

**MOLOKAI PLANNING COMMISSION
REGULAR MEETING
MAY 13, 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, May 13, 2015, at the Kualapuu Community Center, 1 Uwao Street, Kualapuu, Molokai.

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

Chair Michael Jennings: It's 12:00, and we're going to start the meeting, and I want to thank you all for coming, and first ,I'd like to say that we're going to, because of everything that we have here, we're going to limit your talks or your speeches to three minutes, please, and we'll try to get things through here quick and make sure that everyone has an opportunity.

B. PUBLIC TESTIMONY

C. APPROVAL OF THE MINUTES OF THE FEBRUARY 11, 2015 MEETING

Chair Jennings: Is there, second the agenda here, is there anyone here that will not be able to be here for the certain items that you want to discuss or talk about, if so, would you please step to the mike, state your name, and tell us -- tell the board what you want to talk about? Okay, seeing none, we'll go right on. Number -- section, excuse me, C., will be the approval of the minutes of the February 2nd -- excuse me, February 11th meeting. Do I hear a motion? Do I hear a second?

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

VOTED: to approve the minutes of the February 11, 2015 meeting.

Chair Jennings: Motion carried. Okay. Clayton?

Mr. Clayton Yoshida: Yeah, I guess before we start with item D., we would request that you amend your agenda, the Commission amend its agenda to add, under item E.1.5, this May 8, 2015 letter from Lori L. Buchanan for authorization to intervene, to be heard,

present evidence, and cross-examine any testimony adverse to her interest, which we just received a -- well, copies were distributed to the Commission today. So I guess you need to take vote on that.

Chair Jennings: Is there a motion to --

Ms. Zhantell Dudoit: I make a motion to amend.

Chair Jennings: Is there a second? Do I hear a second? Ron? Okay.

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

VOTED: to amend the agenda to include, under item E.1., the May 8, 2015 letter from Lori L. Buchanan, Re: Petition to Intervene.

Chair Jennings: Motion carried. Thank you.

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

D. PUBLIC HEARING (Action to be taken after Commission has acted on items E.1 and E.2)

- 1. 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) (public hearing was originally scheduled for the March 25, 2015 Molokai Planning Commission meeting but the meeting was canceled.)**

Mr. Yoshida: We note that after Sybil presents her report, we'll conduct the public hearing, and then we will move to item E.1., which is a petition to intervene from Patricia Crandall, on behalf of Patricia Crandall and Jack Brenton, on this state special use permit, noting that the applicant did file a memo in opposition to the petition to intervene and motion to reschedule public hearing, and then to item E.1.5, which is the May 8 letter from Lori Buchanan requesting intervention. Okay, so with that, I'll turn it over to the staff planner, Sybil Lopez, to present the department's report.

Ms. Sybil Lopez: Okay, good afternoon, Commission, Chair, and the public and the community, and Akaku. So I'm Sybil Lopez. I am the staff planner working on this project. I got reassigned prior to our staff planner, Benjamin Sticka, so he was the original planner

on this one. I just did a presentation, a powerpoint presentation, just to give you guys a little bit of what short-term rental is and why is this project in front of the Commission today.

So it's the Perell Ranch, if everyone knows this, located on the west side of Molokai. Today, we're here to seek approval for state land use special use permit to operate a short-term rental home, so I wanted to explain to you the short-term rental home regulations, under Maui County Code 19.65.030, it is defined, under section 19.04.040, as a residential use in which overnight accommodations are provided to guests for compensation for periods of less than 180 days in no more than two detached single-family dwelling units, excluding bed and breakfast homes. So under 19.65.030, section K, it specifically states, to Molokai, that the number of bedroom used shall be no greater than three bedrooms per dwelling, and each bedroom will have no more than two adults and two children, so that would be the max. So there are several additional requirements that are associated with the STRH, which we call short-term rental home for short, process as part of the application. Number one, there's notice requirements. They have to go through STRH sign requirements as well as a home inspection requirement. There are 14 pages total in the application itself. Within the application, there's 29 check-list items that all must be done, completed prior to submission. There are 32 check-list items if you are located in the state land use agricultural district. This is just an example of 2 pages of that 14-page application that they -- that each applicant has to go through. This is how the flowchart would look if they go through the permit process after submission.

