

**MOLOKAI PLANNING COMMISSION
REGULAR MEETING
APRIL 22, 2015**

*** 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 Chairperson, Michael Jennings, at 12:00 p.m., Wednesday, April 22, 2015, at the Kualapuu Community Center, 1 Uwao Street, Kualapuu, Molokai.

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

Chair Mike Jennings: Okay, good afternoon. It's nice to see everybody, nice to have all the Commissioners here, so I want to formally say hi to all of them, if I haven't already, Ms. Lopez. I guess the first thing I want to do is say thank you for everyone's patience and thank everyone for being here. We had some problems in the past where we couldn't -- everybody couldn't get together for one way or the other, so I just want to say thank you for your patience on that, and we'll get the meeting started. Is there public testimony that we -- that we can have right now for those people that can't be here for the specific item in which they want to discuss or talk about? Okay, sir, could you state your name and step to the microphone, please? Thank you.

B. PUBLIC TESTIMONY

Mr. Mac Poepoe: My name is Mac Poepoe. I don't know what the item number is, but I wanted to say something about the fence that going be put on down at Moomomi by The Nature Conservancy. My concern is, I support the fence, I never get one picture yet of where they going put the fence, and exactly where this thing going be, okay, and my concern is anything that is -- that's going block the trail, because we have a fishermen's trail down there, anything that going block the trail is a no-no. Anything that going hinder egress to the ocean from the trail to the ocean, anywhere along that route is a no-no. Okay, I object to that. So from the trail down to the ocean needs to stay clear of any fence, so the fencing project should be from the trail inland, and I live down there all my life, and that's a -- that's my responsibility that this trail stay clear of any object that going block us. That's the only means of public access that we have, okay. Thank you.

Chair Jennings: Okay, sir, thank you for your comments. We appreciate it. And any questions from the Commissioners or -- ? Okay, well, thank you, sir. We appreciate your comments. Thank you very much. Okay, the -- is there any other public testimony?

Unidentified Speaker: ...(inaudible - not speaking into the microphone)...

Chair Jennings: Any of them. Any of them. If you cannot be here and you'd like to make public testimony now, before we get to that stage, please go up to the microphone, state your name, and what you want to discuss. Thank you.

Dr. Fern Duvall: Hello. My name is Dr. Fern Duvall, and I'm with the Division of Forestry and Wildlife, Department of Land and Natural Resources, and I'm over here today to speak in favor of the fencing proposal out there at Moomomi. As I understand it, it will not block access or keep people traffic from any of the areas important to them. But the fence itself probably will be very important for the future of the type of habitat that's out there, the birds that are out there. They do have primacy on the land. They're the organisms that were here far before any humans ever approached here and it's really going to be an effort to fence out animals that compete with the birds and with, you know, bringing nutrients into the land from the ocean. We were here on the island last night to work with some of the colony of birds that are out there. When kiawe removal started in some of the areas there, within a couple years, couple birds that had showed up, the uau kane, a very important bird for fishermen rights -- I mean fishermen knowledge of where aku and yellowfin tuna run, things like that, and very important even in showing the initial ways to the islands, people followed, as far as we know, people followed stars by night, but birds by day, and knew that they were going to land for nesting. So this is an attempt for that fence to support them and to support the expansion of numbers. As I said, in 1999, I think they removed the first trees; couple years later, there was -- I was notified of a couple pairs of birds, and we've been coming back to the island and banding chicks there and watching the colony grow from very few to many, but this fence will give opportunity to save, not only the rare native vegetation that's there that there's very little representatives of that type of community in the state, but also to support just the birds that are currently there, the wedge-tail sheer water, or uau kane, and possibly also then the albatross and others will move in. These are all birds that are really part of the cultural history and the identification that people have with things that are Hawaiian, so I'd really like to support that fence. The DLNR does support the fence. We've tried this sort of fencing in other places, Kaena Point Natural Area Reserve, the island of Oahu, and we've seen dramatic recovery of the habitat and return of birds and still allowing people traffic into very sensitive areas for both fishing access and other access that's been traditional in the area, so I would imagine that happening here too. Thank you very much.

Chair Jennings: Thank you. Thank you for your time and what you have to -- what you said. Is there any comments? Board Members, any -- okay. Okay, thank you, sir. Appreciate it. Okay, we'll move on to C, which is the election -- oh, excuse me. Is there anybody else that would like to testify at this time, public -- sir, state your name and go ahead, sir.

Mr. Jay Penniman: Aloha, Mr. Chair and members of the committee. I'm Jay Penniman. I manage the Maui Nui Seabird Recovery Project, and I would like to speak in favor of granting The Nature Conservancy's Molokai program minor permit to construct a fence at Moomoni Preserve. We worked with TNC Molokai staff since 2009 banding uau kane chicks in the fall before they fledge, and the adult birds in the spring before they mate and lay eggs. We've helped TNC document the growth of this colony from 2 pairs in 1999 to the current population of over 1200 nesting pairs. This is a dramatic example of the recovery of a species when management activities return habitat to its native condition. The TNC staff and contractors have removed invasive plants, returned native species to the coastal strand habitat. They've controlled feral cats in the area and created conditions where our native uau kane have been able to thrive. Unfortunately, feral cats and escaped dogs have periodically killed many of the defenseless seabirds. Axis deer trample burrows and browse coastal strand vegetation retarding its successful establishment. The fence which TNC proposed to construct in their preserve will provide a much more secure home for the nesting seabirds. With deer, dogs, and cats eliminated from the area, and unable to reenter, the potential for additional seabirds species to colonize the preserve is great.

Moli have visited Moomomi in the past and have been documented at other spots along the north shore. These birds are more likely to chose to nest among the uau kane if there's a safe haven at Moomomi. `A, is the name of all the booby family in Hawaii. The `A, known as the brown booby, in English, nest on the cliffs just east of Moomomi, and it's conceivable that some of these birds could also join a safe colony at Moomomi. These are just a few of the seabird species which could potentially benefit from the construction of the fence which TNC proposes.

It is clearly the case that our sea level is rising more rapidly than any time in history. Many low lying areas in Papahanaumokuakea currently support large seabird colonies and these islands stand to become much smaller with rising sea level. I believe it is our responsibility to establish areas where our seabirds may continue to breed and contribute to our natural environment. Seabirds were the original animals to populate our islands long before any humans arrived. Their organic waste were the marine nutrients brought to land to combine with the lava soils to produce the rich soils which support the growth of our unique native plant community.

When Polynesians arrived to become the Hawaiians, they found populations of seabirds from the beaches to the mountain tops. Seabirds so numerous they provided a secure food source as well as leading fishing canoes to aggregations of predator fish, such as ahi and aku rising up to feed on bait fishes. Fishing people today still benefit from the seabird's service. Please help our native seabirds and the coastal strand habitat of the north shore of Molokai by approving the TNC request for a SMA minor permit to construct their fence. And as Fern Duvall noted over there, we were out last night banding these birds. We put on a 152 new bands in 2 hours with 45 of those birds being birds that we banded before

that we recaptured, and 18 of them were actually pairs of birds that were in the burrow together and we got them out, and we keep on looking at this to see how stable is this population and we would find many more recaptured bands if we had the fence up there because then the cats would not come in and bang them all the time. Thank you.

Chair Jennings: Okay, sir, thank you very much. Appreciate your comments. Is there anyone else that would like to get up and make a comment or statement? Yes, sir?

Unidentified Speaker: ...(inaudible - not speaking into the microphone)...

Chair Jennings: Yes, sir. Yes, sir, you will. Okay, thank you again both of you that made the comments.

C. ELECTION OF CHAIR AND VICE-CHAIR FOR THE 2015-2016 COMMISSION YEAR

Chair Jennings: Okay, we'll move on to the next item on the agenda, which is the election of the chair and vice-chair for 2015-2016 Commission year. Is there any nominations or is anyone -- you have to --

Mr. Marshall Racine: I just want to note that Mike's doing a good job and I see no need to replace him. Is that -- I move we nominate Mike.

Ms. Zhantell Dudoit: ...(inaudible - not speaking into the microphone)...

Mr. Racine: I nominate Mike Jennings as one of the candidates for president of this board.

Chair Jennings: Is there a second to that motion?

Ms. Dudoit: Second, and move to close the nominations.

Chair Jennings: Okay, it's been seconded and nominations be closed, and thank you all for your kind thoughts and I need a lot of help here the next year so --

Ms. Dudoit: Do you accept?

Chair Jennings: Yes. I will accept. Thank you, Zhantell.

It has been nominated by Commissioner Racine, seconded by Commissioner Dudoit, then unanimously

VOTED: that Commissioner Jennings serve as Chairperson for the 2015-2016 Commission year.

Chair Jennings: Okay. We'll move on to the next item. Thank you. Oh, vice-chair. Is there a motion for the vice-chair?

Mr. Ron Davis: Yes, I move that -- I move to nominate Doug Rogers as vice-chair.

Chair Jennings: Okay.

Ms. Dudoit: Second, and move to close nominations.

Chair Jennings: It's been seconded and closed.

It has been nominated by Commissioner Davis, seconded by Commissioner Dudoit, then unanimously

VOTED: that Commissioner Rogers serve as Vice-Chairperson for the 2015-2016 Commission year.

Chair Jennings: Motion carried. Doug, are you sure? Okay. Now that we've got that out of the way, let's go to the approval of the minutes of the January 14, 2015 meeting. Do I hear a motion?

D. APPROVAL OF MINUTES OF THE JANUARY 14, 2015 MEETING *(Previously circulated. Commissioners: Please bring your copies.)*

Ms. Dudoit: Motion to accept.

Chair Jennings: Do I hear a second?

Ms. Diane Swenson: Second.

Chair Jennings: Okay, it's been motioned and seconded.

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

VOTED: to approve the minutes of the January 14, 2015 meeting.

Chair Jennings: Motion carried. Okay, we'll go to item E., Unfinished Business, so I'm going to give this to --

Mr. Clayton Yoshida: Thank you, Mr. Chair. Clayton Yoshida, with the Planning Department. With me today, from the Planning Department, are the Division Head of the Plan Implementation Division, John Summers; your secretary, commission secretary, Suzie Esmeralda; and the Molokai Planner, as of March 1 --

Ms. Dudoit: Excuse me, Clayton. I wanted to ask the Chair if we could amend the agenda to take our public issues first before we start discussing this so that they don't have to sit through a long drug-out conversation over the resolution and put this to the back of the agenda.

Chair Jennings: I -- yes. I will accept that motion. Second? Okay --

Mr. Yoshida: I guess the Commission has to vote to amend the agenda and have a two-thirds vote in favor.

It has been moved by Commissioner Davis, seconded by Commissioner Dudoit, then unanimously

VOTED: to amend the agenda where item E., Unfinished Business, will be reviewed after item H.1.e.

Chair Jennings: Okay, we will move to -- we're going to go down to item F, excuse me, I apologize, I had a morning, special --

Mr. Yoshida: I'm sorry, Mr. Chair, and we also have with us the Molokai Planner, as of March 1st, Sybil Lopez.

