the project area, and if you notice, it involves the land portion and as well as portions of the lagoon.

Okay, this slide is just a brief improvement summary. So as Ben mentioned, the project is a residence. The total area is 2,400 square feet, including a 1,700 square-foot covered terrace. Our site improvements involve grading, extending utility systems from the highway to the site, installing onsite utility systems, and putting in landscape improvements. We have grading work that'll be happening on .9 acres of the site. So our site is 4.5 acres in

total, so we're going to be limiting the grading to a .9-acre portion of the site. We have excavation and embankment that balance off each other, so there's not going to be material taken off the site or brought into the site. And we have utility systems, including a water meter upgrade, we're going to extend some waterlines into the site, there's already a water meter and a waterline that goes to the site now and we're just going to extend that. We're going to provide underground electrical system that comes from the highway into the site, photovoltaic panels, and a septic system.

This is a very small slide. It's a little hard to see. It's just a general improvement plan. You know, the project is set back some distance from the highway, and we're going to have our utility systems coming into the project.

This is a closeup of the actual development area, so that heavy dash line represents the area of grading, and that's approximately .9 acres. So what we're going to do is essentially reshape the ground to provide for the new house pad, so the house is - I don't know if we can point that out - also, I wanted to point out, on the grading plan, that we have a basin, drainage basin on site and that's to collect onsite runoff.

This is a detail of our utility systems. Again, it's a little small, but let me point out a few items. A waterline is going to be extended into the site. We have an underground electrical line that's going to make its way to the building. There's a small drainage line that drains into the basin. This basin will also collect onsite drainage that kind of slopes down to the basin. We're going to have a septic system here, and a septic tank and leach field.

And that ends my site improvements presentation. I want to turn it over to Bill.

Mr. Bill Mitchell: Good afternoon, Mr. Chair, Members of the Commission. My name's Bill Mitchell. I'm a project landscape architect with Hawaii Land Design. That's just the text describing the landscape. It's just a real interesting site, and what we've, you know, what we've ended up doing is very simple and sort of an understated treatment of native planting that just sort of ties into with what's already out there, and this is a list of some of the plant material that we're proposing to use, primarily native shrubs and groundcover, and a few trees. The site will have irrigation to all the landscape, but the anticipation is that once we've established the shrubs and groundcover, that they would essentially require very little to no water and that any supplemental water would primarily just be used on the lawn, or grass when necessary. Of course, this year, haven't needed much.

This is the site plan. As Ron described, the home footprint is right here, and then the surrounding area is re-landscaped. The boundary of the .9 acres to be landscaped is this dash line right here. The retention basin he spoke of is right there and we're proposing to put native beach morning glory inside that retention basin. In the back of the -- back of the house there, in the re-graded areas, would be a combination of awakia, beach vitex, beach

heliotrope, and low groundcover, and then this area in the front would be reestablish these areas, essentially the level areas would be grass. So pretty understated; pretty simple. Low water use and low maintenance, and that's the extent of the landscaping, and I'll turn it over to Anthony to talk about the architecture. Thank you. Oh, one more slide, I'll just -- that's the irrigation system and I won't bore you with the technicalities of that.

Mr. Anthony Riecke Gonzalez: Good morning, Commissioners. My name is Anthony Riecke Gonzalez, with Riecke Sunnland Kono Architects over on Maui. We're -- actually, the house was originally designed by Gerald Hiyakumoto, who is now retired, and so I kind of picked it up from him. It has a nice Hawaiian feel to it. There's 2400 square feet under roof, but of that, there's only about 700 and some square feet that's enclosed for a bedroom, two bathrooms, a laundry area, and a kitchen. The exterior materials are proposed to be a copper roof; you know the tan coral stone on concrete; and then stained wood, and the stain that we would use would be the oil bleach stain so that the wood naturally weathers out to a light silver gray.

Let's see here. You can see the site plan there. The other plans didn't show it, but this one does, that we're proposing to put some photovoltaic panels on the ground if there's not enough photovoltaic space on the flat roof area that's over the lanai. So this area out here would be an area where we could put some additional photovoltaic panels, and you'll see on maybe some of the plans that this is a flat roof over the lanai and that also could receive some photovoltaic panels, and we're also putting up there the solar hot water heating panels.

A little tough to see here. So this is the covered lanai on the exterior; it wraps all the way around this portion of the building. This is the kitchen area. This is the laundry with a bath off of it. And then this is a bedroom with a bath off of it. A pretty small house.

And this is the look, and it's a little deceiving here because this eave, on the back side, is only five feet high, and so on the lanai side, you know, we picked that up to be seven feet so, of course, you can walk underneath it, but the profile of the house is actually quite small, so this copper roof looks like the traditional Hawaiian hale that used to be around.

And that's pretty much it. I think we can open it up for questions if you have any. Otherwise, I think we're done with our presentation. Thank you.

Chair Jennings: Thank you. Gentlemen, that was very good. Are there any questions? We're going to have -- any public testimony?

Ms. Lori Buchanan: Can we have public testimony ...(inaudible)... Commission Members have no questions for the applicant?



Ms. Richelle Thomson: I recommended to the Chair that we do public testimony first so that if any questions come up from the public, that when the Commission Members are asking the applicant and his representatives their questions, if they can incorporate questions from the public since the public, you know, may not have the opportunity to ask the applicant directly, so that was my recommendation.

Chair Jennings: Lori?

Ms. Buchanan: Can the public testify after the Commission ask the applicant ...(inaudible)...

Chair Jennings: Sure. Sure. Commission? Any of the Commissioners wish to ask questions?

Mr. Rogers: What's the overall height of the roof?

Mr. Gonzalez: This is Anthony. It's around 18 feet.

Mr. Rogers: And is any of the fill going to go into the lagoon?

Mr. Gonzalez: I'll leave that for the civil engineer but --

Mr. Fukumoto: No. We're going to have erosion control measures setup before any grading work is done so, you know, we're going to keep everything on site.

Mr. Billy Buchanan: Erosion control. Sir, get back over there ...(inaudible)... that property fronting the highway has a stream. Are you going to take advantage of that stream for your discharge, water discharge from that drain you talking about coming in?

Mr. Fukumoto: No. That actually runs in a separate direction. It's actually on the larger piece that Ke Kua Aina owns, so we won't be using that as any kind of a drainage discharge.

Mr. Buchanan: And then I have a little bit concern of the east side of the island has a lot more rain than we do down here. Have you guys been looking into our weather patterns and stuff or whether it's a flood zone or anything of that matter?

Mr. Fukumoto: The area is a flood zone. It's currently within a flood zone that is designated with a four-foot flood level, four feet above mean sea level. The site itself now is roughly about eight feet in elevation. However, there's a new proposed flood level for the site, which puts it at nine feet, so that will, you know, flood out some of the site, and as

a result of that, the grading plan was setup so that the building is going to be set up at about ten feet, so above -- at least one-foot above the flood level.

Mr. Buchanan: Is the owner going to make available that photovoltaic for Collette Machado to share?

Ms. Machado: We going get our own.

Mr. Buchanan: There's one free. That's all. Thank you.

Ms. Dudoit: I have a question. So, first of all, I'd just like to commend whoever put this packet together 'cause this is one of the most thorough packets I've ever seen given to us, but I have a question on the Department of Business and Economic Development and Tourism cited in their return response to you several different areas concerning coastal zone management. In that letter and response to you, it says, "At this time, without a thorough discussion of how the proposed project meets all of the policies and objectives set forth in HRS Section 205A-2, we are unable to confirm that the applicant's statements made in its Attachment B, response to Part 1." "It is our understanding that the proposed project, partially, at least, abuts the shoreline and is a proposed use in the shoreline area . . ." What is interesting to me, so I want to give you the chance to talk, is for most of the recommendations and questions given from each of the independent agencies, you have an attachment there that cites what you were going to do or how you respond, however, for this particular one, unless the paper was missing, there is no response to those concerning coastal zone management. It's on Exhibit 19. Unless I'm missing it in my packet. And then just to note, several of your responses are documented here, but then there was no response to further -- if those -- your response was adequate to the department's request. So on your worksheet, when we look at the front page, it has a whole checklist of what departments made responses and what kinds of responses they were. There's several that says, "no," so we can see it, like the Police Department, but after you answer most of those questions, the departments don't come back with a final recommendation. So I was just wondering if you had received anything after the packet was submitted to the Commission.

Mr. Fukumoto: Okay, to answer the simple question, we haven't received any additional correspondence from the agencies that we, you know, sent a response to. We're trying to figure out the answer to your tough question.