So to date, currently, the Maui County, on the island of Maui and Lanai and Molokai, the cap is -- actually, the cap is 400 total short-term rentals in the County of Maui, specifically designated for the island of Maui because Lanai has no cap, there's no limit, nor does Molokai have any limit to any short-term rental homes. For that total, there's only 30% penetration in the whole County of Maui right now to date for the short-term rental homes.

If you see Kihei-Makena, there's a cap because the Maui Planning Commission wanted to cap in the Maui Meadows area specifically located in Kihei, so they reached their capacity of 5 in that area because they felt it was concentrated.

So for Molokai, short-term rentals and bed and breakfast, currently, we have a total of 10 permitted short-term rental homes, and we have zero permitted bed and breakfast homes, and like I said, there is no cap or no limit on the island of Molokai for either short-term rentals or bed and breakfast. And this is where the 10 are located, so this is from 1 to 10. And the next slide will show you where the Perell's are on the island of Molokai in comparison to the permitted short-term rentals, so you can see where the concentration is at currently.

So why you are not reviewing the short-term rental home? So as far as the Maui County Code states, 19.65.060, under the permit processing, no. 2: The director shall approve or

deny the application pursuant to the requirements of this chapter provided that the applicable planning commission shall approve or deny the permit pursuant to the requirements of this chapter when any of the following may occur: so, a., is either two or more written protests from the owners or lessees of record of two or more lots adjacent to or directly across the street from the proposed short-term rental home - meaning there's one protest per property. So, b., if 30% or more of the owners and lessees of record within the 500-foot radius of the proposed short-term rental home lot submit written protest to the director when there are less than 40 lots within 500 feet of the proposed short-term rental home. I didn't put c. because it's 15% if there's more than 40 lots within the 500-foot radius, that which doesn't pertain to this project, and, d., if they had to obtain a variance to get a short-term rental home requirement, and e., if there's an existing short-term rental home operating within the 500-foot radius of the proposed short-term rental; that is why you don't see it as a short-term rental today.

So why is this project here? So under the Maui County Code ag district, 19.30A.060, under special uses, I'll just skip down to the bottom, and if the land area of the subject parcel is 15 acres or less, the state special permit shall fulfill the requirements of this section, under ag district, and SUP2 is short for special -- state land use commission special use permit. So under 19.30, the same special uses, under the letter N, for short-term rental homes, I'll just read the italicized that if the property containing the short-term rental home is located in the state agriculture district, the applicant shall obtain a state special use permit pursuant to section 205-6, under the Hawaii Revised Statutes in addition to the short-term rental, Chapter 19.65 title -- of this title.

So as what we already know, the parcel is less than 15 acres, it's a total of 5.56 acres, it is designated under the state land use as agricultural/conservation, the zoning for a community plan and county zoning is both agriculture, and some of the property that you actually see right here right now is a portion of them is in the SMA.

So this is the criteria that the state special use permit would have to abide by under the Chapter 205-6, HRS, meaning it's unusual and unreasonable uses in the state ag district, and the applicant is in compliance with all of the 1 through 5 County of Maui rules and regulations.

The department does not require to have a farm plan, so out of the 32 check-listed items that I explained earlier, if you are designated as an agricultural district, it is a recommendation that you go through a farm plan and farm plan implementation. This is Mr. Perell's farm plan. And as you can see the date, he started it back in February 26 of 2013, and today is May 13, 2015.

Under the West Molokai Association, which mister -- which the subject property is located under, and under the compliance to the Maui County Code, under Chapter 19.65.030, letter

N.: The applicable planning commission shall consider the following. So if a proposed short-term rental property is subject to any homeowner, condominium association, or other private conditions, covenants, restrictions, then correspondence from that association or other entity responsible for the enforcement of the conditions, covenants, or restrictions is required. So the correspondence shall include specific conditions that determine whether or not the proposed short-term rental home use is allowed. So I just italicized on the bottom to kinda make sure that you guys know that the director and the planning commission is not bound or shall not be bound by any private conditions, covenants, or restrictions upon the subject parcel. So this letter was dated September 20th from the West Molokai Association, therefore, the West Molokai Association DCRs allow for short-term rental of your property, which stated in this letter.

So the notice of public hearing, part of the requirements is that -- well, let me just read it:

On April 13, 2015, the applicant mailed a letter of notification and location map to all owners and recorded lessees adjacent to the subject property. We have received no complaints and one correspondence from the addressees on April 9, 2015 regarding the proposed SUP2 and STRH application in which Mr. Perell did respond and notify on April 13, 2015.