Mr. Yoshida read the following agenda item into the record:

F. SPECIAL MANAGEMENT AREA MINOR PERMITS

- 1. MR. EDWIN T. MISAKI on behalf of The Nature CONSERVANCY MOLOKAI PROGRAM requesting a Special Management Area Minor Permit for the installation of a seven(7) foot high and 1.6 mile long fence to control the intrusion of axis deer, stray livestock, and feral/stray cats and dogs into the Natural Preserve located on 921.339 acres (por.) of the North Coast and East End of the Island of Molokai, 0 Kawakui Road, TMK: 5-1-002: 037, Moomomi, Island of Molokai. (SMX 2013/0428) (Valuation: \$200,000) (S. Lopez) (Report previously circulated with the March 25, 2015 agenda. Commissioners: Please bring your copies.)**

The Commission may take action on this request.

Ms. Sybil Lopez: Thank you, Clayton. Good afternoon, Chair and Commission.

Chair Jennings: Thank you. Thank you. Ms. Lopez.

Ms. Lopez: This matter rises from an application for an SMA assessment originally filed on July 16, 2013. The application was filed pursuant to Chapter 205A, Hawaii Revised Statutes, and Chapter 302 of the SMA rules of the Molokai Planning Commission by Edwin T. Misaki, the representative on behalf of The Nature Conservancy Molokai Program, the applicant. The application, like Clayton said, the -- is for the installation of a 7-foot high and 1.6 mile long fence to control the intrusion of axis deer stray livestock, and feral/stray cats and dogs in the natural preserve located on 921.339 acres, a portion of them, on the north coast on the east end of the Island of Molokai, Kawakiu Road, in the state agriculture and conservation land use district. It is under the Molokai Community Plan land use designations of agriculture and conservation, and County of Maui zoning districts of agriculture and interim, identified as Maui Tax Map Key, TMK, 2-5-1-002:037, portion. And you got your report and recommendation. I just want to add, regarding the Molokai Community Plan, which is not included in your report, so according to the 2001 Molokai Community Plan, the property is identified, as I said, as the agriculture and conservation, which is consistent with the land use map of the community plan.

The proposed action is in keeping with the following community plan recommendations: Under Environment, our goal is to preserve, protect, and manage Molokai's exceptional natural land and water resources to ensure that future generations may continue to enjoy and protect the island environment; as Objectives and Policy no. 1, Protect and encourage the restoration of native habitat through government and private conservation, land management, and educational programs; Objectives and Policy no. 4, Manage, protect, and, where appropriate, restore reef habitats, fishponds, and other coastal resources unique to the island of Molokai by implementing these actions; No. 2, Establish marine conservation and fishing management programs and maintain Moomomi dunes as a natural area reserve in perpetuity; No. 3, Control soil runoff and sedimentation of coastal waters through better enforcement of grubbing and grading, and through conservation practices, such as the revegetation of the barren areas, control of domestic and feral animals, and maintenance of fishponds and other retention basins. As cultural resources, our goal is to preserve -- the preservation, enhancement, and appropriate use of cultural resources, cultural practices, and historic sites that provide a sense of history and define a sense of place for the Island of Molokai. And Objectives and Policies no. 2, Promote the rehabilitation of significant cultural resources and, no. 4, Recognize areas of historic vegetation and significant native vegetation zones as cultural resources.

And now I will turn the time over to Edwin Misaki, and he'll have a more descriptive powerpoint presentation to show you. Thank you.

Mr. Edwin Misaki: Thank you, Sybil. Before I start, I have two written testimony that they wanted me to hand in, do I just give it to you, Sybil? Aloha, Commissioners. Thank you for having me here. I just wanted to emphasize the date that Sybil said, the SMA process began in June of 2013, so it's been almost two years, but I've been going through the compliance process, it's been very educational, and I must say, I was glad I went first for the SMA 'cause it kicked in all the other compliance that I had to do.

So I looked up the SMA website and one of the reasons for the SMA is to put special controls on development within areas along the shoreline to avoid permanent loss of valuable resources and the foreclosure of management options, and those words really rang out to me because, you know, what we're trying to do at Moomomi with this fence is to absolutely, it is the highest level of natural resource protection that we're trying to do, and fencing is one of the most common management tools that we use to protect these areas. So, again, we're asking the Planning Commission to approve our minor permit, SMA minor permit for our fence project.

Moomomi is located in northwest Molokai. If you ever went there, it's a beautiful windswept, mysterious, and remote area of Molokai. When I say it's the highest level of resource protection, Moomomi is known as the best example of coastal Hawaiian sand dune strand eco system, not just in Hawaii, in the world.

At Moomomi, we have 38 native plant taxa. Of the 38, 8 are considered rare. Of the 8 rare taxa, 3 are only found on Molokai; 5 are federally listed as endangered and thus protected by federal law. Now, it's not just these individual plants, but it's this community of plants that we're protecting, so it's not just the individual plants, it's the plant's home.

Since 1999, the uau kane, or the wedge tail sheer water has been colonizing our Moomomi Preserve, and we have worked very closely with Fern Duvall and the Maui Nui Seabird Recovery, and Jay Penniman, in banding, surveying, and documentation -- documenting this colonization. It is really telling a story. This was in 2001. This is every two years, 2005, the dots all represent new nesting colony; 2007; 2012; and now, 2014. We have over a thousand nests now since our last survey. So it started from two, and now it's over a thousand, and we know, historically, the birds used to nest all over Hawaii. This is one of the few places where the colonization is increasing exponentially. And the one thing to remember about colonization, we learn in any science class about -- about, you know, natural -- the natural cycle of - what do you call - fertilization or the fertilizer cycle, how the rivers take nutrients into the ocean; well, the birds actually bring nutrients back to the land from the ocean so it completes the cycle, so that's how important the colonization is from a biological standpoint.

We do a lot of management at Moomomi, and it also helps with the colonization. This is a picture of a kiawe clump. Kiawe is a non-native plant to Hawaii. And you can see they're starting to remove it. Here, in this picture, they removed half of it. This picture it's totally removed. And the last picture is from 2007 where we consider it completely restored, and we call this "passive restoration," and this is the most economic way to do restoration where we're not actually planting plants, which cost a lot of money to do, we're actually just removing the threat, and because the coastal vegetation is so well intact, it actually can take it back over. So we're letting the natural vegetation tell us, you know, how they're going to take over. We're just removing the threat. And we this "passive restoration." Next series of slides show you another area that we've done this and how it's recovered. So again, this is -- we call this "passive restoration."

And since 1994 till now, we've removed approximately 10.1 acres of kiawe. The red indicates where the kiawe has been removed, and I would say about 90% of that area that we removed is now being passively restored by the native vegetation. We do some monitoring, some vegetation monitoring. There's this one place where we monitored in 2005, and there was just over 6% rare cover, that means of the area, 6% was covered by rare plants. You can see the red line. Over the years, the deer impact or the deer presence has gone up, and so in 2015, less than -- it's just .1% left rare cover, so we are feeling the impacts of the axis deer. This is an example of the deer. This is a deer dung with the kiawe seedling coming right from it, they eat the kiawe beans, and they deposit their -- the seed with fertilizer and the kiawe can start growing, so we know the deer also moves non-native vegetation around as well as trampling, eating the native grass, eating the native naupaka. One thing that we see at Moomomi is we're having a great loss of naupaka, it's shrub, it's one of the few shrubs that occur out there, and the deer have learned to come down every summer, when it gets hot and dry, to feed on the succulent leaves of the naupaka. And I'll show you a picture of another area where they did fence off, where there is no deer, and what the recovery looks like. And then the deer also, this is the whole of a deer hoof that went right through, into the nest, and killed the sheer water.

This fence is also designed to keep predators, predators meaning larger predators like cats and dogs. They're very very -- they prey on the nest and pretty much the birds are pretty defenseless against cats and dogs. Since the birds -- I believe it was in 2006, they killed over 50 birds in one sitting, and that was a big loss to the colonization, so that's why this fence is very important, and most of the animals that do the big damage are actually stray domestic dogs, although we do have a wild feral cat population that surrounds Moomomi that also do their fair of damage.

This is an example of the naupaka Kaena Point Nature Reserve. I happen to go there to see what recovery could look like. And as you can see, the naupaka there is just growing vigorously, and it provides cover for the birds as well as provide some base for the native coastal vegetation. This is a fence that keeps deer out of the Kalaupapa coastline, and you

can see the difference, one side is full of the - what we call the native akulikuli, whereas the other side nothing exist there, mainly non-native grasses.

I just wanted to give you an idea what the fence is going to look like. This is a cross-section of the fence. At every pole, we're going to have the PVC, and the reason for that is that when the cats climb up the pole, they can't get over the fence. This fence is actually - we call it "deer mesh," and the squares are really small so cats and dogs can't get through, and we have experience with it that it'll last, it's pretty tough stuff, although it doesn't look like it, it's pretty tough stuff. And the other thing about this fence is that we're trying to make it as least metal as possible because of the salt air, and it's going to be one of the first of its kind because if you ever went to Kaena, it's like the Great Wall of China, and it cost so much, we couldn't afford something like that, so we're going with this alternative that's much cheaper and much easier to repair. The fence will have a five feet corridor on each side. We need to keep -- we will maintain the vegetation so that cats can't climb the tree and jump over. And then we're going to make special gates for our -- access gates as well as one road gate. There's one place where the fence crosses the road. But the access gate, you can see, it's framed so that when you close the gate, it's just a little space between the frame and gate itself so that nothing can slide underneath or through the gate. And this is the road gate, okay.

So, like I say, when I first went to the Maui Planning Department to try to get a SMA, and I believe it was Michele there that helped me out a lot, and then it also kicked in the State Historic Preservation Division and U.S. Fish and Wildlife compliance processes, which we've done, and both of the approved. There's one condition that the had stated and that is that when we do the fence construction, that we have a full-time monitor, an archaeological monitor, in case we do run across either burials or arch sites. And the thing about the arch sites and burials, we -- the fence will actually protect those sites that are inside the fence because the deer will no longer trample them, and we do work very closely with the Molokai Burial -- we've been working for years with the Molokai Burial Council to know how to treat exposed bones or to reintern bones that come back from the museum to the area, so we're very sensitive about those issues, and, you know, we will follow all conditions that are put on us.

So I'm just asking the Molokai Planning Commission to please help us protect Moomomi. And just so you know, a lot of people do visit Moomomi, it's one of our areas that is relatively accessible and we've taken hundreds of Molokai people there. Thank you. Any questions?

Chair Jennings: Commissioners, do you have any questions for Mr. Misake? Diane?

Ms. Swenson: Yeah, Ed, how did you address Mac's concern about access for the fishermen?

Mr. Misaki: We're putting those gates. We're putting those gates, and we have four of them that we're going to put in.

Ms. Swenson: Okay.