Ms. Dudoit: So then I have a question for our planner and for our department. Why would an application be put on the agenda prematurely if -- 'cause there's a lot of like recommendations to the applicant, and it's obvious that they sent in their response, so why was that not be included or why would we put it on the agenda without final recommendations from such critical governing organizations?

Ms. Sticka: Thank you for the question, Commissioner. As you know, this, you can see by the docket number on this, it's from 2012, this project has been going on for quite some time, and with the understanding that I had with the applicant, unless something is, you know, left out, or I'm assuming Mr. Fukumoto can answer that question that you're asking, so perhaps it's just within the document itself, or I'm assuming that somebody on his team should be able to verify that because it was our understanding that everything was answered satisfactorily or we would not have brought it before you today so -- so please?

Mr. Fukumoto: To answer the question, I guess, in that DBEDT letter, there is an attachment that follows that exhibit. There's a letter, and we have something called "Puko`o Lagoon Residence Plot Plan." Essentially, the map of the property, it shows where the shoreline was certified, and it shows a setback line. There's Exhibit 19, which is the letter, and then -- so we had put this together to show the location of -- well, where the shoreline was certified and what -- you know, where the setback line was. So the intent of this was really to show that the developed area is way inland of the setback, and maybe it's hard to see on this particular exhibit, but the setback is, you know, I think it's 80 -- yeah, about say 86 feet from the shoreline, and our project is approximately maybe about 200 feet from the shoreline, so I think that's the reason why we're saying that it's not in the shoreline area. It is set back some distance from the shoreline. So, in other words, we don't need any kind of a shoreline setback variance because we're not in the shoreline area.

Chair Jennings: Is there any other questions ...(inaudible)... Commission, any other questions? Seeing none, yeah, seeing none for the Commission, I'll open it up for regular questions. Lori?

Ms. Buchanan: Good afternoon, Commissioners. My name is Lori Buchanan. I'm a resident of Molokai. I'll be very honest, I did not see this on the agenda, and I didn't see this packet until I just picked it up, so I'm going to apologize to the applicant, yeah, going in because there may be stuff that I couldn't really see fast reading. But I saw off the bat that it was asking for exemption of a 1.2 million dollar project, which would usually be the trigger to ask for a major minor SMA permit. So they did a lot of work. And I will say I was very, very happy to see a residence going up at Puko`o, and I'm really happy to see the applicant going the extra mile to make it something really, really nice. They have every right to do that. That's their land. They've been there forever. And the caretakers have done a very, very good job at maintaining that property over the years, at being vigilant, and so I'm really grateful for that. But just speaking to the project standing alone, back to the exemption, there are many multiple things that are included in this project, and besides a 1700-foot lanai, covered lanai, with solar panels, I don't even know what was -- would be the kilowatt generation from those panels or what type of panels you are using. I'm assuming it's in here somewhere. If they're the reflective type, or they not the reflective type. How many panels there are. Which could be an issue in itself because of the

helicopter tours that occur right outside of Puko`o, and dealing with glare, and we saw this a Ke Nani Kai as an issue with glare, and we seen it other places. So I don't even know what type of solar panels they're planning to install; if it would be problematic for air traffic traversing over the property.

The second thing is it is in a flood zone. If, and I would be really way off, so please forgive me, but just my fast review of the project, five minutes, it shows that the way they're choosing to mitigate that project is by building a ten-foot mound, that includes excavation, grading and grubbing. I don't know if that includes the grading, grubbing, and excavation permit. If it does, we're exempting that as well. I saw 5.9 feet mentioned. I saw a berm mentioned. And I saw a retaining basin mentioned. For me, anytime I hear the word "retaining basin," it sends red flag up the pole, for me. The reason why is there's obvious need to mitigate storm water runoff somewhere. So if you're already building a ten-foot mound that is a mound, it's a solid structure now, water has to move around it, I'm assuming that's the way they're figuring engineering, that it will go into a water basin. Where that water basin is situated, I was not able to discern that from the presentation. What the proximity is to the ocean, should that retaining basin flood and flow out freely, where is that water going to traverse to?

So that's just automatic, you know, kinda common sense stuff that I saw right off the bat, which would make me concerned about exempting a project like this because there's multiple pretty complex issues for a small 17, 18, plus 7, 2400 square foot residence. We're building mounds. We're making berms. We're constructing retaining basins. We're putting in solar panels. We're putting in irrigation. We're doing all of this, and I notice that we always ask if you're building more than -- if you're digging more than two feet in a shoreline area, that we require archaeological monitoring. I saw the way that they mitigated that was to throw that into the shoreline certification permit to make it a -- make that a combination package. It's not standalone. And that's okay because we know they gotta get a flood permit and we know they gotta get a shoreline permit. Fine. So, you know, I love the caretakers, I love the applicant, I am happy for that, but I think my anxiety that I'm feeling right off the bat is not being able to be on site to see where that berm is going, if those berms are compliant with EPA Clean Water Act; if indeed the engineering factoring in of a 50-year or 100-year flood going into and around those berms into those retention basins are adequate. I don't know that. And I really cannot tell that from the presentation and the documents. I can hardly see already let alone see the small, you know, print. So those are my concerns. The biggest concern is when you exempt a project, you're not able to insert any conditions in order to mitigate those concerns. So it stands as is. It goes in as an exemption. And if there's any issues following this with the berm, with the retention basin, that's your bad because you never get the project good enough. You couldn't get the project 'cause you exempting the project. If it's an SMA major project, at least you can write in conditions of that permit. I was not -- I didn't think -- I really didn't see any recommendations. All I saw was that we checked off the criteria that

it would not have secondary impacts, cumulative impacts, and the rest of the stuff we all know so well. Obviously, I don't agree, and that's my concern. So I'd love to see a residence go up. I'd love to see the applicant do what they can. But I also would like some alleviation of my concern, and maybe that would be best alleviated by a site inspection, you know, and clear, a clear path that says, from either the flood guys, yeah, your six-foot berm is fine, your retention is adequate, I'm not concerned about overflowing in the Class A waters of the United States in violation of the Clean Water Act, and etcetera, etcetera, etcetera. And I'm sorry that I only could review it for five minutes. Thank you very much.

Chair Jennings: Thank you, Lori. Is there any questions for that testimony? Okay. Diane, do you have a --

Ms. Swenson: You know, I don't know if any of the applicant's consultants want to address Ms. Buchanan's concerns, but I think they've hired a really good team and I don't know that you can find better people in the field to guide this project. I mean so I think somehow we've got to have some faith that it's a sound project and that these guys know what the heck they're doing, but I'll let them answer.

Ms. Dudoit: Well, actually, Chair, would it be okay if the applicant's representatives were able to answer 'cause some of the stuff she talked about is in here and I think it would be appropriate to give them the chance to respond? If I, as a Commissioner --

Chair Jennings: No. After public testimony, Richelle said, then I'll let them come up.

Ms. Machado: You know, I'm so proud of our island community, and I congratulate the new Commissioners, especially the two new ones that got sworn in today. There's a standard of practice that we hold accountable to all of the decision-makers and our community, and the word is "kuleana." As you have seen, Lori has served as a prior member of the Commission, as well as an officer of the Commission, and she is our mouthpiece and what I consider our strongest advocate when it comes to environmental protection, and she leads, with the State of Hawaii, the invasive species program for Molokai as well as statewide. And we have our kupuna here that have been diligent. So there is no surprise that a proposal such as this is going to trigger the kind of responses that we've been receiving. I recall, just a few years back, with the big project on the West End, what was that Mexican name?

Ms. Buchanan: Zappacosta.