So the applicant is in compliance with all County of Maui rules and regulations under section 12, Chapter 303-4, under Section 12-303-5, the SUP2 application and content.

So this would be the abutting property or the adjacent properties located, so no. 4 is the proposed project, and all the green are the properties that surround them that Mr. Perell did notify. This is just another look in the system also including each one of their parcel's TMK.

So public testimony. So there were no complaints or objections that have been received by the department of any of those adjacent property owners nor any of the owners property within 500 feet of the boundaries of the subject property. However, on April 29, 2015, the department did receive a petition to intervene and a motion to reschedule the state land use commission special use permit public hearing on behalf of Mrs. Patricia I. Crandall and Mr. Jack Brenton, pro se by mail, and the petition was completed on May 5, 2015. On May 5, 2015, the department did receive an opposition to petition to intervene and motion to reschedule state land use commission special use permit from the Luigi Manera, on behalf of Mr. John Sid Perell, pro se by email. And May 12, 2015, the department did receive a pro se by email regarding a petition to intervene on behalf of Mrs. Lori Buchanan, and the department did respond on May 12, 2015. Thank you.

Chair Jennings: Okay, thank you, Ms. Lopez, and --

Ms. Lopez: And for the record, I just want to let the Commission know that Mr. Perell and Mrs. Perell is in the audience as well as Mr. Luigi Manera, and I think Ms. Crandall is in the audience and Mrs. Buchanan is here as well.

Chair Jennings: Thank you. Appreciate it. At this time, we're going to have public testimony and would you please come up to the --

Ms. Dudoit: Actually, Chair, can we get, Sybil, just for the sake of whoever doesn't understand the intervening process and for the Commissioners so we're aware of what we're asked to consider, can you explain why this is not a cut and dry case and what intervening means and all those kind of things and we're standing at this crossroads right now?

Chair Jennings: Sybil, please?

Ms. Lopez: I will turn the time over to our Corp. Counsel, Richelle Thomson.

Ms. Richelle Thomson: Thank you for the question. So, basically, the flow of how we're going to look at this application today is we'll take public testimony now, close public testimony, and then defer this main application until after we hear both petitions to intervene, and we'll get into specifics of what the criteria are for granting or denying a petition to intervene at the time that we take them up, so, right now, we're just going to deal with public testimony on this main application for the special use permit, and then we'll go into -- we'll defer that item until later in the agenda, and then take up both petitions to intervene.

Chair Jennings: At this time, we will take public testimony, and, please, if you would limit this to ten minutes -- three minutes, okay. I heard, well, ten and then I don't have to make my other appointment. So would you please limit it to three minutes. Mr. Westland, please step to the microphone and state your name. Thank you.

Mr. Richard Westland: Thank you. My name is Richard Westland. I'm the president of the West Molokai Association. I simply wanted to make a clarification on our -- on our letter. We do not -- this is our first response to a letter for a short-term rental permit and we do not have a process to go through, any review process, we simply wanted to convey that it was not against the covenants for members of the West Molokai Association to rent their homes, condos, or apartments, and I wanted to clarify that we don't go through an approval or disapproval process, it's simply stating the covenants allow for a short-term rental. Thank you.

Chair Jennings: Thank you, Mr. Westland. Any other public testimony? Yes, ma'am, please step to the microphone and state your name for the record. According to counsel, you will be able to present your petition and --

Ms. Patricia Crandall: Exactly, but the problem is this, by having this in reverse order, I want to make sure that I get testimony on record that's considered as part of public testimony so if my motion to deny -- or my is denied on an intervener, then I can only have intervener testimony. This is not particularly repetitive either because I was prepared to do this.

Chair Jennings: Okay. Please state --

Ms. Crandall: But only in the event that my --

Chair Jennings: Okay, that's fine.

Ms. Crandall: Motion was denied.

Ms. Candall: Please state your name and we'll go from there. Thank you.

Ms. Crandall: Thank you. Thank you, Commissioners. My name is Patricia I. Crandall. I reside at 4670 Pohakuloa Road, that's located in the Papohaku Subdivision, West Molokai. I'm a single-family residential property owner, four lots to the north of the Perell's property. I'm going to just read now from my testimony.