Mr. Misaki: And we can put in more if they want to.

Ms. Swenson: Okay. Thanks.

Mr. Marshall Racine: You said the deer mesh is less expensive and more weather resistant than steel, but how does it hold up to dogs? I have several dogs and they destroy everything I -- every attempt to contain them and protect them. Is it we're looking at a high maintenance item here?

Mr. Misaki: I believe the when you enclose an animal with the fence, they'll try to get out, but if it's just a fence and they run along it, they won't try to get through it. That's my experience with fences.

Mr. Racine: Okay. You're fencing him off from his food --

Mr. Misaki: Hmm?

Mr. Racine: You're fencing him off from his food, or one of his food sources, and they will be persistent.

Mr. Misaki: Yeah.

Mr. Racine: I've been dealing with the dogs a lot of years so is there --

Mr. Misaki: If that becomes a problem, we'll address it.

Mr. Racine: But you have a budget for maintenance and --

Mr. Misaki: Yes.

Mr. Racine: A maintenance plan on this mesh?

Mr. Misaki: Yeah.

Mr. Racine: Okay.

Ms. Dudoit: So my question was just for -- just to get to know this better long-term. How long does a fence line like this last and what is your projected future maintenance program so that this is not just structures that are being built and going to be left there, you know, later on to --

Mr. Misaki: I'm thinking it'll be there for as long as I'm with TNC, and if something -- you know, if it breaks, we're going to repair it, and if it gets old, we're going to replace it.

Ms. Dudoit: So just educate me a little bit. So if, right now, that piece of property is under The Nature Conservancy management?

Mr. Misaki: Yes, and we own that property.

Ms. Dudoit: You own that property?

Mr. Misaki: Yes.

Ms. Dudoit: So any negotiation to sell that property, change over, trade over, as long as it's in the conservation district zoning, that fence line will be maintained and made sure that if you needed to remove it, the responsibility of all that going to fall on wherever the ownership transfers to?

Mr. Misaki: Yeah, from my knowledge, working with TNC over 30 years now, we've never bought a preserve area and then try to sell it.

Ms. Dudoit: Okay.

Mr. Misaki: We've always tried to maintain it as a Nature Conservancy preserve, and we've always raised funds to do our management on those areas.

Ms. Dudoit: Okay. Just some of the -- and this is very different, but one of the examples is we allow -- people come before us to put antennas up in different areas, you know, zoned for different agricultural stuff, and then later on the company goes out of business or, for some reason, ownership of the property changes over and then we have this big piece of metal sitting up in, you know, in places where it doesn't belong and not going to be used anymore, so that was just my question just pertaining to what ...(inaudible)...

Mr. Misaki: And if TNC ever decides to transfer a conservation area, they will do it to another conservation agency or group, yeah, you know.

Ms. Dudoit: Okay.

Mr. Misaki: But from my knowledge, I've never seen that happen in Hawaii yet.

Ms. Dudoit: Okay. Thank you.

Chair Jennings: Any other comments? Billy?

Mr. Billy Buchanan: How are you guys going to deal with Mac Poepoe's wishes?

Mr. Misake: Well, we've worked with Mac a long time and so it's going to mean that we're going to have to sit down and talk story with him, yeah.

Mr. Ron Davis: Okay. I just like to say congratulations. Taking it from a pair to over thousand is really, really amazing. And along with that, I'd to move that we approve the application for this project.

Chair Jennings: Is there anymore public testimony on this? Yes, sir? Would you come to the microphone, please, and state your name? Thank you.

Mr. Kanohowailuku Helm: Aloha. My name is Kanohowailuku Helm. I live in Hoolehua, Anahaki, right above the area of Moomomi. I frequent the place often to go fishing. I guess I missed the presentation, but I guess I had one question: Are you guys going block access for fishermen? I see Eddie shaking his head. So I'm glad about that because, like I said, I use the place often to go fishing. I've also got to see some of the beautiful work that The Nature Conservancy has done down there, bringing back the birds and plants. The birds and the plants was there before us so I think it's important that we honor that. So I think it's a wonderful thing. I do hope, on the other side of the coin, I do hope that the The Nature Conservancy can also support projects, such as the community based fishing areas down at Moomomi. I see opportunity for partnerships in the near future, and beyond that. So, yeah, I support. Mahalo.

Chair Jennings: Thank you very much for comment. Yes, sir? Please, state your name and your comment.

Mr. Butch Haas: Aloha. My name is Butch Haas. I'm the Executive Director for the Molokai Land Trust, and we are currently the contractors, long-term, working with The Nature Conservancy on the kiawe removal, trapping, and weed control down there. I can say from my long-term tenure of helping steward that area down there that the fence is absolutely essential for preserving the bio diversity, the integrity, and the health of the ecosystem. I was down there last night banding birds with the crew and was reminded of the degradation caused by the deer when I witnessed, you know, the mass amounts of beach naupaka that utterly been destroyed through over browsing so -- also, bird burrow collapses from trampling and hoofs. So my concern too was access restrictions and I

reviewed and talked with Ed, I am really confident that all of those issues are being taken into account and their willingness to amend their fence plan and add additional gates as necessary to allow for easy access down there, they are fully aware of the traditional use of the area and have been very supportive of it and even have the fishing pass system to promote and encourage that, so I'd like to ask the Commission to support this project. Thanks.

Chair Jennings: Thank you. Thank you for your comments. There is -- Mr. Misaki, thank you for your presentation. Is there any -- yes, sir? Yes, sir, you can. Please, state your name and proceed.

Mr. Rikki Cooke: My name is Rikki Cooke. I'm also a TNC board member and also president of Molokai Land Trust. I'm wanting to speak just in support of this fence. We, Molokai Land Trust, has two fences of this -- of this type, and also we have another at my home, we have like a 14-acre fence, and it's just amazing what a huge step keeping the deer out can be, especially the deer. So I absolutely love this Kaehu Point and this whole area. I go there often. I'm thrilled to see the improvement, and I'm very proud of the work that TNC and also MLT and that partnership that have been able to accomplish, so I support this project. Thank you.

Chair Jennings: Thank you, sir. Is there any further comments or questions that anyone --

Ms. Dudoit: Chair, just for the record. Just for those of us who might not have quite understood Kanoho's question and Uncle Mac's question, can you kind of simply define for us how you're addressing the access issue with the gates?

Mr. Misaki: So you see those pink boxes? Those are where we're proposing to put access gates, they're not going to be locked, people are going to be able to go through, and we can put more of those if they request it. We consulted with one of the few guys who still go along the cliff on the top left corner, he still walks in and goes along the cliff and then drops down, and we put the gate where he said would be good, and we know people access along the beach, the Kawalo Beach, and so we put two gates there, and then we just put one in the middle just in case we need in the middle, but we can always adjust those gates.

Chair Jennings: Okay, thank you, Mr. Misaki. Is there any further questions or comments? Commissioners, do any -- Ms. Lopez, any --

Mr. Yoshida: Staff recommendations.

Ms. Lopez: Okay, ready for the recommendation? So pursuant to the aforementioned, the department recommends that the Commission approve the SMA minor permit subject to

the following conditions, the conditions state from 1 through 5, which includes: The project shall be in accordance with the description submitted and representations made to the department that best management practices will be followed according to no. 2; no. 3, that a professional archaeological monitor shall be present during all ground disturbance activities; no. 4, the project shall be initiated by, I will cross that out 'cause that was mentioned for our March 31st, which our meeting got canceled, so it'll be for May 31, 2017, and shall be completed within two years of said initiation; and no. 5, that full compliance with all other applicable governmental requirement shall be rendered.

Ms. Dudoit: So I just had one question. Sybil, two years is like the standard --

Ms. Lopez: Yes.

Ms. Dudoit: Time? Okay.

Ms. Lopez: Yes.

Ms. Dudoit: He would have to come in, if he didn't make the two year, he could come in for an extension, fight?

Mr. Lopez: An extension administratively?

Mr. Yoshida: The Commission puts in the condition that the extension can be granted by the director, he can handle it administratively; if not, then they would have to come back to the Commission.

Ms. Dudoit: But, Clayton --

Mr. Yoshida: Like same as Kamehameha Schools did.

Ms. Dudoit: Right. But, Clayton, it doesn't, on the recommendation, it doesn't say that they can come for an extension. That's just the normal administrative process that they're allowed to --

Mr. Yoshida: Yes.

Ms. Dudoit: Okay. So, Chair, then my question would be, there was a former -- formal motion on the floor, but because it occurred before staff's recommendation, should we resubmit the motion with correction of the start date, yeah?

Chair Jennings: I believe yes. Yes. So is there another motion? Ron?

Mr. Davis: Yes. I'd like to restate my motion to include the recommendation and along with changing the date to May 31st instead of March 31st.

Chair Jennings: Is there a second to that motion? Bill?

Mr. Buchanan: I second that.

Chair Jennings: Any discussion by the Commission? If not, let's take a vote.

It has been moved by Commissioner Davis, seconded by Commissioner Buchanan, then unanimously

VOTED: to approve project and accept the department's recommendation as amended.

Chair Jennings: Motion carried.

Mr. Misaki: Thank you very much and I just wanted -- so I'm going to receive some kind of communication saying I got this? And then I also want to invite all of you, when the fence is done, to take a field trip out there if you want to, okay? Thank you very much.

Chair Jennings: Thank you, Mr. Misaki. Thank you very much. Okay, moving on to item G, is that where we are here, Ms. Lopez?

Mr. Yoshida read the following agenda item into the record:

G. CONCURRENCE WITH SPECIAL MANAGEMENT AREA EXEMPTIONS

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

MR. ARVO ANNUS submitting a after-the-fact Special Management Area Assessment (SMX) application for alteration on a single family dwelling located at 226 Kakalahale Street, Ranch Camp, TMK: 5-3-011: 118, Kaunakakai, Island of Molokai (SMX 2014\541) (Valuation: \$55,000) (S. Lopez) (Report previously circulated with the March 25, 2015 agenda. Commissioners: Please bring your copies.)

Alteration includes partially enclose existing carport, add a bathroom, interior remodel, add exterior trellis, and add two storage buildings in the backyard.

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

Ms. Lopez: So this matter arises from an application for an SMA assessment originally filed on November 3, 2014. The application was filed pursuant to Chapter 205A, Hawaii Revised Statutes, and Chapter 302, of the SMA rules of the Molokai Planning Commission, by Luigi Manera on behalf of Arvo Annus. The application is for an addition to the existing residence, two new storage structures, and interior renovations. This matter was set before the Commission on February 11, however, they wanted to see the full application, so I did a powerpoint presentation, just really fast.

So the location is up in Ranch Camp, in 226 Kakalahale Street, on the island of Molokai, and the plot is -- that is the plot plan on your right with the two structures, the new addition, and the existing house. So the scope of the project is single-family dwelling alteration and addition. The addition includes a two storage accessory structures. The first storage is about a thousand square feet; the second storage is about 96 square feet. And according to Maui County Code 16.26.106.2, work exempt from permit: A building permit shall not be required for the following: No. 1, One-story detached accessory buildings used for storage shed, play houses, and similar uses provided the floor area does not exceed 120 square feet.

