

**LANAI PLANNING COMMISSION  
REGULAR MEETING  
AUGUST 20, 2014**

**APPROVED 10-22-2014**

**A. CALL TO ORDER**

The regular meeting of the Lana'i Planning Commission (Commission) was called to order by Chair John Ornellas at approximately 5:30 p.m., Wednesday, August 20, 2014, in the Lana'i Senior Center, Lana'i City, Hawaii.

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

Mr. John Ornellas: The Lanai Planning Commission of August 20<sup>th</sup> come to order. We have Shelly, Kelli, me, Stu and Bev. Me is John. So we have five so we can, so we have quorum, and we will continue. Agenda – I will – as far as public testimony, Item B, I will, it's my discretion on how, on how we handle this, so presently we don't have a full room, so I will – usually if you have something to say you just raise your hand and I'll get to you. So, because we're not going to have this. I mean, if somebody wants to come up and speak now if they want to leave early then you can, so –. But other than that we will just go, go along as we go in. And if you have a question make it precise. And once – if you get an answer then we'll continue on.

**B. 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.**

**C. APPROVAL OF THE MINUTES OF JUNE 18, 2014 AND JULY 16, 2014 MEETINGS**

Mr. Ornellas: Okay, we'll go to item C, approval of the minutes of June 18<sup>th</sup>, 2014 and July 16<sup>th</sup>, 2014 meetings. We have some changes?

Ms. Beverly Zigmond: Mr. Chair, I sent around a couple of just very minor, but I thought important corrections to Leilani and you the other day. And so I would move that minutes of both June 18<sup>th</sup> and July 16<sup>th</sup> meetings be approved with those changes.

Mr. Ornellas: Thank you. Anybody else have any changes or corrections? Okay. Hearing none, then I'll take a motion to accept the minutes of June 18<sup>th</sup> and July 16<sup>th</sup>. Okay, can I have a second please?

Ms. Kelli Gima: I'll second the motion.

Mr. Ornellas: Alright. Any discussion? Seeing none, all in favor of accepting the minutes of June 18<sup>th</sup> and July 16<sup>th</sup> raise your hand? Alright. Accepted.

**It was moved by Commissioner Beverly Zigmond, seconded by Commissioner Kelli Gima, then**

**VOTED: to approve the June 18, 2014 and July 16, 2014 meeting minutes with the amendments.**

**Assenting: S. Barfield, K. Gima, S. Marlowe, J. Ornellas, B. Zigmond**

**Excused: J. Aoki, S. Koanui Nefalar, B. Oshiro**

**D. UNFINISHED BUSINESS**

- 1. MR. WILLIAM SPENCE, Planning Director transmitting the Planning Department's Report with comments, recommendations, and proposed amendments to the planning commissions for review and transmittal to the Council relating to Chapter 19.64 of the Maui County Code relating to Bed and Breakfast Homes. (G. Flammer)**

**The Report contains a Proposed Bill for an Ordinance containing the Planning Department's proposed amendments to the Bed and Breakfast Home Ordinance No. 3611. (Public hearing conducted on July 16, 2014.) (Members: Please bring your copy of the reports which were included in your July 16, 2014 packets.)**

**Report is available on the County website at : [www.mauicounty.gov](http://www.mauicounty.gov) ( <http://www.mauicounty.gov/index.aspx?nid=121> )**

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

Mr. Ornellas: On to Item D, Unfinished business. So this is the (*Chair John Ornellas read the above project description into the record.*) We did have public hearing at the end of our last meeting, but most people left. So when we get done with the County's position, then I will open it up for more testimony. County, do you want to go for it?

Ms. Gina Flammer: Thank you John. I'm Gina Flammer. I'm the planner for this bill. Did you want to –? At the last meeting we went over the changes to the short-term rental home bill. I provided you all with a summary of the meeting just so you can see. And as we go through the B&B I want you to also, I'll remind you of what changes you made as we hit the same ones with the bed and breakfast.

What the department is doing, as part of the short-term rental home update, we're also updating the bed and breakfast bill. We're updating it to make it similar, almost the same as the short-term rental home, and also just adding in some of the amendments that we also put in to the short-term rental home last month. So I included – you have your handouts, you have the report that has the bill in it. There was one piece of written testimony that came in for the bed

and breakfast at Hana, so that's what was included here. Because it was provided as written it comes to you folks.

And then I did, like you asked, I did the table also for you to see that has the changes. And we can go through that when you're ready. I didn't know if you wanted to take public testimony before starting to go through the chart.

Mr. Ornellas: Okay. Go ahead and continue, and then after we're done then the community can weigh in.

Ms. Flammer: I thought what might make the most sense in terms of going over the bed and breakfast bill is just to do like what we did with the short-term rental home, and to start with the chart itself and go through one by one.

Mr. Ornellas: Whatever's quickest.

Ms. Flammer: Okay. Okay. It might be better to hear the public testimony first so as we act on each item we, we know what the public is interested in.

Mr. Ornellas: Whatever's quickest. We have, we have competing meetings going on.

Ms. Flammer: Yes, okay.

Mr. Ornellas: OHA is going on so I know there's people here that want to go give them hell too so – so let's just get through this and so we can get on our way.

Ms. Flammer: Okay. You want to do the public testimony later. Okay. So you guys all have your chart here? So like I did with the short-term rental home, I grouped the first ones the housekeeping items. A lot of them are really just word replacement. It's the first couple of pages. Did you want me to go through them one by one, or did you want me to –? Did you want to ask any questions on any of those?

Mr. Ornellas: Go one by one.

Ms. Flammer: Okay. I'm going through quickly and then we're going to go through the larger changes and I'll point that out. So, starting on the first page. It's got the light-blue yellow housekeeping items. The first one is we're updating the definition of a bed and breakfast. The bed and breakfast bill was passed prior to the short-term rental home bill, so they changed the term short-term rental home when they did that short-term rental home bill so we need to update the bed and breakfast.

The second change that we're making is when the short-term rental home bill went through it allowed trust, special family trust to own the property. They don't own the permit themselves. The person does. But the property can be held. At the time we didn't think about limited liability, so we added that to the short-term rental home. We're also adding in the other

provisions that allow an LLC, as well as the family trust.