A special permit provides a landowner relief in exceptional circumstances where the use desired would not change the essential character of the district nor the inconsistent with it. I wanted to describe the essential character of the district for the Commission so it is clear that this application is out of sync with it. West Molokai is a planned community. Significant areas of it were designed and developed for hotel and resort use, significant areas were designed and developed for condominium use. A few areas were set aside for commercial use, and there's a conservation area created to protect the coastline. Now Papohaku was the last subdivision to be annexed to West Molokai. It has 276 lots. The land use, as already described by Sybil, is designed agricultural by the State Land Use Commission, the Molokai Community Plan, and county zoning. But the essential character of Papohaku was defined in the covenants filed when it was annexed to West Molokai in 1981; that is each lot was designated a single-family residential agricultural lot. Further, each residential home was required to have a total floor area of not less than 1200 square feet. Prior to construction, owners are required to submit conforming plans to the West Molokai Association Design Committee. And perhaps Mr. Westland, in the hearing portion on the petition, can discuss this in a little bit more detail on what plans were submitted and whether they were ever constructed according to those approved plans.

Applicants did not comply -- did not apply to the county for a permit to build their house. What was applied for and permitted by Maui County in 1998 was an accessory garage, carport, dwelling consisting of 792 square feet of basement garage, a 264 square-foot concrete floor carport, and a 520 square-foot main living area. It was not permitted as a single-family residential house, and that's why I have to disagree with this contention, that even if it were, in 2013, converted to a farm dwelling, you can't have a farm dwelling without a farm, and there is no farm.

In 2000, the storage building was constructed, and mister -- we've already heard from WMA that the letter did not -- did not intend to apply that its letter was that a short-term renting of accessory buildings without a conforming primary residence are allowed by the applicable covenants.

Although the applicant's structure is sometimes referred to as a first farm dwelling, it cannot be for the reasons already stated, and contrary to the overview of proposed request filed by the Perells, the proposed use does not preserve the single-family residential use of the neighborhood and its proposed use is inconsistent with the essential character of the neighborhood. Allowing the use of an accessory building as a short-term rental on the property at issue doesn't serve to protect, preserve, and encourage the development and preservation of lands for which they are best suited. This property is best suited for agriculture. If and when a complying single-family residence is appropriately permitted and approved, the Perells will want to make a new application. Thank you.

Chair Jennings: Thank you, Ms. Crandall. Commissioners, is there -- are there questions that you would like to ask Ms. Crandall at this time? Okay. Ms. Lopez?

Ms. Lopez: So I just wanted to inform the Commission that the Perells did go into the Department of Public Works, Development Services Administration, DSA, on October 2nd to do a miscellaneous inspection. On December 29th, they addressed Ms. Crandall's request in regards to the carport farm dwelling. So I'm just going to read part of the letter:

So your question related to the accessory building, farm dwelling, farm plan, transient vacation, and agricultural activities are primarily under the jurisdiction of the Department of Planning, and we recommend that you discuss your concerns -- as for our letter dated November 6th, the DSA stands by the statement that the first farm dwelling is in general compliance with applicable building, electrical, and plumbing codes. The first farm dwelling was granted building permit MOL98/0096, electrical permit E98-3013, and plumbing permit P98-1598. The permits were reviewed and approved by all applicable review agencies prior to issuance back in 1998, 1999. Thank you.

Chair Jennings: At this -- yes, Ms. Crandall?

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

Chair Jennings: Ms. Crandall, please?

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

Chair Jennings: We -- one moment, please. Public -- we're going to have public testimony now, so please step to the microphone.

Ms. Lori Buchanan: Chair, point of order, please?

Chair Jennings: Excuse me, Ms. Buchanan.

Ms. Buchanan: I couldn't hear what just transpired.

Chair Jennings: Oh.

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

Chair Jennings: Thank you. Thank you, Ms. Buchanan. Please step to the microphone and state your name, please.