Ms. Machado: Zappacosta. Yeah, Italian. I apologize but, you know, I no can distinguish the difference between that. But that one had a whole hornets nest that enraged the community, and consistently testimony was provided. It was over cultural issues relating to potential iwi kupuna, the kinda resource oversight they did and didn't do, and I forget

how many -- 20-plus bathrooms they were going to have. So some of those situations, thanks to the community and the discussion that was handled at the policy level, those issues either was resolved, not resolved, or they pulled the permit. So today is a little bit different because I want to concentrate on the cloverleaf project. When I first was involved, I was a protester against the Schroll family when they did the acquisition 'cause that parcel, the entire parcel, was zoned urban, H, which was hotel that could go up six stories. And if you look at the makeup of the Mana'e area, that was pinnacle in case it got into the wrong hands for a developer that could develop and go up to a resort level. So we were able, over the years of working with the family, we were able to reduce that high risk or impact our community on the East End and took it out of urban hotel six stories to where it is today, rural. So in and of itself, the family has had a direct interest. I'm just pleased that they love this island and that they wanna be able to remain here and to be able to have a home that they could come. Can you imagine for somebody with the kind of resources they have that every time they come, we have to call the Molokai porta-potties to deliver. He get the gate number, everything. I just have to call him or they call him directly, and he's right there to pickup and drop off and clean. So I'm thinking that finally there's an opportunity for them to do something little better, but if -- I understand some of the weary. Exemption, to me, is going to pave -- it's a ripple effect; if you can give them that exemption, who's next? And we may get somebody that owns parcels that may not be as sensitive or will work with a native Hawaiian entity, such as Ke Kua Aina Hanauna Hou, to do the right touches, to be sensitive enough to go the long yard. I don't think any of us could handle the resources and the kind of credibility the professionals have because all along, we're clear, this community is going to dissect, cut, and do, so you going either crush or burn when you get to the table. But I only asking you folks to understand that what could have been was a urban, maybe a private club there, that when it was urban hotel six stories. The family came in. They never had any intentions to develop to the maximum use to get the highest best use. They are not saying that this is what they want to do for this particular parcel. I think a commitment to a community is that the property will remain as is with only the residential property there. We have abutting access on both sides of the road.

And then also the transfer of the property from the Tides Foundation to Ke Kua Aina Hanauna Hou, which I'm the president, Dr. Aluli, no my husband, Myron Akutagawa, is the vice-president, and Dr. Aluli is the secretary/treasure, and we will be going through a whole strategic plan direction to look at because we just received it three years ago for the value, and it's kind of a very high value based upon what we were worth before when we was a lessee, and we have the property free; now we have an appraised value of the property, which is well over a million dollars. I have never seen before where a nonprofit will receive this land to guide direction for native Hawaiian purposes, and this is something we'll be looking down for long-term planning on how we adjust for the future.

So I'm only trying to say, might sound like I'm trying to kiss up to you folks, but if you know my background, I have not made it easy for the family. I believe that every twist and turn that they have come and wanted to make Molokai a home for them, they have had to bite the bullet and do it the hard way, even to a reclassification hearing. No way in the State Land Use Commission ever heard that a landowner wanted to reclassify 32 acres and take it out of its highest and best use and put it into rural, to lower its value. You know, they did that. The right of ways that you see there now prohibits commercial activities. That was something I worked out with the County of Maui County Council for ordinance that prohibit commercial boats coming from Maui that could load and unload people that want to come for the day to visit to Molokai and use that right-of-way for commercial purposes. I believe we're the only one in the whole state that has this ordinance that prohibits commercial use of these public right-of-ways. In Maui, people are very concerned because they have tons of people using right-of-ways that pickup, drop off, that do surfing schools, that do all kind of other things that are commercial in nature. But because of the support of the family, we were able to impose what we call an "Ordinance that prohibit use on these right-of-ways."

So in nutshell, I simply say, Ron Fukumoto, he going answer the hard questions, whether or the valuation will give them an open check or a carte blanche to move forward. I believe the valuation exemption -- the exemption to this application is on this valuation of the 1.2 million that'll cost for the infrastructure. I believe that they are still subject to all of the many requirements that the County of Maui has in place for them, from the construction down to the grading and grubbing. So I'll leave that up to Ron Fukumoto to actually answer, but it's been a privilege to be part of you folks and see that that legacy still continues, and we must continue to voice our concerns and even if it interferes with who we are a people, but we must continue to have that kuleana to raise the hard issue. So applaud Lori for all her -- I call it her chutzpah or her guts to come forward.

One of the biggest issues I had on this project, and you know the application was in from 2012, was the historic preservation committee with the state. They just dragged their feet over and over as to why they couldn't come up with one approval. Because get Hawaiians on the other side as the abutting property owner, they -- Ron was very patient to make sure that the report was -- first it was rejected. It wasn't adequate and they had to do it again. And then before it could get approved, there were certain areas that was weak that they had to strengthen with the office of historic preservation. So on those areas, they never go cheap. They try to comply to make that. On the environmental issue, Lori, I hope they can address that. And if they cannot today, we'll try to see what they can figure out that they can pa`a pono that. So with that said, I just had to give you one history. We could have had a hotel there or one mini Club Med there, and today, we're fighting for one 2400 single-family house there. So just to give you guys an idea how things have changed over the last three decades for Puko`o Lagoon.

Chair Jennings: Collette, thank you. Thank you very much. Okay, any other public testimony?

Ms. Caparida: ...(inaudible)...

Chair Jennings: Okay, we're going to close public testimony at this time, and open it up back, as Richelle says, you get to talk again.

Mr. Fukumoto: Okay, thank you.

Ms. Dudoit: Excuse me. Just a point of order.

Chair Jennings: Go ahead.

Ms. Dudoit: So just to stay within our guidelines, do you want me on the record to ask him a question so that he's able to come up and -- because you already closed public testimony --

Chair Jennings: Yeah, yeah.

Ms. Dudoit: So, technically, he cannot just answer, right, unless one of the Commissioners ask -- okay, so I just want to, for the record, request that the applicant come to answer some of the questions that was posed from the community during their testimony.

Mr. Fukumoto: Okay, thank you. Okay, to answer the question regarding the PV system, we did have contact with Rising Sun Solar, and we have a rough preliminary sizing for that house, and my understanding is that, I don't know the exact number of panels and all of that, but there is a flat roof portion of the building, which is about 1,700 square feet, and that portion alone should be able to accommodate the needs of the house. So, essentially, it's like a PV system for a small residence, so it's not going to be a real -- you know, a lot of panels and, hopefully, the small number of panels is not going to be an issue for helicopter tours.

Regarding the issue about grading permits. We have to go in for a grading permit with the county. And the issue about the retention basin, what we are planning to do is we're going to capture whatever increase in runoff occurs because of the project. You know, the actual hard surface is really the roof that's being planned so, essentially, it's a very small portion of the site, you know, we're talking about a .9-acre site, the roof and, you know, the building itself is a very small portion, so we don't expect a very large increase, and whatever increase in runoff we have, it's going to be retained on the site, and that's part of the county rules and regs, so the intent is to, of course, follow the county grading requirements and to satisfy what the county is going to require.



To answer the question about the archaeology, okay, there was an archaeological assessment done, there was some fieldwork done, and the assessment came up with, you know, no historic sites. And the State Historic Preservation Division reviewed that, and there was a real comprehensive review because, I think, maybe, initially, there were some issues that weren't covered, so the report was sent back to their archaeologist, and those issues were finally resolved. Part of what the State Historic Preservation Division is requiring is that during construction, that there be monitoring. We're trying to clear up exactly what area should be monitored, but we understand that towards maybe the west end of the site where there might be a potential for uncovering, let's say, parts of the old fishpond walls or something, so we're trying to, you know, clarify that portion. In fact, our archaeologist has submitted a proposal for this archaeological monitoring program, so it first involves a monitoring plan, and that's a report as far as what's going to be done, the archaeologist also has some hourly rates that they would charge for, you know, a person onsite, and then also the monitoring report so that's at the completion of the project.

I think those are the main items that were being questioned, so if there are any other items, we can try to answer them.

Ms. Dudoit: The one last question was proximity of the basin to the ocean.

Mr. Fukumoto: The site itself, you know, there is -- there's the actual shoreline boundary, so that's between private property and state, so if you look at where the state land is or the shoreline is, our project is setback about 200 feet from that area. The lagoon itself is actually private property. So the retention basin is not 200 feet from the lagoon, but I can give you a rough idea. Just let me take a look at that. Okay, these are real rough numbers. I'm just looking at the scale on the drawing. We have a basin and there's this rock revetment that's at the lagoon, so between the basin and rock revetment is approximately 50 feet, and I think that rock revetment may be extends another, say, 20 feet, and then that's where the actual water of the lagoon starts. So that's just approximate, you know, dimension from the basin to the lagoon. Hopefully, that answers your question.

Ms. Dudoit: Okay, so I have a question for the department. So on every application packet that you give us, it gives a recommendation for why or what warrants something to be an exemption or an SMA minor or major permit, so on this particular application, it's kind of small so I would like to give the department a chance to clarify, at least to me for my understanding, why this is recommended to be an exemption.

Mr. Sticka: Thank you for the question, Commissioner. Pursuant to Chapter 205A-22, of the Hawaii Revised Statutes, the definition of "not a development" includes the construction of a single-family residence that is less than 7500 square feet of floor area

and is not part of a larger development, therefore, this is an exemption for this project. Does that answer your question? Okay, thank you.