The next one is over on the second page here, it's no. 12, is there was a – this is real housekeeping wording – one of the requirements applied to only the residential district so you do have the short-term rental homes in other districts. It was just kind of an oversight when they were first doing the bill so we're going to remove that so that requirement applies to all of the zoning districts. Also our zoning enforcement had wanted to put the tax map key or the valid address posted on all advertising as well.

The next one, no. 15, it requires – what it does is it takes the current department policy and it makes it part of the law. And that is, I mean, if you have to, the building when it comes in for the permit, it has to have been built to County standards, so we're putting it right into the law. It's common sense. The department has applicants meet that requirement.

The next one, no. 16, is we have a home inspection that was required for the short-term rental home bill where you have a private inspector come in. So we'd like to see that for the bed and breakfast as well.

For the next one, we're at no. 20 now -- with the short-term rental home bill the Council added in the provision that allows the department to transmit an application to you folks when we have any reason to. Currently the bill just gives us a couple more specific times that we can do that when you meet triggers. However, we know that you can't think of every case. We have a – if it's with complaints received or substantive reason we can forward that to you.

The next one we're just adding the word renewals into the title. The section is about renewals. It was just an oversight.

The next one, it's labeled 7A because it's one of the amendments that are going to the short-term rental home bill. And all it is, is the clarification of when not to renew a permit. And it just says, spelled straight out if you haven't – if you are a non-compliant with the permit or other government regulations we will not renew. Or may not renew in that case.

Okay, and then the last one that's just more of the housekeeping is in the current ordinance it says that an annual compliance report, the applicant needs to file that every year, but department, in practice, just doesn't do that. We require the compliance report when they come in with their renewals. It's just too much paperwork for us to handle. The tax department who handles the daily – I mean, the yearly tax.

Okay, so moving on to the changes that have a little more policy to them. It's the darker blue on the page in the middle. The first three all apply to the ag district, so there was three provisions that was put in the B&B that was not carried over to the short-term rental homes. The first one is that this would remove the provision stating that a condominium property regime on ag land, means you cannot come in for a permit. So people that have CCR on ag they wouldn't be eligible to come for the permit.

The next one, no. 4, is there was a provision saying that if there was lot created after 2008 on ag land, it does not qualify to come it. Again, time has passed so we're going recommend that be removed.

No. 5, there was also a provision that said if you had five acres of ag land you needed to 35,000 or more farm income. The department has kind of shifted policies when it comes to ag land. We require an implemented farm plan. We don't necessarily have the income requirements for under five acres, but you do have to have 50% of it actually planted. And I think we talked about that a little bit last time with the short-term rental home.

The next one, it's listed as no. 6, it deals with the parking for bed and breakfast. We came to learn that people don't just always rent out individual rooms to different people. They often rent out the entire structure. So we're saying when you rent out the whole structure you need to meet the same parking requirements as you do for a single family house. The B&B had put that each room needed to have its own spot, plus you needed to have two more for the owner. So if you had six bedrooms, you might need eight spots. Again, it's one of the things you don't realize when you're writing legislation. It's not until you get into implementing it. So we're recommending that it now be the same as the short-term rental home bill where it's two for a single family house. We are also recommending that if there's four or more there be just one more spot. So it would take it up to three in most cases.

The next is a provision that was put in by the Council for the short-term rental home bill and that allows the permit to transfer upon death to an immediate family member. So we're recommending that for the bed and breakfast as well.

And then no. 10, it's at the bottom of the page, there's a restriction in the bed and breakfast bill that says the department cannot, or you cannot also as a planning commission, look at private CC&Rs. The Council took another look at that one when they were discussing the short-term rental home bill, and not only can we consider them, we actually ask for a letter now from the homeowners association letting us know whether it's an approved use or not. And we do consider that when we're going through the application.

The next one is, the short-term rental home we had put in some permit criteria. Things that we would look at, things that you would look at when you're examining a permit, so we just wanted to bring that over to the B&B. That's where we talked about the homeowners correspondence.

Okay, now for Lanai, Hana and Molokai, the current B&B bill says that once you get your permit you need to put up a one square foot sign. We're recommending that you make the entire County consistent and that there be no signs at all for bed and breakfast.

The next one is deals with the cap. Right now the B&B, the caps are set. There's no provision to review them once you come up. But close to them, this provision allows when you hit 90% of the cap that the Council would then look at the cap. It gives them time to adjust the cap if they want to before it's actually being met.

The next one deals with the B&B signs. We're recommending that it go down to the same as the short-term rental home sign. It will go from 16 square feet to four. I do want to remind you that when you did the short-term rental home, you recommended it be smaller, a one by one. That may be something you want to do again.

The next one which is no. 18. The short-term rental home bill has had some stronger neighbor notice provisions in it. We just brought those over into the B&B bill.

The next one you'd be interested in. That's no. 19. The department was looking at the planning commission agendas, and looking at a way, especially the Maui Planning Commission, to streamline it. So this one would remove the planning commission trigger for all initial applications for Molokai and Lanai. I want to remind you that when you were looking at the short-term rental home bill last time you asked to see all applications. So again, this might be an area when it comes time to make amendments you might want to make one.

No. 22, it would allow subsequent permit renewals to be five years, not just one year. That's consistent with the short-term rental home bill.

No. 23 deals with complaints. And again it was when the short-term rental home bill was passed, Council spent a lot of time talking about making sure that you don't have an operation that makes a lot of noise and disturbs neighbors. So what this does is it puts in if there are complaints it can trigger a review of your permit. It can come to you folks, the planning commission, and you can take a closer look at what's going on.

Okay, up to no. 24. This is a short-term rental home provision now that we want to move over to the B&B. If the permit is revoked the department cannot accept a new application for two years from that same owner.

And then no. 25, the short-term rental home bill has some enforcement language that was written right into it. Instead of just referring to another section it actually wrote in some provisions specifically advertising equals operating. They wanted to be able to just go on the internet, see if somebody is operating, not have to do a stakeout, not have to find receipts. So they wrote it right into the bill. We'd like to see it go into the bed and breakfast bill as well.