Ms. Dana Harris: Dana Harris. I just want to say, you know, times have kinda changed here, and I know that the plans were made back in whatever, 1980-something, when there was a hotel and there was the ranch, but reality is now we don't have it. We've got a total of 109 condos that are actually legal that people can rent. We have 10 homes; that's 27 bedrooms. We're about to lose, off the website, 33 homes, which is like 97 bedrooms. We're losing rooms here. We don't -- you know, you guys are going to be losing tax dollars now too without these people being able to get legal and to advertise on the website. He's been doing it for years now. I mean he pays his taxes. This year he probably paid in 10,000 to the hotel tax and the county, where these other homes, if they're taken off the site and go underground, you guys might not see any kind of tax dollars. These houses are needed. There is nothing on the West End. So I just want to make that point. I've had no problems ever with this house as far as vacation rentals. Everybody has respected the neighborhood, and if anything happens on the beach, that has nothing to do with him. That's just people coming down to the beach and enjoying our beach, and you can't keep that away. So just hope you would take into consideration and allowing him to get legal. Thank you.

Chair Jennings: Thank you, Ms. Harris. Is there -- you have questions, Commissioners? Okay, seeing none, we will continue on with public testimony. Please step to the microphone, state your name.

Ms. Terri Waros: Aloha, Commissioners. I'm Terri Waros. I shut my store down to come up today when I understood what was on the agenda. I wasn't really well prepared. But I am speaking as a business owner, as a resident of Molokai for 11 years, and as Dana mentioned, things have changed dramatically in the years that I've been on this island. Last month, I helped a group of 18 pilgrims come from Kauai; they were kamaaina; they're Episcopalians. They came to go to Kalaupapa, but we designed a program for them to stay top side for four days, and it's only 18 people, and yet we were able to put money into many of our businesses in town. All of the snacks that they ate were bought at the Saturday market, were made locally. The Moana's bus service got money. The gas station got money. And Noe Keliikipi thanked me for the people who were able to work for the four days that they were here. It doesn't take large groups or big impact to make a big difference in our town. And as a business owner that struggles and that has already come into the slow time of year not knowing how I'm going to make it through this year, I ask for all of you to keep that in consideration when making these determinations. We need these rooms. Molokai attracts a certain type of demographic. For the years that I've witnessed, we don't have big problems, and if there were, there would be a lot more complaints from the adjacent properties. And the ripple that comes from your decisions are going to affect all of us on the island. Thank you.

Chair Jennings: Thank you, Ms. Waros. Any comments or questions from the Commissioners? Seeing none, we will continue on with public testimony. Please step to the microphone and state your name, please.

Mr. Don Williams: Yes, my name is Don Williams. I'm a property owner at Papohaku Ranch Lands Subdivision. I'm also a builder that built many of the units down -- many of the houses. I'm totally in agreement with what Patricia Crandall said. I believe we all know what the word "covenant" mean, which is basically a promise. When we, as property owners, purchased property down there, which under the covenant, the promise that it would be held to the covenants. I must say, at this point, I'm definitely in disagreement with Mr. Westland, with the association, because there are covenants that prohibit: one, commercial activity; two, it -- the covenants clearly state that these Papohaku Ranch Land lots are to be held or occupied by only one family with the exception of a guest house or a manager's quarters, which many of us have; also, the -- there's lots of rentals down there. It's not like we're starving for rentals. And if we continue this is -- is what has happened is, over the years, it's just gotten out of control. We now have over 20 of these illegal short-term rentals that nobody's addressed and they just choose to come over here and do whatever they want. It's totally against the law. It's totally against our covenants. And I think the community is going to suffer long-range because the rentals were defined to be in a certain area. These ranch land ag lots are for that use exactly. It's a nonconforming, I might add, for us to have short-term rentals in that subdivision. It's not compatible with the agricultural lots. The big thing is I, as a property owner, cannot complain, technically, against Mr. Perell or anybody that's not within 500 feet of me, which, ironically, I think you

don't know what the real facts are. The three lots that are adjacent to Mr. Perell are also doing the same activity so they're not going to complain, they're not going to -- they'll probably be right here behind trying to get a -- trying to get permission to do the same thing, so we have the Hamamotos, right adjacent to him, they're an illegal bed and breakfast or short-term rentals, then we got the Casacios, and then there's a vacant lot, and there's Patricia Crandall, and I'm glad she's taking a position here. But I also have two or three of them around my property and I have filed a complaint because it's of obvious reasons, but I would like to know how our Commission could possibly approve something that would just be stirring up the muddy water, so to speak, because we do have covenants to protect us regardless of what they're saying, regardless of what the association is saying. The covenants are clear. I would invite you to read them, look at them, and I also contacted an attorney who says that it's possibly not even okay for the Commission to go along with something that's going to violate a covenant, and I would remind you these are promises from way back when this community was first planned. It wasn't planned to be all rentals. And if we are to have any hope of having the hotel restored, surely you don't want a bunch of competition against them, I think that's what part of the problem has been all along, there's too many rentals down there. Thank you.