Continued scope of project. Alteration includes interior and exterior improvements, enclosing existing carport, adding an exterior trellis, adding a bathroom. The valuation is \$55,000. The state land use district is urban, it's Molokai Community Plan single-family, and the county zoning is interim. Other would be the special management area and flood zone is flood zone X.

So we did an agency transmittal to the State Historic Preservation Division, and they determined that there are no historic properties that will be affected by the proposed project. In the event that historic resources, included human skeletal remains, structural remains, cultural deposits, or lava tubes are identified during construction activities, they would need to cease work immediately in the vicinity of the find, protect the find from disturbance, and contact the State Historic Preservation. And according to the Maui County Code, Section 12-302-13.1, Commission review of SMA exemption, exemption B: The Commission shall make a determination and notify the applicant in writing within 45 calendar days after the application is reviewed in its entirety by the Commission. Unless the applicant request additional time that the proposed action is either, no. 1, exempt from the requirements of this chapter because it is not a development, pursuant to Section

205A-22, HRS, as amended, or, no. 2, is not exempt pursuant to Section 205A-22; C. Applications determined not exempt shall be transmitted to the director with findings and conclusions, and the director shall process the application under Section 12-302-12F; and D. The Commission does not make a determination and notify the applicant in writing within 45 calendar days as provided in Subsection B, the proposed action shall be deemed exempt. And as my final HRS 205A-22 exemption class, per Section 205A-22, HRS, this proposed action is a development does not include the following and may be exempt from the SMA rules provided the use, activity, or operation does not have a cumulative impact or significant environmental or ecological effect on the SMA. So the exemption class would be: Repair, maintenance, or interior alterations to existing structures and to structural and non-structural improvements to existing single-family residence where otherwise permissible. Thank you.

Chair Jennings: Is there any applicant -- is the applicant here? Would you like to make a comment, sir?

Ms. Lopez: We have Robert Stephenson on behalf of Luigi Manera.

Mr. Robert Stephenson: Aloha, Commissioners, Chair Jennings. I appreciate the opportunity to be here today. We don't have anything further to add, Ms. Lopez has a done a very thorough job in her presentation, but I'm happy to answer any questions anyone may have.

Chair Jennings: Okay, thank you, Rob. Zhantell?

Ms. Dudoit: So I just had some questions, not necessarily for the project, but just for our information going forward. So the policies that you read said it allowed for one storage 100 square feet, new storage 100 square -- or - where is it - one-story detached accessory building, so it doesn't limit to how many of those one-story buildings as long as they're all under 120 square feet? Okay. And then my issue is always, just for future going forward, 'cause I love you and I just love what you've been doing so far as information, one of the things that I look for when we're looking at projects being built, and new projects especially, is the ground disturbance, so on this particular project and several that I see going forward, there's no determination of how much feet we digging into the ground or if ground was disturbed, especially in one area like Ranch Camp where we worry about additional runoff and wastewater and things like that with bathroom additions and stuff like that, 'cause I happen to know that we've been reviewing those things in our public works and other areas, so I just wanted to make sure that all of the EPA type -- because we're warranted to make sure that it has no significant adverse effects for environmental purposes, I just wanted to make sure, when we go forward, we can know if there was any ground disturbance, and if there's any issues, or maybe even comments from EPA and some sort of environmental agency that says to us there is no significant adverse effect. Thank you.

Ms. Lopez: Yes, and I know the trigger to come back was because it was an after-the-fact permit so I just want to heads-up to the Commission I do have some in the pool that's after-the-fact permits.

Chair Jennings: Mr. Stephenson?

Mr. Stephenson: And if I may just clarify to answer your question, Zhantell, the addition of a bathroom wouldn't trigger any additional wastewater flow, it's not the number of bathrooms, it would actually be the number of occupants and that's based on the bedrooms, so the addition of a bathroom wouldn't trigger any type of increase in environmental requirements.

Ms. Dudoit: What I was referring to specifically was the new storage sheds that were being built and how much ground disturbance was done while you're digging footing stones and those kinds of things, so I know that's pretty common and it's probably nothing, but because we do it for every single project and we ask for that kind of information, I think that especially when it's after-the-fact, that kind of information would be good for us and then we don't have to keep coming back.

Mr. Stephenson: Sure. I appreciate that. I was specifically addressing your comment when you mentioned bathrooms. Thank you.

Chair Jennings: Okay, is there any further comments from anyone? Is there any public testimony? Okay, seeing none, Ms. Lopez, your recommendation, please.

Ms. Lopez: So pursuant to the aforementioned, the department recommends that the Commission determines that the project is exempt from further requirements of the Commission's SMA rules and issue an SMA exemption. Thank you.

Chair Jennings: Thank you, Ms. Lopez. Thank you, Mr. Stephenson, for your comments. Any of the Commissioners have any questions or comments?

Ms. Dudoit: So just for the record, Sybil, so that we comfortable making a vote, as far as you're concerned, there's no environmental runoff issues, nothing, ground disturbance, digging over two feet that happened as the structure was being built?

Ms. Lopez: Correct.

Ms. Dudoit: Okay.

Chair Jennings: Okay, Commissioners, any -- Diane?

Ms. Swenson: I move to approve.

Chair Jennings: Okay. Is there a second? Okay.

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

VOTED: to approve the department's recommendation that the project is determined to be exempt.

Chair Jennings: It is approved. Thank you very much, Mr. Stephenson, Ms. Lopez. Thank you.

Mr. Stephenson: Thank you very much on behalf of Mr. Manera, and Mr. And Mrs. Annus. Thank you very much. We appreciate it.

Mr. Yoshida: Yes, Mr. Chair, I'm wondering if we're under item H.1., under Director's Report, or are we back to item E, under Unfinished Business? So we're under item H? Okay, this is a series of SMA assessments. Based on your SMA rules that we find that the proposed actions located within the special management area are not developments and, therefore, could be exempted from the SMA rules, and we're asking the Commission to waive their review.

Mr. Yoshida read the following agenda item into the record:

H. DIRECTOR'S REPORT

- 1. MR. WILLIAM SPENCE, Planning Director notifying the Commission pursuant to the provisions of Section 12-302-13.1(a) of the Molokai Planning Commission's Special Management Area Rules that the following proposed actions located within the special management area are not "developments" and therefore exempt from the requirements of the Molokai Planning Commission's Special Management Area Rules:**
 - a. MRS. DIANE SWENSON submitting a Special Management Area Assessment (SMX) application to replace existing wind damaged and clay tile roof with similar roof with new similar roof located at 8794 Kamehameha V Highway, TMK: 5-7-007: 005, Pukoo, Island of Molokai. (SMX 2015/0035) (SM3 2014/0007) (Valuation: \$24,000) (S. Lopez)**

The Commission shall acknowledge receipt of the application. The Commission shall vote to either waive its review of the application or review the assessment application at the next available meeting after receiving notice.

Mr. Yoshida: So we're asking the Commission to acknowledge receipt of the application and to waive their review.

Ms. Lopez: So this SMA application came before the Planning Department because it was an emergency permit. Due to high winds and weather, they were granted to do an emergency SMA permit to replace some part of the roofing and as part of the ordinance, they would have to complete an SMA application. Because there are no ground disturbance, it is outside the shoreline setback area, that is why I put that under as an exemption. So if you have any questions.

Chair Jennings: Zhanell, you have a question for Ms. Lopez?

Ms. Dudoit: No, but actually so, administratively, she has to go through each one or if we had a recommendation whether or not we wanted to waive or could we take it all on at once?

Chair Jennings: I say we take it all on at once.

Ms. Dudoit: Okay. Then I would like to -- is that okay or what?

Chair Jennings: Clayton?

Mr. Yoshida: Well, I think you would, it's up to the Commission, but I think we'll take them individually --

Ms. Dudoit: Okay.

Mr. Yoshida: If you want to waive each one. If you don't want to waive one, then, you know, that's the decision of the Commission.

Ms. Lopez: And just out of the respect of the applicants 'cause some of them did show up, so if you do have any questions, they're here in the audience, so as we go down the numbers. Okay, thank you.

Ms. Dudoit: So I'd like to move to waive review of item a.

Chair Jennings: Second? Any public testimony on item a.? Seeing none, we have a motion, there's a second.

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

VOTED: to waive review of item H.1.a.

(Assenting: B. Buchanan; R. Davis; Z. Dudoit; M. Racine; D. Rogers)

(Abstain: D. Swenson)

(Excused: L. Lasua; S. Tancayo)

Chair Jennings: Motion carried. Yes. Thank you, Ms. Swenson.

Mr. Yoshida read the following agenda item into the record:

- b. MR. SAMUEL CARIAGA submitting a Special Management Area Assessment (SMX) application for the addition of a 240 sq. ft. front deck and new bathroom to the existing main dwelling with interior renovations located at 374 Kikipua Street, TMK: 5-3-011: 078, Kaunakakai, Island of Molokai. (SMX 2015/0058) (Valuation: \$9,000) (S. Lopez)**

The Commission shall acknowledge receipt of the application. The Commission shall vote to either waive its review of the application or review the assessment application at the next available meeting after receiving notice.

Ms. Lopez: So, with this, there is a little ground disturbance so the agency that we look or would be the State Historic Preservation, and the State Historic Preservation's comments were that there are no historic properties affected.

Ms. Dudoit: So I going ask that -- move to remove this project simply because that's been our -- that's fair, it's been our way of dealing with anything that has to do with new structures and any ground disturbance to look at the drawings and pictures and those kind of things, so I would like to stay consistent in the Commission's role in applications like this and move that we get review of this project before we pass.

Ms. Lopez: And we do have the applicant, Robert, on behalf of Luigi, here if you want to ask him any questions.

Chair Jennings: Commissioners, is there any questions for the applicant?

Ms. Dudoit: Well, when the applicant is submitting, maybe this is for the department, when the applicant is submitting an application for what they're going to do, are they required to give any kind of information or -- so can that -- because we know that we always ask for that, can that just be added into our packets so that we can review it prior to coming on and discussing this? I mean it's not an additional step, right, they gotta do 'cause we --

Ms. Lopez: And it's less than two feet of ground disturbance ...(inaudible)... post and pier.

Mr. Yoshida: I guess -- sorry, I guess this is part of the streamlining efforts in the special management area rule amendments that the Commission considered about a year ago, and, basically, it calls for the department to present a detailed description if the Commission doesn't want to waive, like it did with the previous matter, that Arvo Annus, then they can decide not to waive and we can bring it with the full-blown applications, and the plans, and everything.

Chair Jennings: Rob, you have -- make a statement?

Mr. Stephenson: Thank you. Commissioner Swenson.

Ms. Swenson: No, I -- can you describe to us what the ground disturbance is going to be?