We had a request from lots of applicants as well as the industry. They'd like to see for the bed and breakfast that serving of breakfast be optional. In the beginning it was a nice thought that you could have a homeowner that could provide a breakfast. We came to find out later the Department of Health doesn't allow the operator to actually cook unless they have a commercial kitchen. So it hasn't quite turned out the way, I think, people envisioned. It's lead to some people wanting to do the short-term rental instead of the B&B. So we made that recommendation and the other commissions have gone ahead but we're, you know, interested in what you have to say about that.

And then the next one has to do with the sign. Right now you put your sign up before the application comes in and it stays up until it's over. It can be up a really long time. Not only do

neighbors not like that, the applicant doesn't like that. So we're recommending that the time the sign is up, it goes up after the application has been submitted. That way we can take a look, make sure everything's there, and then it goes – it's up for the 45 days which is the same period as the neighbor notice period.

There's also a requirement in the bed and breakfast bill. It's really interesting that they referred in the bill to a whole another section that talks about public noticing. Part of that other section talked about publishing an ad in the newspaper, once a week, for three weeks, by the applicant. This is in addition to the department that publishes in the newspaper, and it's in addition to the notice that goes out in the mail. What we're recommending is that we just remove that requirement for the applicant to put the newspaper notice in for three weeks. It comes at the end of the whole process. It's about \$1,000. There's lots of notice already going out in there.

And then the next one which you, you made it an amendment last time. This is for . . . (inaudible) . . . that does not agree with it. Again, the department was taking a look at the Planning Commission's agenda, especially the Maui Planning Commission, and seeing that almost 67% of their time was being spent on either the ag permit or the B&B or the short-term rental home. What the department has recomm, is recommending, but we're going to revisit this now that we've concluded this process. We're recommending that that trigger for planning commission review when there's another one within 500 feet be at the discretion of the department. We've had cases where there's been more, a couple within 500 feet, but there's been no complaints. We're thinking the complaints would be enough to trigger it, move it to you. But as I've said, we're going to talk about it again. None of the commission have been comfortable with this. Maui who's having the largest percentage of time looking at these application is recommended that we not remove that. That we leave it as an automatic trigger bringing to us. So you might want to bring that up as well.

We also are suggesting that another planning commission trigger. We've had some applications where there's been a same owner but it's been through a different LLC. So in the interest of having something examined a little closer in cases where there's multiple ownerships through different LLCs or through different trusts we'd like you folks just to take another look at it. The current is one permit, one person. I know last time you did make something that said with planning commission review you could allow that. We're just recommending that it come to commission, not that it be prohibited.

The other one, the next one 9A has to do with compliance inspections. We've had trouble in the past getting on a property, when we know something's there. By the time we're finally there, everything's been changed. Our enforcement division would like to put on there you need to provide for the inspection within an hour of the request. I know that Hana did have some trouble with an hour. Actually, they recommended 24-hours for it.

And then no. 10A, it allows the department – it requires that everybody has to have an address or a TMK when they're advertising. Just not having it is a violation in itself. Again, it's an effort to track down, to do the enforcement over the internet. People have gotten pretty good about hiding things. I've heard different comments about the success of it, but that's what they've

come up with.

And then at the end there's just a couple that refer mostly to Molokai, the last three. On Molokai right now, bed and breakfast homes are not allowed on agriculturally zoned properties. We're recommending that that be removed. The Molokai Planning Commission also went along with that. Right now Molokai allows only three bedrooms to be used in a bed and breakfast operation. We're recommending that it goes to six. However, after speaking with Molokai, they're fine with it going to six so long as anything with four, five or six bedrooms come to the Molokai Planning Commission so that they can review it and kind of look at it case by case.

And then the very last one has to do with just an oversight. Bed and breakfast were inadvertently left out of the urban reserve district which is a district in Hana. It's coincidentally in the area where they have a lot of vacation rentals, the urban part of Hana. So we're recommending that, instead of asking to do a change in zoning, that they, that it be allowed in the urban reserved district.

And there is one more too, and that deals with Hana. Right now when there's four, five or six bedrooms in the Hana region, it goes to the Hana Advisory Committee. We're recommending that that not be a trigger anymore. Hana did ask to see all permit applications. However, they didn't agree with us on that.

So that's my quick rundown of all of them. If you want to make comments, amendments right now, we can take testimony.

Mr. Ornellas: Great. Thank you. Community, anybody want to come up and testify? Yes? Please come up and use the mic. Yeah, we got, we've got wireless mics.

Ms. Susan Osako: I'll just make it really quick. This was about proposed change and I really -- it's just -- oh, maybe I'll take one so I can just read it. The proposed change to allow more than one short-term rental per person which would be two per couple. I'm saying please take a very long look at this. Expanding short-term rentals allow, per person, to me, it's one of the potentially biggest threat to the social health of this community. People can have as many long-term rentals as they want. But what happens to the short-term rentals is they greatly depletes our pool of housing for people on Lanai. I personally did see where two families were actually broke into houses to have a roof over their children's head because the houses were sold and they were turned into a vacation home which is perfectly fine, and then into a short-term rental also when the people weren't here. So our housing pool is so small here. If we keep expanding the number of homes that can lead to short-term rental, we really doing a disservice to the community and the social fabric of the community. So please just take a very hard look at this. I don't think anyone actually thought of that when it was mentioned in the last meeting. And, I mean, we're losing critical people because of the lack of housing, and we're a small island. We don't have unlimited housing, unlimited expansion. So we just really need to think long and hard about that. So whether we purchase additional homes or whether we inherit them, it doesn't matter. The fact is two per couple should be plenty. Otherwise, it's like running hotels. It becomes a whole different thing. If you have five houses, two of them can be short term



rentals, but the other three should be long term rentals. So that's just my opinion. I can see it happening. It's not conjecture. It's what's actually happening now. Nearly every house is sold, has been sold to someone off island, who is turning that home which was a long term rental into a vacation home and short-term rental which is, is fine. I mean that's what they're allowed to do. But the fact is if we allow people more than one short-term rental or a couple two short-term rental, we are pulling our housing off the market for local people. So I don't want to stop someone from making money or renting out their houses. But I think two per couple is enough for the short-term rental, and then everything else after that should and must be a long-term rental. And that's just my input and my thoughts, and that's all.