Chair Jennings: Mr. Williams, thank you.

Mr. Williams: Oh, can I add another thing?

Chair Jennings: Yes, sir. Yes, sir.

Mr. Williams: ...(inaudible)... a very important thing was when I was doing my research about all these other families that are owners that are doing the same thing, they are -- some of them are proposing units to sleep 12 or 15 people. I think one thing that we're really not looking at is when we get these plans approved by the county, a very important issue is septic waste disposal, so when we're designing the houses for single occupancy, for just a few people to occupy it, what happens in the event that you start now having 10 or 12 people staying there? You're saturating the fields. I think it's starting to become an environmental question. Definitely, the systems were not sized properly to be handling that kind of a load and that's what I wanted to add. Thank you.

Chair Jennings: Thank you. Thank you, Mr. Williams. Any questions or comments from any of the Commissioners? Okay, we will continue on with public testimony. Please step to the mike and state your name.

Mr. Tom Rancour: My name is Tom Rancour, R-A-N-C-O-U-R. I live in Maunaloa on the north side. We have a four-bedroom home, and we have been renting it as a bed and breakfast, not short-term rental. So the short-term rental rules are different than the bed and breakfast rules. I've read through them many times. One of the problems I have with

the bed and breakfast specifications is that there are no bed and breakfasts on this island, so why are there no bed and breakfasts? It's because the bed and breakfast rules and regulations are significantly more and they -- they are more strict than the rental, the short-term rentals. The other thing is that you are rezoned as commercial property if you're a bed and breakfast. And let's see, what the other? And your license is renewed or applied for each and every year; it's not a one-time deal. There's a lot of things that go into a bed and breakfast permitting than there is in the un-permitted short-term. I think that's the reason why you find no bed and breakfasts on this island. We, my wife and I, have been trying -- we pay our taxes for the last ten years and all that stuff, and then all of a sudden I get letter from the County of Maui, couple months ago, saying that I have to stop and, you know, stop operating. The letter -- and if I don't, I'll get a thousand dollar fine each and every day. We advertise on the internet, like the other people do. I can say that we provide -- our income, basically, has been around 30,000-plus, each and every year. We're classified as one of the top bed and breakfasts on this island by response and, you know, people writing in. But we have to be underwater because we are illegal, number one, and number two, there are no bed and breakfasts on this island, and number three, people who have applied for bed and breakfast permits on this island have all been refused, rejected by your Commission, by the, you know, the board that I'm looking at right now. You have not approved one bed and breakfast on this island since I've lived here, I've lived here over ten years. Why don't you approve them? You're having this big hassle over short-term rentals, there aren't that many bed and breakfasts, and we, like the one lady said, we provide a lot of income to this island. We bring a lot of people from all over the world to our bed and breakfast, and all over the world, Europeans, Asians, everything. And now we are confronted with a situation that we have to shutdown. We are zoned in the association in Molokai, up in Maunaloa, we are zoned for bed and breakfast, it specifies right in there, and it specifies how long they can stay, how many people; the same regulations that it has here. There's --

Chair Jennings: Mister Crandall, I'm sorry but --

Mr. Rancour: That's it.

Chair Jennings: The three minutes. Thank you very much for your testimony. Commissioners, do you have any -- Zhantell?

Ms. Dudoit: I don't ever remember having a bed and breakfast application before us. Did we have one?

Chair Jennings: I know as long -- well --

Ms. Dudoit: For the record, I've been here, this is my second fifth-year term, I have never seen a bed and breakfast application before this Commission.

Chair Jennings: Thank you, Zhantell. Ms. Lopez? Okay, is there anymore public testimony? I'm sorry. Yes, sir.