Ms. Dudoit: Okay, so I hate to be always the only, but does it bother any of the other Commissioners that we haven't done a site visit to this particular area?

Ms. Swenson: You know, I live just -- I live just down the beach from this area and I can tell you this whole area was just decimated back when they were going to build a hotel there. They brought in heavy equipment. They dredged. They made a mess of the area. So I doubt that there's anything significant left that anybody could ever find there. But I can tell you, this applicant has hired a good team. I have faith in their ability to guide this project through. And what they're doing there is going to be a big improvement to the area. I, personally, don't need a site visit, but --

Mr. Rogers: I take my kids down to the right-of-way all the time. The one on the west side.

Mr. Lasua: I'd like to see -- I do want to see the site, myself, based on what I'm hearing and what the exemption is going to be. I'd like to see 'cause when you put a berm, I know what the area is like, I've stayed down there and it's really windy so the berm is going to help block the wind, but, just for myself, I'd like to see the area that they're talking about instead of looking at it on this plan.

Ms. Dudoit: And, you know, I just wanted to remind the Commissioners that one particular project up at the shrimp farm up on the East End, we were given extensive information and all kinds of good stuff that looked good on paper, and then if you remember when we visited, there were a lot of different things that were being done there, structures that weren't put on, road and pavement that were there that was never discussed on how they would be handled, so I mean I know everybody did a great job and I completely, completely would support, I going be the last person to want to turn down somebody to have a beautiful home just because it's expensive. But I just think it's our responsibility. We've done it before for people like Nancy Williams who just wanted to build a single-family residence. We've done it before. I don't think just because he has a great team, somebody should be exempt from what we've been doing as a standard practice when there's questions about erosion, shoreline, runoff, you know, those kinds of things. So that's just my comment.

Chair Jennings: Okay, if there's enough of the Commissioners that would like to defer this project until after we go down and take a look at this, then that's what we'll do. So if someone wants to make that motion, so be.

Mr. Buchanan: I guess I would comment regarding notification or the comments that the public has made regarding the different considered deficiency. Is there any verbiage that

we could use in the exemption to give them where we can followup and make sure that that's done, that the thing is done with whatever rules that we live by regarding windbreaks, shoreline, and stuff? Do we have an enforcement arm, and what is it, and who is it? And that's why I'm asking if we can put verbiage in there so that we don't need to go the other extent of Lawrence going out here to visit.

Ms. Thomson: Chair, if I may offer a couple of comments. One thing is that you, you know, you analyze this application under the SMA rules, 12-302, so that walks you through the process of how you would analyze this project. Part of what the applicant has proposed, and you can decide if it's sufficient for you or not, if you take a look at the first exhibit, they have represented to you that they are going to be complying with all of the requirements of the agencies who have reviewed the project so all of the agencies who have commented and the comments that they received, the applicant is saying that they will comply, including, you know, erosion control, best management practices, and some of the other things, the Department of Health regulations, and archaeological assessments, etcetera. So they have made representations as part of their application, and if they don't comply with those representations, you know, then action could be taken as far as that goes because they wouldn't be complying with what they have represented to you.

Just as far as what's going on today with this application, what the process is, it's on the agenda as this Commission either concurring or not concurring with the department's assessment that this single-family residence is exempt from getting an SMA minor permit or an SMA major permit, so you could either, you know, you could defer and have a site visit, if that was the choice, or you could go ahead and either concur with the department that it is exempt based on the application, the representations, and what you're hearing today from the applicant and its representatives. If you decide that this is not an exempt project, then you could -- you would need to make some findings, on the record, as to the reasons that you don't feel that it's exempt, and then the department would forward to the applicant and they will be required to have an SMA major. Part of the SMA major would be conditions and some of the conditions would be very similar to what the applicant has already represented that they will do so --

Ms. Dudoit: Okay, so then I have a question and maybe I just -- I'm not understanding you correctly, but I thought that when we did an exemption, one of the privy points for the applicants is that there are no or we are not able, as a Commission, to attach any kind of conditions or comments to that exemption. Okay, so now you're telling me, so in here, it's all stated that, yes, I will, as the applicant, comply and all of that stuff, but technically -- technically, there is no written obligation nor can there be, according to my understanding, if we give them an exemption, it's an exemption, and so, basically, what we do is trust that they would be able to carry on, given the exemption, do their project, and, really, I guess from what I'm looking at here, a lot of the departments, even State Historic Preservation, and maybe the applicant did address this and I didn't hear it properly, but it says on the last

line that their approval is based on final AAs that are supposed to be given in hard copy and signed to the Historic Preservation before a final decision can be given and written off. So they're giving verbal depending on what you said you're going to do, and so the Department of Health says the same thing in here, and so does other required departments that they have listed, so I not saying that they not doing their job or that they're not going to hold truth to that, but when I'm listening to you, you're saying -- are you saying that if we gave them an exemption, they would be held responsible, on the record, in some kind of legal binding way that all these things they said they were going to do are going to be done?

Ms. Thomson: Similar to, you know, the size of the structure, their runoff plans, the type of roof, you know, similar to all of the components of the project, if they're representing to you that they are going to comply with the comments or, you know, an archaeological monitor for ground altering activities, if they're representing those things to you, then if they fail to do that, they would be failing to comply with the application that they submitted.

Ms. Dudoit: Okay, so in the exemption though, when you're giving somebody an exemption, it states those conditions of what they're going to comply to in there 'cause I was under the impression that an exemption was just that, that you're exempt from having to do all that technical stuff?

Ms. Swenson: You know, they still are subject obtaining building permits, and inspections, and the whole process. I mean we just tried to do this little job up to remodel that warehouse and the county holds your feet to the fire with inspections, and you can't get away with -- maybe Ben can address it.

Mr. Sticka: If I can try to clarify for the Commission, what's happening today is that we have a single-family home, which is exempt under HRS 205A, the issue is that this project could not be made a minor, similar to other projects that you have seen, for example, the Swartz residence, the Brayton garage, those were minor simply because their valuation was under \$500,000. The reason this project cannot be made a minor is because it's over \$500,000, so the only other option would be to make it a major project, which would, you know, require, in essence, the public hearing, which we're doing now, and would be able to affix the conditions. Staff felt it was appropriate though, in this case, because of the due diligence on the applicant, who did all the agency comments that we've received that are satisfactory, that we felt that an exemption was appropriate for this. The applicant, on Exhibit 1, is saying that they will be complying with all those, as Commissioner Swenson is indicating, all of those items will be covered during the building permit, during the -- whatever proper permits that the applicant is going to be required, that they are going to be needing all of those, again as they are saying in Exhibit 1. So again, staff feels that the exemption is appropriate for this and that's why they're going down that road. Does that answer your question?

Mr. Lasua: So the project is exempt prior to us getting this?

Mr. Sticka: No. All exemptions, pursuant to the current rules, all have to come before the Commission.

Mr. Lasua: But you're basing it on HRS. You just said that based on HRS, what -- this project that it's exempt.

Mr. Sticka: Maybe Corporation Counsel can better explain that.

Ms. Thomson: The Molokai Planning Commission's rules require that the Planning Department do the initial assessment and go all the way through the criteria and determine whether they feel it's exempt or needs an SMA minor or major, and there's a couple other categories that don't apply. So the Planning Department makes the initial assessment, and they have concluded -- the Planning Department feels that this application is for an exempt -- is an SMA exemption. So they bring that to you, the Molokai Planning Commission, to either concur with their decision, or if you don't agree with it, you would vote to, you know, you not agreeing, and then on the record though, you need to make findings of the reasons that you don't agree, you know, whether it'd be significant environmental or ecological impacts, and you'd want to note specifically what those are for the record.

Mr. Lasua: Okay, then in that sense, then I don't need to look at the place.

Ms. Thomson: That's still an option. If you felt that you needed to take a site visit to be able to determine whether or not to concur with the Planning Department or not, that's still an option.

Mr. Lasua: I think based on the work that these people have done is credible. I mean just for my -- I just wanted to look, but I don't think I need to now.

Ms. Dudoit: And can I just say, for the record, that now I feel like I stuck because it's too high to be a minor, it doesn't fit in any category, so the department is recommending that we push it somewhere because it has to go somewhere, and that's, I mean sorry for the lack of better words, that sucks because we're looking at something that could possibly set precedence for our island; it's already -- the dollar value of the property already going send red flags in our community; yes, we want this to be built; yes, they have a wonderful staff. But just because there is no category to put something in shouldn't be enough reason to just stick it in an exemption. And I just, for the record, just want to say that I think if the Commission is going to do due diligence to this community, maybe we gotta look at those kinds of policies and procedures too because we cannot be just mandated to put something in a category 'cause there's nowhere else for it to go. We're responsible for the decisions we make, and we shouldn't be responsible by gunpoint.