Mr. Ornellas: Thank you Susan. Any questions for Susan, members? Thank you. Stanley? Grab that mic.

Mr. Stanley Ruidas: Hello. Stan Ruidas. A little bit of history on this. When I was on the commission about five, six years ago, we deferred everything that, you know, had to do with short-term, B&B, TVRs, whatever it is, to the community plan. Well, on the community plan last year, what's his name – Yamashita? Dave. Dave said that we cannot set policy during our community plan so what we did was put it in. If you read the community plan it would be in there for the planning commission to have authority to decide what guidelines we need for Lanai. The guidelines here – I know Gina's gonna hate me but – the guidelines here is more for Maui. You should do everything for Lanai. So I would just say except for Lanai and at a later time make it for Lanai only. And that's all I got.

Mr. Ornellas: Thank you Stan. Any questions for Stan, members? Seeing none, thank you Stan. Anybody else from the audience who'd like to weigh in on this topic? Okay. Let's go back to the list again. Proposed B&B amendments. It's this long one, yeah. You guys got that. Alright, so as she was going, as she was going through – through this, I mean, people, anything strike you or wanna make an amendment, or change, or add to this list as we go, as she went through it?

Ms. Zigmond: Mr. Chair?

Mr. Ornellas: Go ahead Bev?

Ms. Zigmond: Personally I would like to see the Planning, Lanai Planning Commission have jurisdiction over everything. For instance on 19, removing the planning commission trigger for all applications located on Molokai and Lanai. I don't agree with that. I hear what both Stan and Susan are saying. I have grave concerns about that myself, and I personally would like to see them come before us. I don't think we're going to be inundated with a trillion every six months, so that's my two cents.

Mr. Ornellas: I agree. That was something that we discussed at our last meeting that all short-term rental permits come before us, and we can make that same application to bed and breakfast too. Any disagreements? Alright, so can we add that. And then we also want to go to the signs one by one like we did with short-term. Any disagreements? Can you add that?

The, the sign.

Ms. Flammer: The sign. The one by one by one.

Mr. Ornellas: From a, from a –. To one.

Ms. Flammer: To one. One by one.

Mr. Ornellas: I think Lanai went to one.

Ms. Flammer: Real small.

Mr. Ornellas: One foot. One by one. And it's the same size as that tile, but it can be put in a place where it can be seen. Instead of a billboard on somebody's, you know, you gotta build, you gotta build another house just to support your billboard.

Ms. Flammer: Just for clarification. This is for the notification sign.

Mr. Ornellas: Right.

Ms. Flammer: Not a permitted sign. There's no permitted sign.

Mr. Ornellas: No, we don't, you don't put permitted signs on –. This is just to say what, that is a B&B house or –

Ms. Flammer: This is the notice from the applicant, a temporary sign.

Mr. Ornellas: Yes.

Ms. Flammer: Got it.

Mr. Ornellas: Thank you. Use your, your mind. Alright. Let's see.

Ms. Zigmond: I have another one.

Mr. Ornellas: Go ahead.

Ms. Zigmond: 4A. I don't want to see that removed. Removing the automatic 500 foot trigger.

Ms. Flammer: I'm gonna put that in two spots just so you know. One of your things is that you want to see every application so the trigger no longer matters. But I'm also going to put a separate one that says that you don't agree with that.

Ms. Zigmond: And I have one more if I may.

Mr. Ornellas: Sure, go ahead.

Ms. Zigmond: And then I'll give this to Stu. On no. 9. Sorry, yeah it's no. 9 of the last page. Yeah, I don't like the six bedroom parts. I think anything more than three.

Ms. Shelly Barfield: What was ours for the short-term? Was it three or four?

Ms. Zigmond: I think it was more than three come to us.

Ms. Barfield: Yeah.

Ms. Flammer: I think you kept it at six. There was no change.

Ms. Barfield: Was it?

Ms. Zigmond: Yeah, that was, that was a bad move.

Ms. Flammer: There was discussion. We had –

Ms. Gima: I think we kept it the same because all of the applications would come to us anyways. Is that why we kept it the same?

Ms. Flammer: The notes I have say the commission decided that by reviewing all initial applications you could decide on a case by case based, if the operation is too large.

Mr. Ornellas: I can see that. And, you know, like the – well it's already built, but let's, let's say, let's say the ranch, you know, down, down the road, those houses become houses, so that's more than six bedrooms. So we would be able to see it, review it, and say since you're so far out in the boonies, you know, the only the people you're going to piss off are the guests at Koele so whatever. So let's, we keep it to that with that explanation.

Ms. Flammer: Did you want to ability to go over six bedrooms?

Mr. Ornellas: Let us.

Ms. Flammer: Okay.

Mr. Ornellas: We should be able to –. Well, you can't –. Remember we're making, we're making policy for something that might come down 10 years, 15 years down.

Ms. Barfield: So you can put upon review, you know.

Mr. Ornellas: Yeah.

Ms. Barfield: It will be per our discretion – or, yeah, it will be case by case.

Mr. Ornellas: Over six.

Ms. Flammer: Can somebody even apply for a permit if there's –. Like your social hall or –? Right now you can not even apply if you have more than six. Or you could only apply for six if you have . . . (inaudible) . . .

Mr. Clayton Yoshida: You could apply for a conditional permit which requires final approval by the County Council.

Mr. Ornellas: So I guess that, that settles that, alright.

Ms. Flammer: Okay.

Ms. Gima: I think at our last meeting we spoke about, like, when they come in for permit for the short-term rental they have to notify neighbors within 500 feet and we got rid of that. Is that same condition apply for a bed and breakfast?

Ms. Flammer: It is. You could make an amendment. I think last time you said it would only be adjacent neighbors.

Ms. Gima: Yeah, I would propose that same for bed and breakfast.

Ms. Flammer: Okay.

Mr. Stuart Marlowe: So that does it mean it would be 500 feet or adjacent?

Mr. Ornellas: . . . (Inaudible) . . .