Mr. Stephenson: Yes. As we submit our application with the drawings, it indicates on the drawing detail and the footing detail that, and you can see, that it shows that there'll be less than 24 inches of ground disturbance, and we're very fortunate to have such a talented and expert and knowledgeable staff at the Maui County Planning Department, including Ms. Lopez, to review these items and we trust that if there are any issues that we haven't made clear, that they will come back to us and make them -- and ask for that, so we have provided that ground disturbance information on the plans.

Ms. Swenson: But are you digging footings or you're just using concrete blocks?

Mr. Stephenson: They're concrete block footings.

Ms. Swenson: Then you're not -- you're not digging. In that case, I would approve it. I don't know. I mean if they're just setting blocks on the ground, I don't see anything wrong with that.

Ms. Dudoit: So I guess that's what I was getting at, Clayton. If we can just have that stuff when you know that there's going to be any kind of a new construction or whatever, is that just possible so we don't have to go through all of this stuff?

Mr. Doug Rogers: Yeah, it's precast blocks. They're only going down like 8 inches, maybe 12 at the most. And sewer hookup, it should be above-ground underneath the house.

Ms. Dudoit: And, you know, I know this seems petty to some people, but there are other issues, yeah. This Commission is warranted to make sure that the quality of life too for the people in surrounding areas, like in Ranch Camp where it's really crowded, we need to see what's going on. I mean we allow them to do this just by talking about it, we don't see the depth, so we don't know if it's impairing somebody's vision or view, they're not required to go tell the members around their subdivision that they going do these improvements, like other big projects, so we're really the last line of defense. So I just want to make sure that if it's not that hard and the applicant is already submitting pictures and stuff like that, and, you know, and just whatever can help, it might just be easier going forward in the future to just produce that one time, especially for projects that you know, for me, always going come up when get any kind of new construction, ground digging, whether it's 24 inches or not.

Ms. Swenson: We have the picture on this one, and I move to approve it.

Chair Jennings: Is there a second to Ms. Swenson's motion?

Ms. Dudoit: Actually, I made a motion.

Chair Jennings: Oh, I'm sorry.

Ms. Dudoit: So we would have to vote on my motion and then you guys can deny it, but I've put a motion on the floor to want to review, to not waive the review, so you guys can vote it down if you want, but I think the motion is already on the floor, yeah, Suzie?

Chair Jennings: I'm sorry.

Ms. Dudoit: There was no second? Okay.

Chair Jennings: Okay. Clayton?

Mr. Yoshida: Well, I guess first, is there any public testimony? If not, then was there a second to motion? No? So the motion was to waive?

Chair Jennings: Zhantell's motion --

Mr. Davis: Was to review.

Mr. Yoshida: Review. Okay. So was there a second, a second to --

Mr. Davis: No one -- no one second that. That motion died.

Mr. Yoshida: Motion died.

Mr. Davis: And then ask Diane to restate her motion.

Mr. Yoshida: Okay, so there's another motion?

Ms. Swenson: I made a motion approve but it hasn't been seconded either.

Chair Jennings: So, Doug, did you --

Mr. Davis: No, I don't think anybody seconded her motion.

Chair Jennings: Oh, okay. Okay.

Ms. Dudoit: ...(inaudible - not speaking into the microphone)...

Chair Jennings: The first motion by Zhantell was not seconded, so that motion died. Now, Ms. Swenson?

Ms. Swenson: I move to approve the application.

Chair Jennings: Is there a -- okay, there's a motion that Diane made, and second by Mr. Rogers.

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

VOTED: to waive its review of the application.

(Assenting: B. Buchanan; R. Davis; M. Racine; D. Rogers; D. Swenson)

(Dissenting: Z. Dudoit)

(Excused: L. Lasua; S. Tancayo)

Chair Jennings: One opposed. So have -- the motion is carried.

Mr. Stephenson: Thank you, Commissioners, on behalf of Mr. Cariage and his family, and also Luigi Manera. We appreciate your time. Thank you.

Mr. Yoshida read the following agenda item into the record:

- c. **MRS. CLARICE OLAYVAR submitting a Special Management Area Assessment (SMX) application to repair existing roof with new similar roof and addition of a 475 sq. ft. new carport located at 0 Kamehameha V Highway, TMK: 5-4-001: 042, Kaunakakai, Island of Molokai. (SMX 2015/0037) (Valuation: \$45,000) (S. Lopez)**

The Commission shall acknowledge receipt of the application. The Commission shall vote to either waive its review of the application or review the assessment application at the next available meeting after receiving notice

Ms. Lopez: Thank you. So Mrs. Olayvar's application is to repair existing roof. There will no ground disturbance. It's right on a concrete platform. And it's due because of the termites, and so she needs to repair the roof in order for her car to get into the garage, so that's basically what it is. The only thing that I questioned was the shoreline setback. I did a visit, a site visit to determine the shoreline setback area and it is not in the shoreline setback. The calculations was made through the lot depth calculation. And we have Rob, on behalf of the applicant, here if you have any questions.

Chair Jennings: Commissioners, are there any questions?

Ms. Dudoit: I just had one, just to educate myself. Sybil, when we get specific wording in here that says, "repair roof with new similar roof and addition," what -- so it doesn't matter what type, for our purpose, it doesn't matter what type of roof they using or it does? I mean how come it's or similar?

Ms. Lopez: Because part of the exemption class would be it's a non-structure and structural change, replacing exactly the same, that's what existing is.

Ms. Dudoit: Okay.

Ms. Lopez: So if the materials were to change, then I would let you know what type of materials that they're using away from what the existing has already been.

Ms. Dudoit: So when we waive one process like this, and I guess I should have asked you on the first one, when we waive a process like this, we really don't know, and that would be the reason I guess I was asking about like EPA comments or environmental or different types of agency comments that had to do with those types of materials 'cause I just looking at several of them says, "or similar," but we wouldn't know that just based on this before we're asked to approve ...(inaudible)..

Ms. Lopez: Yes, so I can -- do you want it to be included as an insert?

Ms. Dudoit: I don't know. I guess I just was trying to ask because I noticed that -- and that's something new that I've not seen too much before where it says, "and similar," so -- but your department, if we waive those things for that reason, the department would ensure that the environmental codes and process, that's something that you --

Ms. Lopez: Yes.

Ms. Dudoit: We just wouldn't.

Ms. Lopez: Yes. So the waive to review is allowing me to -- allowing the department, excuse me, to administratively approve it based on the review that you undertook with the applicant.

Ms. Dudoit: Okay.

Ms. Lopez: Yes.

Ms. Dudoit: Thanks.

Mr. Racine: Zhantell opened an issue or readdressed an issue that we brought to the department last year that things as simple as replacing the roof or remodeling a bathroom, you know, we don't necessarily want to review that, go through the tedium, let the department handle that, but is there a line because this is repairing the roof and adding a 450 square-foot carport? Did we establish criteria saying where we waive review and where -- because if we waive, then it's postponed until we get the package, and the applicant's waiting another month. So did we give -- I'm ...(inaudible)... so I'm trying to remember if we gave specific guidelines as to what we wanted to see or what we wanted to have you review and us to just agree to waive on it.

Ms. Lopez: The guidelines are in Chapter 302, in the Molokai Planning Commission SMA, and what it is if the department doesn't deem it could fall under these exemption classes, it moves into the minor permit, like how you seen Mr. Misaki's, because at first he wanted it as an exemption because the state exempted him, but the county has different regulations, so under the county rules, because the condition from the State Historic Preservation was to have an archaeological monitor onsite, it was deemed from exemption as a minor permit; that is why, you know, he presented to you in such a way. So that would be difference between a minor and an exemption. So if they don't meet the exemption classes, it would go towards as a minor permit with conditions.

And as far as the 475 square feet new carport, it's already on the existing concrete platform so that's why there's no ground disturbance. It would just replace what fell down.

Chair Jennings: Mr. Stephenson?

Mr. Stephenson: Thank you. Thank you, Chair. Yeah, just to address a question that was raised earlier about the materials and any EPA requirements or environmental requirements, the reason that we replaced with similar is so we fit under the exemption class, and also so that we maintain the same visual and aesthetic character of the home, and any type of addition, we would also want to use those similar type materials, and all materials that we use, we make sure that they're compliant with all EPA standards, all local, state, and county environmental building code standards, so those EPA requirements will be and always have been met when we use similar and like materials. Thank you.

Chair Jennings: Thank you. Thank you, Rob. Is there any other questions? Any public questions or statements they'd like to make? Okay, seeing none, then your recommendation then, Ms. Lopez?

Ms. Lopez: To waive review.

Chair Jennings: Okay, Ms. Lopez's recommendation is to waive. Is there a motion? There's a motion by Mr. Rogers to waive this applicant?

Mr. Rogers: Yeah, I motion to waive.

Chair Jennings: Is there a second to -- there's a second by Ron. All those in favor?

Ms. Dudoit: Chair?

Chair Jennings: Yes?

Ms. Dudoit: No, just discussion real fast so I can put something on the record.

Chair Jennings: Okay.

Ms. Dudoit: Okay. So I just wanted, for the record, state that some of my reservations has nothing to do with individual projects, it has to do with the consistency by which we do our job, and so when we are doing exemptions, or now we're asked, because of the previous Planning Commission's desire to see every single application that comes through, we're -- we're asked to look at it and make sure that it doesn't have very specific -- that we can ensure, as a Commission, that specific things are going to be followed, so even whether we waive it or we approve it, we still held to that responsibility. So I just wanted to state,

for the record, that when we're looking at individual project, it's not as simple as no ground disturbance, the roof going be the same, the color going be the same. It's a heavy responsibility of ensuring that the quality of life for the surrounding people in the area, environmental criteria, cultural criteria, and all those things are done, and it's all good and fine that the department will do it, I trust that they do a great job, but just -- I just would like to make sure that people understand where I come from, and the Commission should come from, is to never forget that that's one heavy responsibility, and it's not as simple as seeing one project as \$9,000 versus 40,000, so that's just my statement. Thank you.

Chair Jennings: Thank you, Zhantell. There's a motion and a second.

It has been moved by Commissioner Rogers, seconded by Commissioner Davis, then unanimously

VOTED: to waive its review of the application.

Chair Jennings: Motion carried. Thank you.

Mr. Yoshida read the following agenda item into the record:

- d. **MR. VERNON PUAA submitting a Special Management Area Assessment (SMX) application for the addition of a 800 sq. ft. carport located at 460 Ala Malama Avenue, TMK: 5-3-011: 089, Kaunakakai, Island of Molokai. (SMX 2015/0045) (Valuation: \$10,000) (S. Lopez)**

The Commission shall acknowledge receipt of the application. The Commission shall vote to either waive its review of the application or review the assessment application at the next available meeting after receiving notice.