Mr. John Perell: Yes, my name is John Perell, and I feel that I should get up in front of everybody because this is all about me filing to become legal. Yeah, I feel because you guys have all come out here to make a decision today that I should stand up before you, let you know that I'm a full-time Hawaii resident. The Molokai property we have had for the last 16 years, prior to the West Molokai Association. I was the first president of that association and helped start it. Ben Neely was the Kukui Molokai General Manager at the time and asked me to get involved because there were enough properties that had been purchased, so we began the association. And, at that time, because my house is smaller, and I didn't want to put a big house right down on the beach, I wanted to respect the people that like to come to Dixie Maru Beach, it is one of the safest beaches that people can swim in year round, Papohaku has undertows, and Dixie Maru you can swim there with your kids. That being said, as a Hawaii resident, I looked to see how we could make Molokai work for my wife and I, my wife and I for 40 years, and we found that, you know, the hotel closed, we started having the issues with the water, and the deer would come down and they would -- they would dig up our waterlines and so we had to fence the property, which we did; we bought plants from Maui, and brought them in, and planted beautiful trees to improve our property; we bought all the coconut trees when -- when the golf course closed and their whole nursery went out of business, we bought all their coconut trees and brought it down, we wanted to improve and make the property nice. Now the water rates have gone so high, and we bought the trees from the golf course because the golf course, owned by the, well, the same people that owned the water company, decided they didn't want to water anymore because the price was too high. So we're in a situation where we needed to do something; we needed to rent out our house to at least to offset some of the cost for our water. So, illegally, we have been going ahead, and we have been renting our house out, and paying the tax for years. We come to you because we want to become legal. We'd like to do it the right way. I am not an attorney. I understand that the petitioners, over there, are attorneys. I don't want to hire attorneys and make a big program of attorneys clashing. I'm just coming before you as a -- as an owner of property on Molokai stating that if I have no one there, the centipedes, the frogs, the mice, the deer, everybody else comes in and uses my house and I can't charge them, so, currently, I need somebody there that can help me with the property, we have another home over on Oahu, and I'd like to be able to go ahead and rent it out legally.

I had some little notes here, just some other little points. I should point out that there should be different rules for the dry side of the island being agriculture and the wet side. Obviously, the wet side, you don't have the water issues that we have. If we're in a drought, why should we be watering all the time and -- and using a lot of facilities? They were talking about I had to have a pasture at my house and put horses there. It doesn't make any sense because, you know, I'm already -- my bill last month was a thousand

dollars. Vandalism, if I'm not there. In fact, part of my fencing, which I fenced in order to keep the deer out of the property so they wouldn't dig up my waterlines, and I came back one time and then the fence was gone. So by not having people on the property, I run into that situation.

The people here on Molokai have been really sweet and loving, and it has been the friendly island. I noticed that that sign was gone at the airport today. What happened? I love Molokai. So, people, I hope you'll do the right thing by us.

Chair Jennings: Thank you.

Mr. Perell: Any other questions you might have?

Chair Jennings: Appreciate your testimony. Any questions from the Commissioners? Okay, thank you, sir, very much. Is there any -- anyone else that would like to make public testimony at this time? Mr. Ritte?

Mr. Walter Ritte: Aloha. I don't have too much information regarding this application, but just sitting here for the last ten minutes, I think --

Chair Jennings: Could you state your name for the record?

Mr. Ritte: Walter Ritte.

Chair Jennings: Okay. Thank you.

Mr. Ritte: You know, sitting here the last ten minutes, I think the issue should be switched to not giving out an application but arresting all these guys that have been breaking the laws all these years. My god, I cannot believe what's happening down there. I mean, the west end has always been a sore point on this island because, you know, they were developing in an area that had no water, that had no fire station, that had -- it was always like somebody pushing this thing to the limit trying to get whoever wanted to live down there and whatever the landowners wanted to do to make money, and now we reach the point where people now are beginning to realize that it's not enough to just live down there; they gotta go and figure out how to make more money, and in so doing, they've been doing it illegal all these years and now they want to do it legally. I mean, as far we're concerned, you know, the development down on that side of the island is happening because they can take water from the other side of the island, which has always been a big battle on Molokai has always been over the water. So for these guys now to start increasing the usage and increasing all the kinds of activities they got down there, it had to be increasing the water usage down there. So if we're going to keep on doing things on the west side it has to be done: number one, legally, and number two, as part of a planning process, not piecemeal

and then, all of a sudden, the cumulative impact is on our water system. So I'm here to oppose this, and I'm also here to recommend that we find out who else is illegal down there and stop this illegal activity on the west end. Thank you.