Mr. Marlowe: I don't think adjacent is, is applicable. I, I really believe that the 500 feet was there for a reason and I don't think because Lanai is small and all the other reasons that were put forth. Actually it doesn't apply. I think it should be 500 feet and would hope that we could keep it at that.

Mr. Ornellas: Okay. Why don't you make a motion and let us all vote on it. Keeping, keeping it at 500 feet for, for notification.

Mr. Marlowe: That's the motion.

Mr. Ornellas: Okay. Do you have a second? Is there a second for that?

Ms. Barfield: I reason too why we, why we amended the 500 feet was because the money is one. 500 feet could be, it all depends on the radius. So if you have a park in between, your 500 feet will go beyond that park and you probably have to send letters to the whole, whole town. That's why we amended it and did away with it.

Mr. Ornellas: Places, places like Lanai City Apartments, you would have to contact every single owner of that, and there's a lot of people that are not there. Koele, you have a lot of people that's not there, living there, but it's still, that notification would have to go to them, you know. Okay.

Mr. Bruce Harvey: Hi I'm Bruce. I kind of agree with Stu because I'm not a big complainer, but when my neighbors who are literally three or four houses down, just a little bit of noise, a little bit of their music. The guy's playing on his guitar practicing, fine. But somebody else might take exception to that, and that's more than next, next door. I mean something in the middle of what he's saying. Now 500 feet is far, but let's say two adjacent properties. I mean I think the lots are so small that adjacent, two houses down you're still going to hear noise or something like that. I would like to something, a compromise, if you're not agreeing with Stu's 500 feet. Nobody wants –. That's –. You know where I'm going with this. So I think a compromise would be good.

Ms. Zigmond: We're not talking about noise though.

Mr. Harvey: What's that?

Ms. Zigmond: We're not talking about noise. We're talking about notification that this is going to happen.

Mr. Harvey: Oh, okay. Okay. Well, which lead into if the guy next door agrees with it, well, he might, that might his brother-in-law or something, or family around him. But the guy two doors down he's going to take exception now. Wait a minute, I don't think he should be permitted because he's still close. I mean we're talking from here to that white car out there. You know, I mean –

Ms. Zigmond: Then you call the police and if they have so many complaints then some action is taken.

Mr. Harvey: But he's already permitted and now the process has already gone that far so why not –

Ms. Gima: But –

Mr. Ornellas: Kelli, Kelli go ahead. Hang on Bruce.

Ms. Gima: But also because all – because all applications, I think, would be coming to the Planning Commission, that would allow for public to be there, to make testimony, and to kind of to be able to have an input as well. So that's an option.

Mr. Ornellas: So if the County Council approves both our short-term recommendations for Lanai, and then also for the bed and breakfast on Lanai, all permits would come to us. And so we would be able to make that decision. And based on, if the whole neighborhood shows up

and says no, then I guess, you know, we would have to basically have a much longer and bigger discussion on why we should and shouldn't approve that permit. Alright and then another one. This had to do with 9A. This was a copy of the inspection that is done on these. I'd like the planning, the Lanai Planning Commission to get a copy of these inspections. And it just needs to be like how we get our projects, just a piece of paper with the inspection on there. So that way we can see if there's any, any problems with the inspection and stuff so we can keep that and understand that.

Ms. Flammer: You're talking about the home inspection?

Mr. Ornellas: Yeah. Any time the County wants to do an inspection on a, on a single – I mean, on a bed and breakfast as well as a short-term, at least send us a copy of the inspection.

Ms. Flammer: Okay. Do you want to see what the inspection, the sheet itself, the signed sheet?

Mr. Ornellas: Yeah. Just a copy of the inspection.

Ms. Flammer: Okay. Okay. Yeah, we can put that in the staff report as part of the –

Mr. Ornellas: And then, and then just send it to us. It doesn't have to become a, you know –

Ms. Flammer: Sure. As a request?

Mr. Ornellas: Yeah, just so that we have a –. So we can keep track. Sometimes there's a pattern that develops with, you know, if the inspector has to go back in two months and we see a pattern like the burnt out house on Third Street. There's a constant reminder as you drive by that this lot has to be cleaned up and complaints have been submitted, but, you know, I need to see, I would like to see those reports coming to us. And then if we go on six months, eight months and the place still looks the same, we can question, hey, you guys are doing something, why aren't you continuing to do it. So nothing big. Nothing –. But there are, but there are forms that you guys do, right, to fill out? Clayton?

Mr. Yoshida: Well, I think, yeah, the inspector might do a report if they feel that there's a violation that they'll issue a notice of warning and then notice of violation.

Ms. Flammer: It sounds to me like the type of inspection you're talking about a Public Works inspection? Zoning would respond when there's an enforcement problem. Public Works is going to be building, they're something unsafe with the lawn is too long and dry.

Mr. Ornellas: I want when, when a County of Maui inspector inspects the houses on this island. I'd just like to get a copy of that report that's all. It doesn't matter what.

Ms. Flammer: Yeah.

Mr. Ornellas: It doesn't matter what. It's just – since we're going to be doing permitting, every

permit for bed and breakfast and short-term rental, getting these reports will make us better understand the scope of, of that job, so –

Ms. Flammer: There's two kinds of you could – they could either do a private or they could do the County. We can attach information on either one that they do.

Mr. Ornellas: Yeah, and then just, just funnel it as part of paperwork in our packet. That's all. And if somebody wants to bring it up as a discussion item then they can. Alright members anything else for this? You know if, if we're gonna –. You know Susan's testimony here is –. I don't know if –. I wanna, I wanna decide tonight on the, on the bed and breakfast. She – her, her – what is it – expanding short-term rentals. I mean, that issue has already been settled and we've sent that on to the Maui County Council. Saturday we have the CPAC review. Sorry, no quorum. Alright. The next time we have a CPAC review bring this back to the CPAC and see if we can put it in on a –.

Ms. Osako: As, as it has been said you do have discretion. So if like three houses on my block want to be turned into short-term rentals, all being owned by the same person, no matter how they acquired the house, no matter how close you are to them, think about the community as a whole because that's your job. And they can always use the third or fourth house as a long-term rental. And just keep that in mind because I don't think anyone thought about that when this was first passed. And I just want you to think really hard about it because it is a really big problem.