Ms. Lopez: Thank you, Commission. I have the applicant in the room if there's any question that you want to ask the applicant, but it's basically another exemption for an SMA application with an addition of an 800 square-foot carport located on the top side of Ala Malama on Ranch Camp, so the -- there's no ground disturbance, it's going to be made on concrete platform already there, however, I did submit to the State Historic Preservation an agency transmittal, which they said that there are no historic properties that will be affected by the proposed project.

Chair Jennings: Commissioners, is there anyone that has a question?

Ms. Dudoit: No, but I going move to waive this, and the reason -- so let's just -- I going move to waive and then we can -- I can make my statement on the discussion.

Chair Jennings: Sybil? Okay. Is there a motion?

Ms. Dudoit: So I just wanted to make clear for the record that the reason that I would waive this is because, if I not mistaken, the applicants live on Department of Hawaiian Home Lands, right? So, technically, under the Department of Hawaiian Home Lands guidelines, they really don't need to apply for an application to do any of this. This is completely voluntary, and I think it goes against the department's ruling and all of that, this is purely a voluntary effort on their part 'cause the Department of Hawaiian Home Lands does not restrict them from putting up any kind of structure so -- and when they do go before that, I know that the department has very specific criteria by which they have to apply for, so I'm very satisfied that those things going be met as far as environmental and cultural issues. Thank you.

Chair Jennings: Sybil?

Ms. Lopez: Point to clarification. This is the house up Ranch Camp. Yeah, that's his house.

Ms. Dudoit: Yeah, sorry. I should have asked that then, I guess. On the top part of Ala Malama? Okay. So, sorry, one more time for the record, Sybil, they building 'em on one existing slab?

Ms. Lopez: Correct.

Ms. Dudoit: Okay.

Chair Jennings: So question? Diane.

Ms. Swenson: Well, no, I mean 800 square feet is like a 4-car garage so I mean is there room on the lot to do that?

Ms. Dudoit: And you know what? I'm sorry. I going retract my motion.

Chair Jennings: Okay.

Ms. Dudoit: 'Cause I read the address wrong. I should have asked first. Sorry. My mistake.

Chair Jennings: Okay.

Ms. Dudoit: I'm going to retract my motion.

Chair Jennings: The motion has been retracted. Zhantell's motion -- excuse me?

Ms. Dudoit: ...(inaudible - not speaking into the microphone)...

Chair Jennings: Yes. Yes. Okay. Marshall? Go ahead, Ms. Lopez.

Ms. Lopez: I just want to make mention that these are local families that this will be their first time actually coming to do or try to do an SMA application, so with that fact that they actually made the effort to come in and to see what type of permits that they needed and actually go through the whole application process, I mean that's what we want to proactively, as a department, to go out there and help these local families to get the necessary permits and go through the process that need to here on the island of Molokai.

Chair Jennings: Okay.

Mr. Racine: And this is exactly why I supported the effort to streamline our process last year so, yeah. So I move that we waive review of this application.

Ms. Dudoit: I second. Did you say review?

Chair Jennings: Yes.

Ms. Dudoit: Yes. I second.

Chair Jennings: There's a motion and seconded to waive -- excuse me. Diane?

Ms. Swenson: ...(inaudible - not speaking into the microphone)...

Ms. Dudoit: He said he wants to review, right?

Mr. Racine: No, no ...(inaudible - not speaking into the microphone)...

Ms. Dudoit: Oh. Okay. Sorry. Then I take back my second again. Pay attention.

Chair Jennings: Okay, there's a motion by Marshall and a second by Ms. Smith -- Ms. Swenson, gee, I gotta pay attention. It's been a long time since we've all been together so I guess we have to start making a little paying attention. Okay, there's a motion, and it's been seconded.

It has been moved by Commissioner Racine, seconded by Commissioner Swenson, then

VOTED: to waive its review of the application.

(Assenting: B. Buchanan; R. Davis; M. Racine; D. Rogers; D. Swenson)

(Dissenting: Z. Dudoit)

(Excused: L. Lasua; S. Tancayo)

Chair Jennings: Motion carried. Thank you.

Ms. Lopez: Thank you.

Mr. Yoshida read the following agenda item into the record:

- e. MRS. JERSULA MANABA, on behalf of MR. ROY KATSUDA, Executive Director of HALE MAHAOLU, submitting a Special Management Area Assessment for the roof installation of a 194 module 49.47 kW PV system that no ground altering activity located at 270 Kolapa Place, TMK: 5-3-002: 168, Kaunakakai, Island of Molokai. (SMX 2015/0107) (Valuation: \$335,000) (S. Lopez)**

The Commission shall acknowledge receipt of the application. The Commission shall vote to either waive its review of the application or review the assessment application at the next available meeting after receiving notice.

Ms. Lopez: So the actual applicant for this would be Roy Katsuda, but on behalf of Roy Katsuda, we have Jersula Manada here in the area if you have any questions for the applicant, she's right here to assist you. It's a solar PV installation, basically, it's all roofing. I do have the solar plans if you need to look at it. But I would want to recommend that we waive the review.

Ms. Dudoit: Jersula, the PV units though, they dig for the lines to connect or for -- you have some sort of underground digging going on, right, conduit pipes and things like that, or where is that running, on top of your building?

Ms. Jersula Manaba: Yes.

Ms. Dudoit: Along your building above ground?

Ms. Manaba: It's on top of the senior center.

Ms. Dudoit: Even the conduit pipes that run your wires from one -- so in some PV projects that we've done, they had to dig underneath in order to lay the conduit pipes, so is your sitting above the ground or underneath the ground?

Ms. Manaba: Ours is sitting above the ground.

Ms. Dudoit: Above the ground.

Ms. Manaba: Correct.

Ms. Dudoit: Okay. Thank you.

Chair Jennings: Could you state your name, please?

Ms. Manaba: Jersula Manaba, Hale Mahaolu.

Chair Jennings: Okay, Jersula, thank you. Is there any questions? Public? Mr. Rogers?

Mr. Rogers: Yeah, that's a lot of panels. Is that for Home Pumehana?

Ms. Manaba: It's for the senior center.

Mr. Rogers: Yeah. That answers my question.

Ms. Dudoit: So this may not be relevant, but maybe -- so remember when we did Kaluakoi and they had that big issue about glare and traffic and stuff like that? I mean, Mike, is that an issue? 'Cause I don't want to just bypass this because it's a great idea and --

Chair Jennings: No, no. I think that the issues has -- was that the people that sold the solar to Ke Nani Kai stated that it wouldn't be an issue, but now we have taken those panels off and because it wasn't what the solar people said it was, and I'm sorry, so I think if, Ms. Lopez, if you feel, you know, what is your recommendation on this?

Ms. Lopez: So I visited the site and it is far from the roadway of Kolapa Place, so you would have to drive in, so it kind of deflects the traffic going -- coming out, in and out, so it's more inwards on the property.

Chair Jennings: Okay. Are there -- Jersula, do you have any comment? Is there any questions for miss -- for the applicant? Okay. I will accept a motion on this. Ms. Swenson?

Ms. Swenson: Okay, I'll move to waive the review.

Chair Jennings: Okay. Seconded. The motion has been that we waive the review, it's been seconded. Any further questions?

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

VOTED: to waive its review of the application.

Chair Jennings: Motion carried.

Ms. Manaba: Thank you.

Chair Jennings: Thank you.

Ms. Lopez: Thank you.

Chair Jennings: Now we go back to the beginning.

Mr. Yoshida: Thank you, Mr. Chairman. We're back on item E., unless the Commission wants to take a short break?

Chair Jennings: No.

Mr. Yoshida read the following agenda item into the record:

E. UNFINISHED BUSINESS

- 1. Resolution No. 14-114 referred by Councilmember Don Guzman of the Maui County Council to the Maui, Molokai and Lana`i Planning Commissions for an AMENDMENT TO CHAPTER 19.30A - Agricultural District, of the Maui County Code, to Allow for the Creation of Agricultural Conservation Lots. (J. Summers) (Public hearing was conducted on February 11, 2015. The matter was deferred.) (Commissioners: Please bring your documents.)**

The proposed amendment is intended to provide flexibility in site planning and design to:

- 1) Promote land conservation;**

- 2) **Preserve agricultural land resources; and**
- 3) **Maintain district character consistent with the General Plan.**

The amendment proposes provisions for the creation of agricultural conservation lots that will be dedicated for agricultural use, in perpetuity, through a conservation easement or a unilateral agreement.

The proposed amendment to Maui County Code (MCC) Section 19.30A.030, District Standards, provides for the ability to subdivide agriculturally zoned land into lots with a minimum lot area of one (1) acre provided that:

1. **For parcels with a lot area of at least 92 acres, at least 70% of the lot area must be placed in an agricultural conservation lot. For parcels with a lot area of less than 92 acres, at least 60% of the lot area shall be placed in an agricultural conservation lot.**
2. **The design of the subdivision incorporates best management practices that support the purpose and intent of the Agricultural District.**
3. **Non-substantive grammatical improvements are also proposed.**

The Commission may take action on this request.

Mr. Yoshida: So we have back with us our division head of our Plan Implementation branch, Mr. John Summers.

Mr. John Summers: Thank you very much, Mr. Chairman, Members of the Commission. As Clayton noted, John Summers, with the Plan Implementation Division, making a return to Molokai to discuss Resolution 14-114. This is a resolution that came through the Economic Development Committee, with the Council, and so what happens in that situation is, and in this particular case, is we had a council member who was quite interested in this topic, and he and his staff worked to develop a draft ordinance. That ordinance then went from the council, through a resolution process, to the Planning Department. And when that happens, the department's charged, pursuant to section 8-8.4 of the charter, to process it and send it to the planning commissions for their consideration.

This Resolution 14-114 includes a bill for an ordinance to amend our ag zoning ordinance. The ag zoning ordinance is 19.30A, in Maui County Code, and, basically, what the amendment does is it adds a new section, subsection in the code that allows folks to cluster their ag lots to parcel sizes as small as one acre, okay. When that occurs, there are a whole bunch of requirements that go along with that.

We have held public hearings with the Maui commission and the Lanai commission. On Maui, on February 10, the commission essentially asked us to make a list of their issues and comments and forward that to the council for their consideration. The Lanai commission, we met with Lanai on February 18, and the Lanai commission voted to support the resolution with an exemption for Lanai, so Lanai would not be included in the bill. They also asked us to list their issues and include that in our staff report. We did have a meeting, we had a public hearing here, on February 11, and the Members will probably recall, I gave a presentation on the proposed resolution, we walked through -- we had a really good discussion, lots of good questions, thoughtful questions and comments, and following our discussion, the Commission decided that they needed more time, so they asked to defer this item. If you'll recall later on that agenda, on that day, during the setting of the agenda for the next meeting, the Commission felt that it was important to get their comments up to the council, so just before the meeting was adjourned, the Commission asked the department to make a list of this Commission's comments and issues to include in the staff report to send up to council. So the department did make a list of issues and concerns, using the draft minutes from the Commission, and we provided the members with that list in a March 16th memo, that's here, so I'd like to discuss that with the Commission today.