Ms. Thomson: Chair, if I may? Thank you. Okay, just to, you know, offer a little bit of clarity on the, you know, exemption, minor, or a major. So the first step of the analysis is the valuation, and the Planning Department looks at the valuation and they say, okay, we believe that 1.2 is a reasonable valuation for this project. Then they move on to the next step is is it a development under Hawaii State law, and so you go through the criteria, and one of the criteria for not a development is a single-family residence and then appurtenant structures, such as utility poles or, you know, sewer lines, that kinda thing. You go through that. After you get to that stage, and what you'd be looking at today is although it is in the exempt category, it's not considered a development subject to requiring a minor permit or a major permit. You can have cumulative impacts on the environment that transfer from being not a development into being a development, so you're not -- your hands aren't tied. You're still weigh-in to the analysis of it and you either agree with the Planning Department's analysis or if you disagree, then you can make findings on the record for the reasons that you disagree and then not concur.

Mr. Rogers: Yeah, I mean it's right in there. You're going to be required to have an archaeological monitor, you're going to have somebody there looking over your shoulder about if there's erosion problems. I mean you're going to have -- and you have plenty other people watching too so -- there will be plenty of people watching.

Ms. Swenson: Can I make a motion then? I'd like a motion -- I'd like to make a motion that we accept the Planning Department's recommendation on this project.

Mr. Rogers: I second it.

Chair Jennings: Is there a second? Doug. Okay, all those in favor -- oh, excuse me. Any discussion on this? Zhantell.

Ms. Dudoit: So I'm, first of all, I would like to really thank the applicant and all of the hard work you guys have done 'cause, seriously, this is one of the most complete and thorough packets that we've ever seen, and I know you did a lot of work, and I commend you. I'm going to -- I'm going to vote in favor because I think that you guys deserve to have a house there, but I do want to, for the record, make a comment that, you know, we've been over with the department valuation, and how that factors into whether or not it's an exemption, a minor, a major permit. In one instance, somebody comes with a ridiculously low valuation of a property that is two times the size of what we looking at right now, the departments says, "We concur. It's a minor permit." And he warrants a minor permit. Then somebody comes with a million dollar price tag, smaller square footage, but you know what? He deserves an exemption. So I think, at some point, we need to look at whether or not valuation really is a factor in the way that the department recommends or determines what kinds of permits are warranted to the application. Thank you.

Mr. Rogers: I think one of the factors on the valuation here is the material they're using; that copper roof, among other things.

There being no further discussion, a motion was put to a vote.

***It has been moved by Commissioner Swenson, seconded by Commissioner Rogers, then unanimously***

***VOTED: to the Planning Department's recommendation on this project.***

Chair Jennings: Motion passed. Gentlemen, congratulations.

Mr. Grant Howe: Thank you very much, and I just want to say that we're going to give it our to do it correctly, so thank you.

Chair Jennings: I agree with Zhantell, you guys put together quite a packet. Thank you. Okay, next, Unfinished Business. I believe the Planning Director is going to speak.

## **G. UNFINISHED BUSINESS**

- 1. MR. WILLIAM SPENCE, Planning Director, transmitting the proposed Rules of the Molokai Planning Commission relating to the Special Uses in the State Agricultural and Rural Districts on the Island of Molokai (Section 12-303-1, et. seq.). (J. Alueta) (Public hearing conducted on March 27, 2014 meeting.)**

**The Commission may take action on this matter.**

Mr. Clayton Yoshida: Thank you, Mr. Chair and Members of the Commission. This is a unfinished business item carryover from your March 27 meeting when you had the public hearing regarding the proposed rules regarding special uses in the state ag and rural districts. The public hearing was held and closed. The Commission, at the end of the public hearing, the Commission voted to defer the matter at its meeting so that it'll be an opportunity to review the proposed rules relatives to the current rules, the 1989 rules, and so that's why it was deferred. We did circulate the current rules, the 1989 rules, to compare the proposed rules and the current rules. Basically, the rules govern special use permit requests in the state ag and rural districts. So you are the only commission, of the three, Maui, Lanai, and Molokai, that has these rules for special uses in the state ag and rural district. And ...(inaudible)... Mr. Mike Hopper had explained was sort of numbering because the system back then was -- is different from the rule numbering system now, and sort of updating because the \$250 filing fee doesn't go very far in 2014, like it did in 1989.

We did have one proposed amendment from the Planning Director regarding Section 12-303-4(7) that a zoning and flood confirmation form completed and signed by the department, which would again be the same language found in your other Molokai Planning Commission rules, and this was in a memo to you from Deputy Director Michele McLean, dated March 27, 2014. So if there's any questions or public testimony?

Mr. Lasua: Mr. Chair? Mr. Chair, I have a question. I have a question for Clayton. What was that section that was -- you were talking about being amended?

Mr. Yoshida: In the proposed rules, Section 12-303-4(7).

Mr. Lasua: Okay.

Mr. Yoshida: This says that it should be that a zoning and flood confirmation form completed and signed by the department, which it would be consistent with your other rules relating to the shoreline area and special management area.

Chair Jennings: Lori? Excuse me. Okay, public testimony. Talk about a monkey tail and a ...(inaudible)...

Ms. Buchanan: Hi. For the record, Lori Buchanan. So you guys deferred this the last time, and if I'm correct, was Chapter 303, MC-12, right? Okay, 'cause you repealed the chapter and then you adopting this new chapter, right? But there's no changes from the old? What exactly, and then this was what we had today, the summary, in the summary, you don't reflect what changes are made from the old language to the new, so I never understand. Can you just please clarify that?

Mr. Yoshida: ...(inaudible)... the public hearing on March 27, Mike Hopper had explained it. It's largely on numbering, okay, because back in 1989, this was Chapter 3 of your rules, but now everything on Molokai is 300 series so 301, Rules of Practice and Procedure; 302, your Special Management Area Rules; 303 would be this special use permit rules in the state ag and rural district.

Ms. Buchanan: So nothing is changing except the numbers and stuff like that? None of the language has changed?

Mr. Yoshida: No. None of the criteria, and so forth. It was just because five years ago, the Commission wanted to take a comprehensive look at all of its rules, and from the rules committee, of which John Sprinzel and Steve Chaikin were members of, they came up with these recommendations, and working with Corp. Counsel, your Deputy Corp. Counsel at that time was Mike Hopper, and Mike felt that it was important to update the numbering so now we're consistent. It's all 12-300 series.



Ms. Buchanan: So no recommendations was made by the committee, way back when, for any language changes within this and you're just making it more comprehensive by changing the numbers?

Mr. Yoshida: Not -- no. Not that I saw. Just it was more a numbering --

Ms. Buchanan: Okay. 'Cause I thought way back when, there was a discussion, if you were going the route of amending and repealing, then I thought we had discussed about the guidelines under Sub-Chapter 9 that on the definitions, 'cause there are guidelines on why you would permit something that is not permitted under unusual and reasonable, so the language under the definition of that as a guideline, I thought there were -- that we had comments way back then that some of the stuff we might have wanted to change because it wasn't consistent with the mandates of 205A, but you're saying no? Nothing? It's just we never make any amendments? 'Cause I don't see any amendments that's why I'm asking. It's just status quo?

Mr. Yoshida: Yeah. Pretty much it's status quo. I mean the guidelines for an unusual and unreasonable use are found in the State Land Use Commission rules but -- and, you know, the five criteria. So it's still the same criteria.

Ms. Buchanan: Right. Right.

Mr. Yoshida: It's just Molokai has codified rules, where the other commissions just --

Ms. Buchanan: Right.

Mr. Yoshida: Rely on the State Land Use Commission rules and they have deadlines for production of decision and orders and more of a procedure, so if people question, well, why are you doing it this way? Then say, well, that, you know, according to the Commission rules for special use permits in state ag and rural districts --

Ms. Buchanan: Yeah.

Mr. Yoshida: This is how it should be processed.

Ms. Buchanan: Okay. We can always go back and work on it again as just one specific item in the future if we ever wanted to do that again. If we wanted to take it up with community plan amendment, we could do that?

Mr. Yoshida: Well, if it was say implementation of some implementing action found in the community plan update, then, you know, we could take it up again --

Ms. Buchanan: Okay.