Mr. Ornellas: Okay.

Ms. Osako: Okay. Thank you.

Mr. Ornellas: Alright. Thank you.

Ms. Flammer: Your testimony will be included with the report to the Council too, so they'll get a copy of it.

Mr. Ornellas: Alright, so members, can I hear a motion to accept with conditions, with changes, the proposed B&B amendments. I mean, the B&B legislation to the Maui County Council.

Ms. Flammer: Do you want me to read back the amendments that you made?

Mr. Ornellas: Yeah.

Ms. Flammer: Okay.

Mr. Ornellas: That would be good.

Ms. Flammer: Okay, I wasn't sure about the neighbor notification. Was that an okay to make go only to adjacent neighbors?

Mr. Ornellas: Yes, we're keeping it the same.

Ms. Flammer: Okay. Okay, as the short-term rental recommendation.

Mr. Ornellas: Yeah, since we have control over the process.

Ms. Flammer: Yeah, got it. Okay, so the first one is to decrease the neighbor notification from 500 feet to adjacent neighbors. The second amendment is to decrease the notification sign to one by one. And third is for the commission to review all applications. And then I'll put a note in that you do not agree with removing the automatic trigger even though all permits come to you. It doesn't just go through . . . (inaudible) . . . the other one. And then you had some discussion about the size. But since you are seeing all applications you're okay with deciding it on a case by case basis.

Mr. Ornellas: Go ahead Onaona. You want to say something?

Ms. Onaona Maly: Hello. Onaona Maly. Are you guys going to also bring up the newspaper notification for bed and breakfast as well?

Ms. Flammer: So part of the process – just to explain the process – is they're making a recommendation to adopt the bill as the department recommends. So that would be removing the newspaper notice. But they have three amendments. Three things they don't agree with us on. So they're recommending the bill as we're proposing it with the exception of these three items.

Mr. Ornellas: Okay, so, and who's – the County Council is gonna make that decision?

Ms. Flammer: Yeah, they have approval authority of the bill. So, I recommend working with your Council member as . . . (inaudible) . . .

Mr. Ornellas: I do, and – but you know what I don't trust them. Okay. I do trust my councilman, but the rest of them, when they gang up on one another, I don't. So can, maybe we can put something at minimum, one month in the Lanai Times. In the, yeah, in the –. Well, not Lanai Times, but the Lanai Today. I'm sorry. I'm a little behind.

Ms. Flammer: Are you asking for the department to put a notice or you're asking for you, as community members, to get notification when it goes to Council? I can have Leilani notify you when it's going to go to Council. I don't know that the department could –

Ms. Barfield: Are you asking – or mean the applicant to post, to make notification or I think –

Mr. Ornellas: Presently they are. Are they not?

Ms. Flammer: Are you asking for when this goes to Council you want a notice?



Mr. Ornellas: No –

Ms. Flammer: Oh, you're asking the applicant to.

Mr. Ornellas: Right. Right as part of this, not letting, trusting the Council to put it in.

Ms. Flammer: No, no. I'm sorry. I'm confused. It's the, the Planning Department puts in – Leilani puts in the notification in The Maui News of all the hearings. When you have a public hearing she does that. So it's included that way.

Mr. Ornellas: Okay, so, so you're just going to keep it that way.

Ms. Flammer: Unless you instruct us otherwise.

Mr. Ornellas: No. No. Because that's free right? I mean that's all cost of doing business, right?

Ms. Flammer: Yeah, for the County, yes.

Mr. Ornellas: Okay. Alright. So then we'll just keep it that way. Thank you. Is that it Onaona? You okay? You want a refund?

Ms. Maly: No, I also wanted to say mahalo to Stan for bringing up, you know, that it should be a Lanai related, you know, and be separate from Maui and Molokai because, you know, Lanai is unique. But what would the time frame be for that? Because what if – you know, I am trying to go through an application now, but, you know, I don't think – I mean, so what we're thinking of now may not apply to you? I mean, if I'm trying to –. I mean, my question is does that mean I still have to do the 500 feet and gotta do all the time?

Ms. Flammer: How it works is the time table. This is going to be transmitted to the Council with your recommendations and the Molokai and the Maui Planning Commissions. It could be early next year that's called up. It's called up by the Planning Chair of the County Council, so it could be early as early next year. I don't know how long it will take him to discuss it. We can talk about your individual case more. It takes three to six months to process the application. Yeah, that's the current law.

Mr. Harvey: I can't let this one lie. What's the definition of adjacent is kind of what I –? Is it –? Okay, so if a guy has a lot that goes all the way through and he's on the end of the street, his neighbor has a house that goes all the way through, he only has to get one person to okay. Well it's not –. What's that?

Ms. Barfield: It's whoever his neighbors are in the front of property line, the back of his property line.

Mr. Harvey: Well, if there's a street constitute, does that where it ends?

Ms. Barfield: It's across the street. Yeah.

Mr. Harvey: Oh, okay. That's fine. I wondered what that term, that definition of adjacent was. Whether it was actually touching property or – okay.

Ms. Barfield: Yeah.

Mr. Ornellas: Okay, we ready to vote? Can I hear a motion to accept as amended for the island of Lanai?

Ms. Gima: I'll make a motion to accept the proposed B&B amendments with our Lanai amendments. The proposed, our proposed –

Mr. Ornellas: Okay, we know, we know, we know what you're saying. Thank you. Can I have a second please? Alright, Bev second. Any more discussion? Seeing none. All those in favor of this, of this bill, please raise your hand. Okay we got four and one no. Stu. It doesn't pass.

**It was moved by Commissioner Kelli Gima, seconded by Commissioner Beverly Zigmond, then**

**VOTED: to recommend approval of the proposed B&B amendments with the additional amendment as discussed. MOTION FAILED.**

**Assenting: S. Barfield, K. Gima, J. Ornellas, B. Zigmond**

**Dissenting: S. Marlowe**

**Excused: J. Aoki, S. Koanui Nefalar, B. Oshiro**

Mr. Ornellas: Is there a time clock ticking on this?