And, essentially, in a legislative process like this, once a resolution comes down from the council, the department is essentially -- we just essentially provide our advice and recommendations, and then collect input from the commissions and the public. There's -- usually it'll be referred to a committee at council, and there will be additional meetings at the council level before the full council hears the proposed bill.

I did provide a couple of handouts. There's a very short list of slides here, and this is from the presentation on February 11th, so I just pulled out a few of the most important slides so that we could have a very quick refresher of the bill. So if the Commission's okay, I'd like to walk through that with the members? This is only five slides. I really pared it back a little bit. If we can go to the second slide, actually, page 2, okay, the purpose of this bill is really depicted in a simple way in the illustrations at the bottom of this slide, so the purpose is to allow the creation of an agricultural conservation lot, okay, to add a provision, a new subsection in 19.30A, to allow people to create an agricultural lot, conservation lot, and to allow subdivisions in the ag district utilizing minimum lot sizes as small as an acre, okay, provided they do this ag conservation lot. And really, the intent, the overall intent is to preserve ag land that by clustering the permitted lots in the ag district, we're able to save

larger acreage or more acreage as important ag land in the ag district, and that's illustrated at the bottom of this slide. If you look at the left, a typical conceptual image of an agricultural parcel. In the middle image, we have what we would consider the conventional subdivision utilizing our existing ag zoning ordinance, which prescribes specific lots sizes. So, in that ordinance, we typically see a subdivision, like what you have here in the middle image, with all the lots being roughly the same size for the smaller lot subdivisions. There's very little room for innovative site planning in that example. With the proposal that's included in the resolution, the intent is to allow what we have here in the right, okay, which is to cluster the lots, take the subdivision potential, do smaller lots, and you're allowed to do that provided you set aside and preserve in perpetuity this land that would be in the ag conservation lot.

Okay, if you go to the next slide, slide 3, where it says, "How does the proposed bill work?" It's really pretty straightforward, okay, not a big change in terms of how we administer the existing code. The applicant comes in, we have what's called "a sliding scale," and I discussed -- I talked to the Commission a great deal, at the previous meeting, about how the sliding scale works, but essentially you use that to determine how many lots you can subdivide a piece of ag land into, okay. So we determined the maximum number of lots that could be subdivided, and if somebody wants to do an -- if somebody wants to do a cluster subdivision, okay, then we inform them that if their parcel is 92 acres or more, they have to create, concurrent with that, prior to or concurrent with that, this ag conservation lot, okay. If it's a smaller parcel, something that's less than 92 acres, then 60% of the parcel would have to be set aside for ...(inaudible)...

I'd like to note that what's really important about this is, one, there's no additional ag subdivision potential provided pursuant to what's been proposed, so if you get 20 lots under the existing law, you couldn't get anymore than 20 lots under the proposed law, okay, or the proposed change. The second issue is that it's voluntary. So if it works for a property owner, that's great. If a property owner prefers going under the existing system, that would be their choice. It's also important to note that there's a provision in the proposal that came down from the council to require some sort of a design review to make sure, for instance, that, in the subdivision, there's access to the ag conservation lot, or that there's a consideration of what the best ag lands are because if we're going to protect the ag land, we want to make sure the best land is protected, right?

Okay, next slide, slide 4. Slide 4 is a pretty good example of some of what we've seen more so recently on the island of Maui, although we could certainly see it here as well. This is a thousand-acre parcel, okay, that's developed to full build-out under the existing law, which would allow 46 lots, okay. So under the existing law, you could have up to 14 two-acre lots, okay, and this is on slide 4, and then the rest of the lots would have to be 15, 25, or 40-acre lots. Typically with that, if people are subdividing down to the smaller lot sizes that are permitted under the existing bill, you would have a larger remainder lot, and in this

case, it's about 267 acres, but a thousand acres, 46 lots, this is the land use pattern you might see, okay.

On slide 5, next to it, we have an example of how the same subdivision might look with this clustering concept, so 46 lots, all done, in this case, at 2 acres, and the remainder lot is 910 acres. So this can be an important -- this tool is used in other jurisdictions, when it's done correctly, it can provide benefit in terms of good planning and protecting important ag lands, but it's critical that it be done correctly, okay.

If we go to the next slide, slide 6, that would be the last one here, our department supports the concept of cluster subdivision design; in fact, it's a recommendation -- currently, a recommendation in some of our recently adopted plans to amend our zoning ordinance to do this, but we do have some concerns with the draft that came down in the Resolution 14-114, and I illuminated some of that in the staff report. They've added a second sliding scale, we think that's fairly complicated. We feel that there needs to be some additional site plan criteria that some of the criteria need to be more explicit if we're going to do this, and conservation easements are really difficult to enforce. We think it's much easier for the county to enforce protection of the ag conservation lot if it's done through a unilateral agreement because the unilateral agreement is going to prevent any resubdivision or change in zoning or consolidation/resubdivision of that ag conservation lot, and it also restricts it to the permitted uses in the ag bill, so no special uses on this ag conservation lot. So it's important that we be able to administer that provision.

If the members look at this, the members should have this March 16th memo, at the Commission's request on February 11, if you turn to the second page, we went through the minutes and listed the issues that were identified by the Commission during its meeting, and there were seven of them. The grammar on this is a little funky, so we took it and I added, if you look at the next page, we had a mixture on Exhibit 1 of questions and statements, so we rephrased it so, grammatically, it was easier for people to read and understand, it's the same content, it's just worded in a way that's more consistent. So if we look at the next page, page 3 of this memo, you'll see the list of seven items. This is the list that it's our understanding that the committee had these types of questions and issues, so today we have an opportunity to look at this list and the Commission can see if -- did we capture everything? Is there anything else that the committee would like to add to this list before we send it out?

Ms. Swenson: You know, I have a question. This, to me, is so insane because, okay, we have a 13-acre parcel of land that we've been trying to divide into 3 parcels for over 3 years, Maui County is not giving any new water meters, they're not allowing any subdivisions, so I don't even understand why this paper exercise. It's a joke. I mean why are you even doing this if there's -- Maui County is not going to allow any subdivisions, there's no meters, you can't get a water meter, you can't do a subdivision, so I don't even

understand why you're taking up all the time to do this exercise.

Mr. Summers: Yeah, that's an excellent point. There are many areas in the county where subdivisions are constrained due to lack of infrastructure, including water. That being said, there are areas in the county where we are seeing and we have seen, what we have here on slide 4 and 5 -- well, slide 4, this is not an unusual situation. We've seen a fair amount of this in certain areas of the county, so this fragmentation, we typically call this "fragmentation of ag land," this fragmentation was a concern of the council members who drafted this and they have proposed this bill as a result.

Ms. Swenson: How many -- exactly how many have there been in the last five years?

Mr. Summers: Well, it's an ongoing ...(inaudible)... I know there's been some big proposals. I mean West Maui, larger areas of West Maui have been or are in the process of being subdivided in this land use pattern, and we've seen a lot of it Upcountry, although we have water issues up there right now, seen very little of it on Lanai, but the Lanai commission was quite concern because they had a very large ag parcel and so the reason they exempted themselves from it is they were concerned that the subdivision potential on that very, very large parcel could be moved around without review so -- we haven't seen much of this on Lanai, this kind of subdivision, we've seen a lot of it on Maui, maybe a little less though here given some of the issues that you've brought up on Molokai.

Mr. Racine: I read the thing, and Diane put a fine coin on it - it's nonsense. Or what did she say, "craziness?" Insane. Two questions. One, what is the incentive? You have property owners who has potential to make more money off of larger lots, but you're going to cluster his subdivision and then retain ag land. It's voluntary. What incentive would the property owner have to follow this pattern? And then it says, "in perpetuity," and it's to be transferred from subsequent owners, inheritance, all the way down supposedly forever, but what stops that from being changed by another amendment to the code, the zoning codes that could come up at any subsequent administration who doesn't have the same concerns as the people authoring this? And it sounds like an awful lot of waste of time.

Mr. Summers: Yeah, you've hit on a number of very important issues here. Let me take the incentive part first, okay. What we've seen where the incentive is for property owners, okay, is these large lots, when they're doing a subdivision under the existing law, which requires any, for larger parcels, any subdivision beyond 14 lots, you have to do 15, 25, and 40-acre lots. Those are much larger lots. The infrastructure cost to develop those lots is very high and, in addition, topographically, some of those area, if you were going to take the thousand-acre, and develop the portion of that, the portion of the 46 lots, they can only do 14 two-acre lots, so everything between 14 and 46 is 15, 25, or 40-acre lots, if you have sloped land, if you have land that's sloped with gulches, and you've gotta bring infrastructure to those areas, very, very, very, very expensive. So that would be the

primary incentive for the property owner is to reduce the cost of subdivision. The second incentive would be more of a marketing incentive and in that some of the 25 and 40-acre lots we've heard are difficult to market or sell, so the market with the smaller lots, in many instances, will be more robust. So that would be the incentive. However, if the county is going to offer this relief from the minimum lots size to go down to one acre, the county and this proposal, okay, is saying at least, for parcels 92 acres or greater, 70% of the parcel has to be deed restricted in perpetuity for ag use, so that's no change in zoning's permitted, none of that. It's permanently protected with this deed restriction that runs with the property. So that's really the compelling public interest reason to do something like that.

Mr. Racine: Okay, and one last, it's something that's been nagging at the back of my mind and I hesitate to say it, but the zoning requirements on ag land was prevent these clusters of gentleman farmers one-acre lots with the banana tree and two chickens. Now you're creating that, and you got one farmer. If we're going to have agricultural land, then we need agricultural people, not gentleman farmers.

Mr. Summers: Okay, very, very good question. And similar issue, I think this was the biggest issue that was brought up at the Maui commission, that exact question; phrased a little differently. Now the county's going to allow these one-acre lots, isn't going to encourage more of these gentleman estates, and we aren't happy with that. So that was -- that was the major issue that was documented from the Maui Planning Commission, or one of the major issues. The tradeoff, 'cause we're trading off things, is that, yes, on a one-acre lot, the chance of that happening is higher, than say a 2-acre lot, or a 5-acre lot, or a 15-acre lot, okay. However, the chance, with this ag conservation lot, if we preserve 700 acres out of 1000 acres, and it's deed restricted for agriculture, no special uses are permitted, now that property starts to reflect its ag value, if we have proper restrictions on it. Now perhaps actual farmers can afford to acquire it in fee simple or long-term lease, which is a huge problem right now is getting farmers, who are in the business, who want to make their living farming, getting them onto the land in a way that's economical, so that would be the positive tradeoff of this is making a lot more agricultural land available at values that reflect the agricultural use as opposed to the residential use. On the other side, for those clustered lots, the risk of those being gentleman estates would be higher, logically, than what you see right now with two-acre lots.