Mr. Yoshida: Relative to that. But we have to go through the rule-making procedure --

Ms. Buchanan: Right.

Mr. Yoshida: Again, subject to Chapter 92.

Ms. Buchanan: Okay. Thank you.

Chair Jennings: Is there any other questions? Any other testimony? Okay, we have to vote on this, Richelle?

Ms. Dudoit: I'd like to make a motion to approve the proposed rules of the Molokai Planning Commission related to the special use in state agricultural and rural districts on Molokai.

Ms. Thomson: Do you mean for that to include the recommended change of the Deputy Planning Director by memo? It was to section (7) of 12-303-4?

Ms. Dudoit: About the notification?

Ms. Thomson: Yeah.

Ms. Dudoit: Yeah.

Ms. Thomson: Okay.

Ms. Dudoit: Yeah. Sorry. With the changes as the standard notification being the Molokai -- yeah? Was with the flyers and the local newspaper and --

Chair Jennings: Oh, yeah.

Ms. Dudoit: Yes.

Chair Jennings: I remember that. Is there a second? Bill. Billy. Bill Buchanan. Okay.

There being no further discussion, the motion was put to a vote.

***It has been moved by Commissioner Dudoit, seconded by Commissioner Buchanan, then unanimously***

**VOTED:** *to approve the proposed rules of the Molokai Planning Commission related to the special use in state agricultural and rural districts on Molokai, with the proposed amendment to Section 12-303-4(7).*

Mr. Marshall Racine: ...(inaudible)... ask him a question?

Chair Jennings: Marshall, you do not get to. Yes? Yes, Marshall?

Mr. Racine: ...(inaudible)... change that I'm looking at ...(inaudible)... 303-4(7), I looked at 3-4 -- and then ...(inaudible)...

Ms. Dudoit: ...(inaudible)... Sorry. We only -- the rest of the ordinances we passed, so the only one we're looking at is 303, the state ag.

Mr. Racine: ...(inaudible)... same document ...(inaudible)... verbiage missing in the new that's in the old one. Has that already been addressed ...(inaudible)...

Chair Jennings: Go ahead.

Mr. Yoshida: Yeah, we were proposing to repeal Chapter 12-3, the 1989 special use permit rules, and adopt Chapter 12-303, the new special use permit, rules for special uses in the state ag and rural districts with the amendment on Section 12-303-4(7).

Mr. Racine: Right, but 303-4 does not have 12-3-4(e), states, "A shoreline survey if the parcel abuts the shoreline," when you go to 303-4, which would be about the same, we go from a scaled plot plan and we skip over the requirements for a shoreline survey and go right to a written description. So that is missing. You told us from the onset that this was the exact same document, which is the change of numbers and one in sub-paragraph (7), but I'm seeing a whole paragraph missing. So they're not the same document.

Ms. Dudoit: And then I just trying to understand, did you give out a new copy of the documents we had at the last meeting? Oh, okay. So I didn't see any new documents so I'm trying to understand --

Mr. Racine: I got two of these by email from Suzie, and I gave them a quick lookover, and I'm thinking, okay, this -- what action we're going to take on, because it's an awful lot to read, and compare them side-by-side because, again, in the summary, it did not list the changes or show, normally when you amend or change documents, you demonstrate the changes by underlining what you've omitted, but you say you appealed the whole document, replaced it with this one, and then you said there was nothing different in this

document than the previous one, but there is. That is missing. The requirements for the shoreline survey.

Ms. Dudoit: ...(inaudible)... I'm confused.

Mr. Racine: The old document, 12-3-4 --

Mr. Yoshida: Yeah, I guess with the other -- with the other rules, because we're amending the current rules, it was ramseyered. But with this one, because we're repealing the old rules and adopting the new rules, it's not

Mr. Racine: Right, we're adopting ...(inaudible)...

Mr. Yoshida: It's not ramseyered.

Mr. Racine: Okay.

Mr. Lasua: We both have the same thing ...(inaudible)...

Mr. Racine: Right. And it says -- but your preface to this discussion was that the only change was the numbering system, but I'm seeing a requirement removed. So it's not just the numbering system changed. What other changes have happened in this document from the old to the new?

Mr. Lasua: Yeah, that's one I was asking you, that 12-303-4(7), but when you look on the old one, it's not the same.

Mr. Racine: Yeah, he brought that one to our attention about the zoning designation, but you go up three sections -- yeah, (d) says the scale plot plan, (e) says the shoreline, here we got (4) says the scale plot plan, (5) says the written description. There is no section that requires the shoreline survey. So there's a section missing from one document to the other.

Mr. Yoshida: Yeah, I think for SMA purposes, that's where the shoreline survey, if the property abuts the shoreline, came in. So it's a -- we're talking about state special use permits --

Mr. Racine: Is that same requirement listed elsewhere in the new document?

Ms. Thomson: Not necessarily listed in the same document, but it would be -- it's part of the shoreline rules, so if the property abuts the shoreline and it's ag or and it's rural, both

sets of rules apply to the analysis of it. So I see what you mean. I clearly see it. I pulled it up online.

Mr. Racine: But the old document predates the shoreline management rules.

Ms. Thomson: That I don't know.

Mr. Yoshida: Yeah, I believe the, right now, the -- well, as amended, the shoreline rules allows for certain instances where the director would not have to require a certified shoreline survey if it does not impact -- proposed action does not impact coastal actions, like interior renovations, say at the Wave Crest or Paniolo Hale or some property that abuts the shoreline, but the interior renovations doesn't affect coastal processes. So, basically, it's the director could require the shoreline survey for a special use permit if the property abuts the shoreline and the director felt it was important, in the analysis, for the Commission to know how far from the shoreline is the structures --

Mr. Racine: Okay. It's just a credibility gap here that I, you know -- again, you prefaced this discussion with there's no change other than numbers, and I see that the responsibility for the shoreline survey is moved out of the new document to some other document, but what other changes are here that, you know, have been conveyed out of this document to other documents? We're being asked to concur that this is okay to take the place of this one, but are the requirements of the original document the same?

Ms. Dudoit: So, Chair, can I call a point of order, and we have a motion on the floor, but I'm realizing that maybe I should retract my motion because -- because I've only ever seen one copy, which is what we talked about, so unless -- unless we're going to advise Marshall to get rid of the other copy, and we're only voting on one, I'm very confused as to -- and so the discussion can still be held if that second document that he has that shows the changes is relevant, but as far as I'm concerned, it's not relevant because what we saw and what we're voting on right now, was the only document given to the Commissioners, besides these two guys, and that's what I'm speaking to. So at the advice of counsel, would you like me to take back my motion so that we can clarify this first?

Ms. Thomson: You know, the motion was, you know, made, seconded, and then you did all vote, so the option would be now to make a motion to reconsider. So that means a motion to reconsider the vote that's already been taken. You can do that since it's the same meeting. One of things that we could do, if there's some confusion, we could probably get copies, you know, take a break and get copies of ...(inaudible)...

Ms. Dudoit: No. I don't think that the confusion, at least for me, is what the rules are about, 'cause we all understand the SMA rules. I think the confusion is he has a separate copy of the something that we've never seen, and so if that is the updated version of what

the department wants us to look at, then I'm going to take back my vote because I haven't seen that.

Ms. Thomson: Yes, I think if I can clarify --

Mr. Racine: I'm comparing the old document to the new. You've seen the new document. The old document had requirements that aren't in the new document, and that's what I'm questioning.

Ms. Swenson: I just have a question. I missed that meeting, so I would like to know why this matter was deferred to this meeting and that'll help clear up my thinking about why you deferred it and -- because you were just looking at the new document, correct?

Ms. Dudoit: Yeah. No, I asked to defer the matter because we had gone over for a couple of hours all the different other ordinances and we hadn't had the time, as a Commission, to really look through and read it. We were advised, at that time, that it was simply a duplication of the state ordinances and so I wanted, personally, the time to go and look at the state ordinance versus what we had done as a Commission, which pretty much it's word for word, and just to verify and get an understanding of why we adopted our own when nobody else did, and so that was kind of the reason for deferral, and everybody agreed 'cause it was such a thick packet of things to look at.

Ms. Thomson: If you'd like, you know, we could take a short break. I have the current existing old version on my screen and the new version that's, you know, that's been acted on today, and I can go through it and see if I see anything that is any different. But I don't know if you've all had a chance already to do that, or if you feel comfortable with it does mirror state -- it directly mirrors what's the State Land Use Commission guidance, yeah, so ...(inaudible)...