Mr. Yoshida: Well, we'd like to try to transmit this to the Council as soon as we can. We can transmit the short-term rental home amendments, but we thought we try to transmit the two at about the same time so they can review the bed and breakfast home and short-term rental home together. This is the last piece in the puzzle. Everybody else has commented – Hana Advisory, Maui Planning, Lanai – I mean, Molokai Planning Commission.

Mr. Ornellas: Alright, then –

Ms. Zigmond: Mr. Chair?

Mr. Ornellas: Go ahead.

Ms. Zigmond: Question please. So if we have no kumbaya here and we don't, we don't approve this, what happens then? It just gets submitted like this? Because I feel like we're back to the desal days, and we gotta figure something out because this needs to go forward.

Mr. Ornellas: Understood. Understood. And I'm thinking of how to do that right now.

Ms. Zigmond: Great. Thank you.

Mr. Ornellas: In fact let me ask Stu what would make you change your vote? 500 feet?

Ms. Zigmond: How about a compromise.

Mr. Ornellas: Would you, would you go to 250? Half? Okay members, 250, is –?

Ms. Barfield: So Stu you realize that the 250 is almost like 500 feet. So one of the applicants at our last meeting explained she can be on Caldwell, yeah. So she would have to go straight away across the town and notify them as well.

Mr. Ornellas: Okay, so 250. You know, let's – can I take a – let's take a 10 minute break, alright? And we'll come back. Thank you.

*(The Lanai Planning Commission recessed at 6:25 p.m., and reconvened at 6:35 p.m.)*

Mr. Ornellas: Alright, let's back to order. We're, we're going to delay this just a few minutes and then we'll come back to this. So in the mean, does anybody have any, any objections of going to agenda item E, and that's the director's report? Any objections? Yeah we're gonna put this in neutral and we'll come back to this in a few minutes. So let's go to the director's report.

Mr. Yoshida: We have circulated our list of open Lanai applications. Any questions on those?

Mr. Ornellas: I have completed, completed projects, the Lanai Hospice House. What did they do?

Mr. Yoshida: It looks like it was a landscape planting administrative approval. To get their building permit they must have an approved landscape planting plan.

Mr. Ornellas: I understand now. Thank you.

Mr. Marlowe: I have a question. Do you have any update on the pharmacy? What the progress is? Where are they in permitting? Anybody have best guess as to when they might be open for business?

Mr. Yoshida: This is under the completed?

Mr. Marlowe: No.

Mr. Yoshida: The open?

Mr. Marlowe: Yes.

Mr. Yoshida: Which item was this?

Ms. Zigmond: It's on the completed, and I can tell you that from the pharmacist the word is perhaps early of 2015.

Mr. Yoshida: Oh, this is the trellis. I guess we just issued the SMA minor and then they could, they would have to get the building permit after that. So I don't know what the time table is as far as finishing the approval.

Ms. Zigmond: He was talking about the pharmacy.

*(Commissioner Joelle Aoki enters the meeting at 6:40 p.m.)*

Mr. Yoshida: The pharmacy. That's a Country-Town Business District review, and that was approved, and I don't know, in July, or July 23<sup>rd</sup>. So, and that needed to get part of the, get a building permit. So, we don't know the time table on the construction of the improvement renovations. Any other questions?

Okay, the second item is rescheduling of the October 15<sup>th</sup>, 2014 meeting. Right now our meeting, our October meeting is scheduled for October 15<sup>th</sup>. However, that's like a black out period because there's a wedding party here from October 15<sup>th</sup> to the 20<sup>th</sup>, and they reserved every hotel room on the island. Every hotel room on the island. So we would suggest moving the date from October 15<sup>th</sup> to one week later, October 22<sup>nd</sup>. Yeah, we would not be able to get a hotel room unless we sleep at the Chair's living room.

Mr. Ornellas: Clayton, why can't the planning commission use maybe short-term rental housing, or, or, or, you know, the houses that Ron McOmber has and that kind of stuff?

Mr. Yoshida: We can only use permitted short-term rental home and bed and breakfast operations. So there's only one short-term rental home permitted operation.

Mr. Ornellas: One short-term and zero bed and breakfast. And the County must, must go along with their plan, with their policies. Okay. Alright. Let's, let's go back to our bed and breakfast.

Mr. Yoshida: We circulated the proposed meeting schedule for calendar 2015. So if we can get the approval from the commission, then we can talk to Housing and Human Concerns about reserving the facility for calendar year 2015.

Mr. Ornellas: Leilani, these are, these are all Wednesday if I'm not mistaken, right? Okay, so I've already given the schedule to Maggie. Okay. Let's put this on hold and let's go back to the, let's go back to the B&B amendments. So let's bring back the motion. Who want to make a motion to –. Yeah, we're gonna have them re-read. So somebody make a motion to approve the bed and breakfast ordinance, and, and the amendments. Go ahead. We're gonna – during

the discussion we'll go have her give, give the amendments. Okay? So I can I get a motion to approve?

Ms. Zigmond: Mr. Chair? Mr. Chair, I make a motion to approve the proposed B&B amendments with the Lanai specific amendments. Will that work?

Mr. Ornellas: Thank you. That's one of Kelli's. Yes, it is. Can I have a second please?

Ms. Gima: I'll second.

Mr. Ornellas: Alright discussion. Staff, can you please read the amendments?

Ms. Flammer: The motion is to approve the department's recommendation on the bill with the exception of three areas. They're each covered by an amendment. The first one deals with the neighbor notification. For the short-term rental home, the Planning Commission had made a recommendation to decrease the neighbor notification from 500 feet to adjacent neighbors. You're making the same amendment here for the bed and breakfast bill. The second one deals with the notification sign. And again, with the short-term rental you voted to decrease it from, down to one by one, and your amendment here is to do the same thing for the B&B notification sign. And the third one has to do with the commission review of applications. Like you did with the short-term rental home, you're making an amendment that all applications for initial permits on Lanai come before the Lanai Planning Commission which, I think, is how it is now so it would just stay the same as that. And then when it comes to the department's recommendation of removing the trigger for 500 feet, you are, you do not agree with that. And again, you want to see all applications.

Mr. Ornellas: We do not agree with that, and we want –

Ms. Flammer: The – yes.

Mr. Ornellas: We want immediate adjacent, right?