Ms. Swenson: You know, I'm sorry. I just don't think this is appropriate for Molokai. For one thing, we've got several thousand-acre parcels on the East End of the island, and those parcels, they're beautiful, but to think that you could farm on mountain and have any sort of viable farming is pretty crazy. So what this would do Molokai is create this little hillbilly junction of one-acre lots all along the highway and I mean it's just -- and plus, all of the land around town is ag and it would -- that would leave us nothing for affordable housing, and I don't think that one size fits all for every piece of land, so I'm really opposed to this thing for Molokai.

Ms. Dudoit: So I just a question to be educated a little bit more on this issue. So the proposal is that this proposed bill to allow -- so the creation of this conservation lot terminology or policy or what have you would fall underneath the criteria of conventional subdivision -- I'm sorry, conservation subdivision, so it would -- the zoning would still be conservation ag?

Mr. Summers: Yeah, let me be clear about this, okay. The zoning would still be zoning, okay. The difference is that there would be a unilateral agreement, a binding agreement between the property owner and the county, which would limit the use of that property to ag in perpetuity, okay.

Ms. Dudoit: But isn't that what ag does already?

Mr. Summers: No. No. Because folks can come in and they can rezone to rural or urban, that's what happens today is for -- you could do all the ag subdivisions, all the lots allowed under the existing law, we're seeing this out in West Maui, where they went out and did all this subdivision potentially they could, and now they're taking some of the remainder lots, the bigger lots, and they're coming back to the county to try to urbanize, so this would prevent that.

Ms. Dudoit: It just seems to put a lot of restriction and burden on the landowner.

Mr. Summers: Well, it's a voluntary program so --

Ms. Dudoit: So we could volunteer that whether or not there was a specific wording of conservation lots, right? So I'm having a hard time understanding, if it's voluntary, then why would you need to put it in as a mandatory procedure or, you know, guideline in something that we already have.

Mr. Summers: Right.

Ms. Dudoit: It seems to me to be something that eventually would be mandatory; in which case then, you know, that's not fair to anybody.

Mr. Summers: Yeah. I mean some communities do that, but let me just tell you what's happening on the ground, okay. The reality under the existing situation is, and it's more so in certain areas on other islands, we haven't seen as much here, but somebody comes in, they have a thousand acres, they want to develop all the subdivision potential, okay, and this is all they can do is these 46 lots, some of them 15, 25, and 40-acre lots, so this is what they're doing. They doing this. There's no option for them to do what's on the right of that. There's no option in the code to do this right now, so they have to do -- they have to do this.

So what the proposal would do is say if you don't want to do this, we're going to allow you, voluntarily, to do this. But if you're going to -- if we're going to give you a break from that minimum lot size, we're going to make sure that a large portion of the parcel is permanently protected.

Mr. Racine: Permanent is no -- lasts no longer than a vote and a signature on the new bill and all we've done, instead of loophole, you've opened a wide door for these small lots, and high concentration in one area, then his large ag land now gets subdivided again, and this is -- this reeks.

Ms. Dudoit: I just think this is ridiculous for Molokai, it may be good for other areas in the county, but absolutely ridiculous for Molokai, so I mean I ready to vote and call for a motion. Okay, so I'd like to make a motion that - so let's see - approve the proposal bill with an exemption to exclude Molokai.

Mr. Racine: ...(inaudible - not speaking into the microphone)...

Ms. Dudoit: But I also think the people of Maui have a commission of their own that will take care of specific business for there's, just like I wouldn't want the Maui commission making one decision for our Molokai people. I think it would be just respectful and good for us to talk about our island and what we know best and then allow them to do the same.

Chair Jennings: Okay, there's a motion and a second on the floor. Is there any discussion? Do you want to discuss the motion? Okay. Then we'll have a vote.

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

VOTED: to approve the proposed resolution with an exemption to exclude Molokai.

Chair Jennings: Motion carried.

Mr. Summers: Thank you.

Chair Jennings: Thank you for your time, John. Thank you very much. Okay, Clayton?

- 2. Notification of the issuance of a Special Management Area (SMA) Emergency Permit in accordance with the provisions of Section 12-302-16 of the Molokai Planning Commission's Special Management Area Rules:**

February 26, 2015 letter approving written Special Management Area (SMA) Emergency Permit issued to MR. LUIGI MANERA on behalf of the MOLOKAI COMMUNITY HEALTH CENTER for repairs of an existing cast iron pipe and the addition of a lift station to prevent future failures of the system in area of approximately 20 ft. long by 2 ft. deep at 30 Oki Place, TMK: 5-3-006: 028, Kaunakakai, Island of Molokai. (SM3 2015/0005) (S. Lopez) (Letter distributed with March 25, 2015 agenda packet. Commissioners: Please bring your copies.)

Mr. Yoshida: Okay, we're under item 2., of the Director's Report. We did circulate a letter dated February 26, 2015, for your information, regarding the approval of a SMA emergency permit to the Molokai Community Health Center for repairs of existing cast iron pipe and the addition of a lift station to prevent future failures of the system in area of approximately 20 feet long by 2 feet deep at the old Pau Hana Inn site, 30 Oki Place, TMK: 5-3-006:028, Kaunakakai, Island of Molokai, just for notification purposes.

3. Molokai Community Plan Advisory Committee Meeting Schedule on Molokai Community Plan Update (schedule distributed with the April 8, 2015 agenda packet. Commissioners: Please bring your copies.)

Mr. Yoshida: Okay, we did circulate, again, the meeting schedule of the Molokai Community Plan Advisory Committee on the Molokai Community Plan Update as well as the agenda for their next meeting on April 30 regarding hazard mitigation and climate change adaption workshop, so this is a group that our Long Range Division is spearheading, I guess the chair of the CPAC is Steve Chaikin, the vice-chair is Kip Dunbar, and if you know people who are interested, would benefit from attending these meetings, and this is their meeting schedule. After the CPAC is finished with their work, the community plan update will come to this Commission for further work later this year. So are there any questions on that item?

Ms. Dudoit: Clayton, because -- so, first of all, we not having Corporation Counsel? I mean are they not coming anymore or what's the deal? How do we get our legal advice in a meeting? Okay, never mind. You can think about it. Okay, so, Clayton, I guess I was going to ask if it's appropriate to bring it up but since it's on the open -- on your Director's Report, so the water commercial building, I see it over here as an open project, which I don't remember reviewing, but I see them digging up in the middle of town well below two feet. They've dug up all -- so I'm wondering how one project like that, in the broad daylight, could go on without any kind of a review.

Chair Jennings: Ms. Lopez?

Ms. Lopez: Chair, on agenda January 14, 2015, it was under Director's Report as the first item, as item 1.a., to waive the review of the Mr. Stanley A. Wada, on behalf of Stanley A. Wade Trust, submitting a special management area assessment application for replacing concrete curb and gutter in Kaunakakai Country Town Business District for property located at 56 Ala Malama, SMX2014/0498, that was my project, but I do hear what you said 'cause I did see the work that was done. It was in response to having people walking and people getting hurt because of the concrete, so I noticed that too, Zhantell.

Chair Jennings: Ms. Lopez, could you tell me what that was again? I -- on here?

Ms. Lopez: It was under the agenda item for January 14, 2015, as F., Director's Report, 1.a.

Chair Jennings: Okay.

Ms. Lopez: So it was an applicant -- application from Luigi Manera, and the reason why they put in the SMA is because people were getting hurt and the concrete was --

Chair Jennings: All buss up.

Ms. Lopez: In terms, buss up.

Chair Jennings: Yeah. Okay, thank you.

Ms. Lopez: So --

Mr. Yoshida: Again, to answer Commissioner Dudoit's question, Corp. Counsel, you know, is available by -- on-call, but they had an important matter involving litigation with Maui County to handle, so they felt most of the items on today's agenda were relatively benign, we had dealt with the ag conservation district bill back in February, we had dealt with the Arvo Annus SMX back in February, the rest were just for the Commission to waive or not waive their review. You know, they do plan to be here at the next meeting on May 13, when we will deal with the Perell Ranch short-term rental home permit, I mean special use permit application on the west side, but there was a matter that needed attention from Richelle, but she was available, was on-call if there were legal questions that arose.

4. Agenda items for future meetings:

b. May 13, 2015 meeting

1) Rescheduled public hearing on the following application:

MR. JOHN SID PERELL requesting a State Land Use Commission Special Use Permit in order to operate the Perell Ranch Short-Term Rental Home in the State Agricultural District at 4812 Pohakuloa Road, TMK: 5-1-008: 034, Kaluakoi, Island of Molokai. (SUP2 2014/0010) (S. Lopez) (*Previously scheduled for the March 25, 2015 meeting.*)

5. **Pending Molokai Applications Reports generated by the Planning Department (Appendix A)** (*Circulated with the March 25, 2015 agenda. Commissioners: Please bring your copies.*)
6. **Closed Molokai Applications Reports generated by the Planning Department (Appendix B)** (*Circulated with the March 25, 2015 agenda. Commissioners: Please bring your copies.*)
7. **Pending Molokai Applications Report generated by the Planning Department (Appendix C)**
8. **Closed Molokai Applications Report generated by the Planning Department (Appendix D)**

Chair Jennings: So the next meeting is May the 13th, and are we still planning on being here or will -- excuse me. Clayton?

Mr. Yoshida: Yeah, my understanding is that the Department of Parks and Recreation is -- has a project to repair the roof at Mitchell Pauole, and so they're working on that, so we'll be here in the month of May, and in June, we're supposed to be back at Mitchell Pauole, and then they may have another project later in the summer, so we might be back here later in the summer.

Chair Jennings: Clayton, anything else? You want to go over --

Mr. Yoshida: I guess if there aren't any other questions on our -- our next meeting is May 13, and like I mentioned we do have the Perell Ranch state special use permit for their short-term rental home in -- at Kaluakoi, as well as several other SMA assessment applications, and then we did circulate our list of pending and closed Molokai applications for the past three scheduled meetings, and then the National Park Service is holding public informational meetings on the island of Molokai, Tuesday, May 5, at 1:00 and 6:00, at the Kalaniana'ole Hall, at Kalamaula, regarding their proposed Kalaupapa National Historic draft -- Park draft general management plan and environmental impact statement, so although not within the jurisdiction of Maui County, still on the same island, the National Park Service is handling these public informational meetings.

Chair Jennings: Thank you. Ms. Lopez?

Ms. Lopez: Chair, there are some flyers out there, this is from the Maui County Department of Water Supply, and with partnership with Hawaii Department of Agriculture, presented for environmental health, they have something going on on May 12 for farmers regarding integrated pest management workshop, so the flyer is there.

I. NEXT SCHEDULED MEETING DATE: MAY 13, 2015

J. ADJOURNMENT

There being no further business brought before the Commission, the meeting was adjourned at 2:13 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
Ron Davis
Zhantell Dudoit
Lawrence Lasua
Marshall Racine
Diane Swenson

Excused:

Sherry Tancayo

Others:

Clayton Yoshida, Planning Program Administrator, Current Division
John Summers, Planning Program Administrator, Plan Implementation Division
Sybil Lopez, Staff Planner, Molokai