Ms. Dudoit: So, okay, so I have to disclose that I looked at my, book like Marshall, and I looked at that, those verbiage, that verbiage versus the state ordinance, so that is the exact same. I didn't really compare what we have in the book to what was given to us at the last meeting, so maybe the issue is to defer this so that we can all get the same -- we can all look at it again. 'Cause it's too crucial a matter, we're talking about ag lands and usage to just go ahead and -- but I just want to know, for me, how do I fix what we just voted on.

Ms. Thomson: Yeah, you can do a motion to reconsider.

Ms. Dudoit: Okay. I want to do a -- I want to make a motion to reconsider the previous approval of the proposed rules of -- relating to special uses in state agricultural and rural districts on the island of Molokai, 12-303-1.

Chair Jennings: Is there a second to that motion that Zhantell --

Mr. Racine: I'll second.

Chair Jennings: Okay, second.

***It has been moved by Commissioner Dudoit, seconded by Commissioner Racine, then unanimously***

***VOTED: to reconsider the previous approval of the proposed rules relating to special uses in the state agricultural and rural districts on the island of Molokai, 12-303.***

Chair Jennings: Okay.

Ms. Dudoit: Actually, can I make another motion to defer this issue on to the next meeting so that we can have the department send us updated information and clarify this instead of spending, you know, another hour trying to figure out, so for reasons of administrative organizational, you know whatever, can we -- can I make a motion to defer this to the next meeting, and then we can all have clear clarification on what we're voting on and what the ordinance looks like, with changes, if any, as Marshall has stated? 'Cause I'm thinking that Clayton, in all his wisdom, did believe that everything was just a number change, so if Marshall has cited that, then maybe that deferral would give the department a chance to reproduce the document that we should be voting.

Chair Jennings: Okay. There's a motion on the floor to defer, thank you, defer this until the April 29<sup>th</sup> meeting. All those in favor? Second? Excuse me.

Mr. Racine: ...(inaudible)...

Chair Jennings: Okay.

***It has been moved by Commissioner Dudoit, seconded by Commissioner Racine, then unanimously***

***VOTED: to defer until the April 29<sup>th</sup> meeting.***

Chair Jennings: Motion carried. Okay.

Ms. Dudoit: Chair, I have to leave to another meeting, but you have quorum, so that should be okay, yeah?

Chair Jennings: Yeah, yeah.

Ms. Dudoit: But can I ask, please, if I can just ask one question to the staff regarding the January 11 --

Chair Jennings: Sure.

Ms. Dudoit: Minutes?

Chair Jennings: Go right ahead.

Ms. Dudoit: I just had a question for admin. If in the minutes it reflects that one of us voted and stated for the record that our vote was contingent, so we just made quorum, right, and our vote was contingent upon certain factors, like I think mines was that I would vote in the yes because a certain architect and contractor was being used, so it carried, and then as soon as were done, and it carried, and that passed, the contractor no longer was employed for that project, and they've retained a new contractor. So is that relevant? The permit just passes? Do they have to come back before us because that was contingent upon the vote for the record, or how does that work?

Ms. Swenson: They didn't hire a -- they've gone owner-builder.

Ms. Thomson: As far as voting, I don't think that you would vote contingent on something, but you're voting on the representation that were made as part of the application, but it's the project that you're really -- it's the project that you were voting on, not necessarily, you know, that the architect remains, you know, the architect all the way through, you know, they don't change engineers or that something happens and they change general contractors, that, in and of itself, wouldn't change the underlining project.

***(Commissioners Dudoit and Swenson were excused from the meeting at 1:50 p.m.)***

Chair Jennings: Okay, let's take a small five-minute break for cell phone and shishi and all that, okay?

***(A recess was called at 1:50 p.m., and the meeting reconvened at 2:00 p.m.)***

## **H. Orientation Workshop No. 1**

### **1 Opening Remarks**

Mr. Yoshida: Okay, thank you, Mr. Chair. Since we're starting the new Commission year, we thought we'd provide some orientation; of course, you know, you may have questions



and we may get into specific applicability of certain rules relative to specific applications when we deal with those specific applications, but to provide a broad overview in the next hour or so, or less.

## **6. The Planning Framework**

We'd like to first talk about the planning framework, just the -- with the planning framework, so the Hawaii State Constitution is what outlines the structure of state and county government. State and county agencies are guided by the Hawaii State Planning Act. It's a broad policy document that sets the table for all activities, plans, programs, and decisions made by local and state agencies. It was tied into law in 1978 to improve the planning process in the state, to increase the effectiveness of government, private actions, to improve coordination among different agencies and levels of government to provide for wise use of Hawaii's resources and to guide the future development of the state, which is HRS 226-1.

Hawaii is unique among the 50 states in having converted its State General Plan into a statute, Act 100, which made Hawaii the first state to enact a comprehensive State Plan. The State Plan is divided into three parts, it has overall themes, goals, objectives and policies, and there was a section on planning coordination, and then one for priority guidelines. The part of the plan dealing with implementation conformance is the most significant for land use controls; this is the case because the State Plan require conformance to its policies and goals, objectives, and priority guidelines. However, in 1984, the legislature defined conformance as weighing the overall themes, goals, and objections, and a determination that an action, decision, rule, or state programs are both consistent with the overall themes and goals, or one or more of its goals, objectives, and policies so conformance becomes a relatively easy thing to accomplish.

So all lands in the state are divided into one of four categories: ag, rural, urban, and conservation. The county has jurisdiction over ag, rural, and urban lands, while the state conservation lands are under the purview of the Department of Land and Natural Resources. As you can see, the majority of the lands are in the ag and conservation, and since 1961, the amount of urban lands has increased from 3 to 5% of the total land area in the state. So 95% of all lands in the state are still in the ag or conservation.

There are two types of actions that could occur. One is the state land use district boundary amendment. If it involves lands more than 15 acres, these are processed by the State Land Use Commission, such as was the case for the Molokai Ranch Laau Point project from a couple years ago. The county, in those cases, the county planning department is a mandatory party to those proceedings, but the planning commission is not involved. When you have a boundary amendments that's less than 15 acres, that ends up being processed by the receptive planning commission, such was the case for the

Swenson Construction baseyard at the Holomua Junction where they reclassified it into the state urban district and zoned it M-1, light industrial. That was done by the Molokai Planning Commission, and then it went on to the Maui County Council, who's the final authority on the district boundary amendment. There is -- the second one is the land use commission special use permit, what we were talking the rules earlier for special uses in the state ag and rural districts. If it's more than 15 acres, then it requires approval of the State; first it goes to the planning commission for a hearing. If you deny the request, then it's deemed denied. If you recommend approval of the request, then it goes to the State Land Use Commission, and they take final action. So an example of this is the county landfill at Naiwa, which is more than 15 acres, in which the land use commission made the final decision.

Let's see, this slide shows various resources available to the planning commission. We have the Urban Design Review Board that comments on the design of various projects, compliance with your country town design guidelines. The Molokai member -- and makes recommendations to you. The Molokai member on that board, currently, is Frances Feeter. We have the Arborist Committee, and they deal more with trees, street tree planting, exceptional trees, and they're handled by the Parks Department. We have the Cultural Resources Commission, and they deal with matters relating to cultural resources, and there is a Molokai member on the CRC. And there are other federal, state, and county agencies that provide recommendations, as you saw in the report for the Schroll Trust residence.

Now, we're moving to the Long-Range Planning. Sorry, the Long-Range Planning folks are -- have been very busy since the Lanai plane crash when they lost one planner, and another planner and a GIS analysis were severely injured, but so I've been asked to present the Long-Range Planning section, and this is sort of the overview of the presentation. And currently, they have a staff headed by John Summers. They have a Planning section, and Geographic Information section. And they comprehensive community planning, including the Planning section, and they also have the GIS section. They work with the communities, stakeholders, and decision-makers to manage growth. They coordinate Long-Range Planning activities with other county departments, state, and federal agencies. And the GIS section analyzes land development data and prepares digital maps. In 2015, they'll be involved with updates to the County General Plan, projects to implement the general plan, technical studies, cultural resource and management activities, and production of GIS maps and analysis. The issues and challenges that the Long-Range Division faces. There are various competing interest, as with anything, as shown on this slide. And they try to use various planning tools to involve the community, say for the community plan update, and they use various smart growth principles, as listed here.

So on the top, there's the Countywide Policy Plan, which is the broad principles, and they worked very hard on the Maui Island Plan. They're working on the Lanai Community Plan. And after they finish with the Lanai Community Plan, then they'll be starting with the Molokai Community Plan update; plus, there are the other seven community plans after that.