Ms. Flammer: For the first one, yeah.

Mr. Ornellas: For the –

Ms. Flammer: For the first amendment it was the neighbor notification. And your amendment is to decrease it from 500 feet down to adjacent neighbors. Adjacent or across the street neighbors would be notified.

Mr. Ornellas: And that, and that is what we're gonna vote on.

Ms. Flammer: Yes. Uh-huh.

Mr. Ornellas: Any more discussion?

Ms. Joelle Aoki: Thank you. So, just, just to make sure I understand it. So everything that we're asking for, or that recommendations made by the LPC for Lanai specific amendments correlates with what was asked for to short-term home rentals?

Ms. Flammer: Yeah that's a good way to put it. Two of the ones you made for short-term rental home don't apply to the B&Bs – property managers. But the others that do are the same that you're making.

Ms. Aoki: Okay, and you said two, so what was the other one?

Ms. Flammer: The other one was multiple permits. . . . (Inaudible) . . .

Ms. Aoki: Thank you. Thank you.

Mr. Ornellas: Any more discussion? Seeing none. All those in favor of passing these, this, this bill with Lanai specific amendments please raise your hand. Five. And against? Stu. It passes.

**It was moved by Commissioner Beverly Zigmond, seconded by Commissioner Kelli Gima, then**

**VOTED: to approve the proposed B&B amendments with the Lanai specific amendments as discussed.**

**Assenting: J. Aoki, S. Barfield, K. Gima, J. Ornellas, B. Zigmond**

**Dissenting: S. Marlowe,**

**Excused: S. Koanui Nefalar, B. Oshiro**

## **E. DIRECTOR'S REPORT**

- 1. Open Lana'i Applications Report as distributed by the Planning Department with the August 20, 2014 agenda**
- 2. Rescheduling of the October 15, 2014 meeting due to unavailability of lodging units on the island.**

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

***Rescheduled to October 22, 2014***

- 3. 2015 Meeting Schedule**

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

**4. Agenda Items for the September 17, 2014 Lana'i Planning Commission meeting.**

Mr. Ornellas: Okay, we have – who's leaving at seven? Somebody's leaving at seven? Okay, so let's get the rest done here. Director's Report. This planning commission schedule, has anybody looked at it and bounced it off their 2015 schedule calendar? I don't think so. So I tell you what. Can we get this, can you review it and get this information to Leilani by next week Wednesday? That's one week from today. Is that good enough? Then you vote on January, February. You know I'm on the same boat with you, you know. I leave in March too.

Ms. Zigmond: Mr. Chair?

Mr. Ornellas: Go ahead.

Ms. Zigmond: That's our typical third Wednesday of the month, right?

Mr. Ornellas: Yes.

Ms. Zigmond: So, yeah, why don't we –

Mr. Ornellas: So can I have a motion to approve the 2015 Lanai Planning Commission schedule here at 5:30 p.m., Lanai Senior Center?

Ms. Barfield: I make a motion to approve the 2015 Lanai Planning Commission meeting schedule.

Mr. Ornellas: Second? Who has a second? Alright, Bev. Alright, anymore discussion? All those in favor of accepting the 2015 schedule please raise your hand. Unanimous.

**It was moved by Commissioner Shelly Barfield, seconded by Commission Beverly Zigmond, then unanimously**

**VOTED: to approve the 2015 Lanai Planning Commission meeting schedule as presented.**

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

**Excused: S. Koanui Nefalar, B. Oshiro**

Mr. Yoshida: Under Item 4, under director's report, the next regular meeting is scheduled for September 17, which is one week after the planning conference that we're hosting on Maui. Right now we don't have any lead public hearing items.

Mr. Ornellas: Okay. September 10<sup>th</sup> -- that's a Wednesday if I'm not mistaken -- September 10<sup>th</sup> as part of this planning conference they'll be bringing over about 45 participants in the conference to Lanai and have them walk around. So I may be asking, as time gets closer, I

may be asking a few to help out, maybe show somebody, show a group the museum or, you know, walk around town and stuff, if you're available. Okay. If you see, if you see people walking around on September 10<sup>th</sup>, please stop and identify yourself and welcome them to Lanai. I think right now it's only me and Shelly that is going. I mean, the other Shelly -- Stacie. Okay.

Ms. Zigmond: Mr. Chair?

Mr. Ornellas: Go ahead.

Ms. Zigmond: Mr. Chair, on the possible agenda items for September, could we resurrect the SMA topics?

Mr. Yoshida: Well, we could note that. We could note that. If we have enough items, I guess, we'll put it on.

Mr. Ornellas: I guess what he means is if there's not enough items, they're not coming. They just got an e-mail from me last week about this stuff, the stuff that we talked about that's gone to the back burner because of all this other stuff, so I do want them to bring those things forward and I'd like to get the SMA thing done before I leave. Alright, anybody else? Members of the community, thank you for coming. Any parting shots? Be nice.

Ms. Osako: It's nothing to do with anything we discussed, but what, what you do is more than important than what you think. I just found out two days ago that something that we do here is profoundly affecting medical care in New York. Who would have thought. New York City is getting its first stand alone ER and it's based on our ER. Who knew. So little things we do here that you think no one in the world knows, sometimes they do.

Mr. Ornellas: Maybe we should Senator Tom Colburn to the Lanai, to that ER center, and then they can see what we do here. Okay, hearing nothing, then let's all, let's all go in peace. Thank you.

**F. NEXT REGULAR MEETING DATE: SEPTEMBER 17, 2014**

**G. ADJOURNMENT**

There being no further discussion brought forward to the Commission, the meeting was adjourned at approximately 6:50 p.m.

Respectively submitted by,

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



**RECORD OF ATTENDANCE**

**PRESENT:**

Joelle Aoki (from ~6:40 p.m. to adjournment)  
Shelly Barfield  
Kelli Gima  
Stuart Marlowe  
John Ornellas, Chair  
Beverly Zigmond

**EXCUSED:**

Stacie Koanui Nefalar, Vice-Chair  
Bradford Oshiro

**OTHERS:**

Clayton Yoshida, Planning Program Administrator  
Gina Flammer, Staff Planner