So the Countywide Policy Plan is a broad policy document. The island plan is more of a regional planning tool ...(inaudible)... directed growth strategy, sets priorities for capital improvement program implementation, and the community plans provide -- highlight the local character, the issues and needs of each community, urban form, and design principles. So the community plans also prioritize capital improvement programs and schedules, protect historic resources, towns, and rural character, provide a policy framework for housing supply and economic diversification, describes the desired direction of a community's future. The goals of the plan, the community plan are that they be comprehensive, consistent, clear and specific, have policies and implementation measures, be fiscally responsible, and have public conversation.

So I guess this is sort of an earlier outreach, pre -- before they start with the community plan advisory committee, working with the residents to ensure broad participation, and defining the legal status of general plan and community plans, provides for public participation, there's a citizen community plan advisory committee, and the role of the advisory committee, the director, and it goes to the Molokai Planning Commission and the council, and it establish the process to amend the general plan and community plans, the identify mandatory plan elements.

So this is the timeline for the community plan update. The department provides the community plan advisory committee, or CPAC, with a draft, they have six months to work on the plan update; then the draft is revised by the department; then it goes to the planning commission, and the planning commission has six months to review the revised draft; and then further revisions are made, and revised revised draft is sent to the County Council, and the council has one year to deal with the community plan update. So that's the timeline.

So in summary, Long-Range Division is responsible for comprehensive planning, it meets -- it has to meet current and future needs; keep what we value the most; manage change. The tools that it uses: the community planning process; public engagement; land use and population data analysis.

Is there any questions? Seeing none, I'll turn it over to Mr. Sticka.

## **7. Zoning**

Mr. Sticka: We're going to move over to the zoning portion of the presentation today for training. County zoning is under the guide of Chapter 46, Hawaii Revised Statutes, which allows zoning at the county level. Title 19, which is found in the Maui County Code, is the zoning section and includes both Article 1, for interim zoning, and Article 2, for comprehensive zoning.

Zoning ultimately provides order and consistency in the use of the land. Zoning limits and restricts the uses of the land in order to shape land use patterns.

Regarding a change in zoning application, which the Commission may see later in this year related to Molokai High School, specifically looking at Section 19.510.40, of the Maui County Code, this section allows for the change specifically for a zoning designation, an example would be B-2, business, to R-3, residential. The Molokai Planning Commission holds the public hearing and provides their recommendation to the County Council, and, ultimately, with any rezoning, the council is the final authority.

In the State of Hawaii, we have Chapter 46, as I'd mentioned, HRS, which allows zoning at the county level. In Maui County, we have Title 19, which is in the zoning code, as I'd mentioned, and the text is divided into articles, chapters, sections, and subsections. There are five articles in Title 19. The two most relevant articles are Article 1, which I had mentioned before, which is interim zoning, which was adopted in 1958, and was created for the purpose of providing interim regulations pending the formal adoption of a comprehensive zoning and map. Although created as a temporary measure, we still have interim zoning in place today. Article 2, which is comprehensive zoning, was adopted in 1960, and was created to -- in order to regulate land use in a manner that encourages orderly development in accordance with state statutes, county character, and the general and community plans. Comprehensive zoning includes a number of zoning districts, which are most -- which most of you are familiar with, such as residential, apartment, commercial, and industrial districts, including public/quasi-public and parks districts. Zoning is the tool used to implement the general and community plans.

Really, the key takeaway on this is that changes in zoning are powerful tools for land management and must be reviewed in the context of the community plan. The change in the zoning process, again, is found in Chapter 19.510, of the Maui County Code.

Another example of a permit -- I'm sorry, of a permit process that you'll see on the island of Molokai and in Maui County would be the conditional permit, which is found in Chapter 19.40, of the Maui County Code, and establishes uses not specifically permitted within an individual zoning district, similar, related, or compatible to permitted uses. The Molokai Planning Commission holds the public hearing and provides a recommendation to the council, as similar in the change in zoning process. And once again, the council is the final authority on that. The key point is that the conditional permit must demonstrate that

the proposed use is similar, related, or compatible within a given zoning area. Another application is the -- I'm sorry, on the condition permits, I guess we can skip ahead, but the point on that was the conditional use applications must demonstrate the proposed use similar, related, compatible within a given zoning area. I'm repeating myself. I apologize.

The next would be the county special use permit, which is found in Section 19.510.070, of the Maui County Code, uses identified as special uses within the district, specific criteria established. Again, the Molokai Planning Commission holds the public hearing, but in this instance, the Molokai Planning Commission is the final authority, and the key on that is that there is a higher level of review to study impacts to local neighborhoods.

## **8. Bed and Breakfasts and Short-Term Rental Homes Permitting**

Transitioning to the next area would be our bed and break and short-term rental home section of the code, which is found in 19.64, of the Maui County Code. The bed and breakfast allows short-term rental within residence in residential and rural districts, not in the agricultural districts. Typically, up to three bedroom total between two dwellings; the owner must live in one of the two dwellings. As part of this process, a four square-foot sign is required for the project to notice, and a one square-foot permanent sign, which is attached to the existing structure and includes the phone number. Ultimately, the Commission is the final authority on that. Regarding the bed and breakfast, the County Council passed the most recent B&B, bed and breakfast bill, at the end of 2008. The bill took effect in 2009. The main difference between the bed and breakfast and a short-term rental home is that the owner must live on the same property.

In regards to the short-term rental homes, the council passed the ordinance establishing Chapter 19.65, which governs short-term rental homes, affective of May 23, 2012. We're going to go over the triggers for the Commission review. To date, there have been nine short-term rental home applications that have been approved on Molokai, and one has since then been submitted as of yesterday, which will be coming before you later in the year. Some of the triggers that triggers the short-term rental home to go before the Commission would be that two or more of the adjacent or across the street, there are written protest, another might be a 500-foot neighborhood protest provisions regarding numbers -- percentage within the number of lots, the third would be the other approved operation within 500 feet, which is all of the ones that have come before the Planning Commission here that you've seen have fallen under this caveat where they are within the 500 feet, and ones that weren't, were waived for that reason because the applications were received before 12-31-2012, and then also if a variance is granted, and we have not seen any variances for short-term rental homes on the island of Molokai.

The key points for the short-term rental homes is that the owners do not live on the property, however, a manager is required. The initial permit is for one year with an

automatic two-year renewal if there are no complaints on the short-term rental home, and most of those permits are reviewed or have been reviewed administratively.

The short-term rental home on the ag land, which the Commission has not seen and we don't have any that are in review but could see at a future date, these -- the Commission does review those as a state special use permit and the focus is on the existing ag activities that are on the land, and as part of that application, a farm plan is required.

If there's any questions on that. Quickly, I'm moving on to Chapter 343.

### **9. Environmental Assessments (EA) and Environmental Impact Statements (EIS) Chapter 343, HRS**

And so, typically, I'll be speaking about the environmental assessment, environmental impact statements. Chapter 343, for Hawaii Revised Statutes, was adopted in 1974 and encourages conservation of natural resources, enhances the quality of life, and looks at environmental assessments and/or -- yes, Chair?

Chair Jennings: One of the Commissioners had to leave to go get his daughter, and it was told to me by counsel, we do not have a quorum so I am sorry to say that we will probably have to end this portion of this or end it. So I am sorry about that.

Mr. Yoshida: I would suggest, you know, if the two new members have some time, up could meet with the Corp. Counsel and she can give you some basic rules and don'ts to not get into trouble because you've assumed a decision-making role.

Chair Jennings: Okay. I will close -- okay, we will close this portion of the meeting and if you have a couple of minutes, guys, we'll just -- yeah, Richelle will get with you two and, again, congratulations, and it's welcome aboard, it's nice to have you. On that note, I will see everyone on the 29<sup>th</sup>. Aloha.

### **K. ADJOURNMENT**

Due to the loss of quorum, the meeting was adjourned at 2:25 p.m.

Respectfully submitted by,

SUZETTE L. ESMERALDA  
Secretary to Boards & Commissions

**RECORD OF ATTENDANCE**

**Present**

Michael Jennings, Chairperson  
Douglas Rogers, Vice-Chairperson  
Billy Buchanan  
Zhantell Dudoit  
Lawrence Lasua  
Marshall Racine  
Diane Swenson

**Excused**

Ron Davis  
Sherry Tancayo

**Others**

Clayton Yoshida, Planning Program Administrator  
Benjamin Sticka, Staff Planner  
Richelle Thomson, Deputy Corporation Counsel