Chair Jennings: Thank you, Mr. Ritte. Are there any other comments, public comments? Commissioners, do you have --

Ms. Thomson: Thank you. So public testimony has been closed, and unless there's any opposition from the Commissioners, we should defer this item, and then bring up both petitions to intervene and take action on each petition to intervene at the completion of the presentations. So unless there's any opposition, we would move to Ms. Patricia Crandall's petition to intervene, which can be introduced by the department.

Ms. Dudoit: So then first, I would move to defer, right, we're moving to defer -- we're moving to defer item E.1 until we've been able to address the issues of --

Ms. Thomson: Chair, you can -- you can do it that way, so we're going to defer that item, we're going to defer D.1. until after both petitions to intervene have been taken cared of.

Chair Jennings: Ms. Lopez?

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

Chair Jennings: Oh, okay. There's a motion, yeah, a second? Yes, Zhantell had a motion now to -- is there a second? Doug? Okay.

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

VOTED: to defer item D.1. until the petitions to intervene by Patricia I. Crandall and Lori Buchanan have been addressed.

Chair Jennings: It's unanimous. Motion carried. Thank you. Ms. Lopez, read the --

Ms. Lopez read the following agenda item into the record:

E. COMMUNICATIONS

- 1. MS. PATRICIA I. CRANDALL on behalf of PATRICIA I. CRANDALL and JACK D. BRENTON, pro se, submitting a Petition to Intervene dated April 27, 2015 and received by the Planning Department on April 29.**

2015 on the application by MR. JOHN SID PERELL for 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) (public hearing was originally scheduled for the March 25, 2015 Molokai Planning Commission meeting but the meeting was canceled.) (S. Lopez)

- a. **Memorandum in Opposition to the Petition to Intervene and Motion to Reschedule Public Hearing dated and received on May 5, 2015 from LUIGI MANERA, agent for MR. JOHN SID PERELL, Applicant.**

*** An Executive Session may be called in order for the Commission to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities and liabilities.**

The Commission may take an action on this request.

Ms. Lopez: I am the staff planner assigned to that, and I would like bring up Ms. Crandall.

Chair Jennings: Thank you. Thank you, Ms. Lopez. Ms. Crandall, would you step to the microphone and -- thank you.

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

Chair Jennings: Ms. Crandall? We -- all the Commissioners have -- yes, we do. Thank you.

Ms. Crandall: Patricia I. Crandall, 46 -- you can't hear?

Chair Jennings: Ms. Crandall, is the microphone on?

Ms. Crandall: It's on? Yes. Patricia Crandall, 4670 Pohakuloa Road. Okay, while Sybil is getting a copy of the adjoining landowner's map, let me address the second part of my argument, which is the first part being the notification issue and who's entitled to notice, who's considered an abutting property owner. That's one issue. The second issue has to do with the nature of the dwelling on this property, and I disagree with the conclusion that Ms. Lopez has reached, which is that this dwelling was approved by the county for use as a short-term rental. It has not been. The inspection letter that she is referring to was by a county inspector who said there were no safety -- apparent safety electrical or plumbing issues with the property. There's a big difference between having a 540 square-foot dwelling with a 700-plus garage and a small carport as a rental, is this what we want our

first short-term rental on the west end to be, a property that's never been anybody's residence, which is owned by absentee landlords, which is being used solely for the purposes of maintaining property until it is sold? And if you look at the attachments to my petition, you'll see some of those advertisements that have been going out since 2014, at least I've seen them since 2014. So the nature of the dwelling is not one single-family residential, it is not -- we were talking about earlier, I heard earlier from Mr. Williams talking about sewage issues, a 540 square-foot dwelling, I have no idea what's happening to Dixie Maru based on now -- well, there's been six people max in that property, traditionally, that's what it's been advertised for; it's also been used for major events, weddings, luaus, you name it. It's been basically used in an area where a public access beach is and it's doing absolutely nothing to protect that area. This is where all of us, who are local people here, and a certain number of tourists go to swim, to surf, to enjoy the day, but it's been used as somebody's private backyard. A place for the tenants to go. And it's true, Mr. Manera says that this dwelling, building is not within the SMA. It's true. But the property is. And if you look at the two exhibits attached to the memorandum, you'll see exactly how that works, where you go right out the front door, and into the SMA area, onto the beach. You can't do overnight camping on the beach, but you could do it before on the adjoining property.

This is -- okay, now let -- are there any questions on the nature of the dwelling? Oh, the other thing was the farm plan. I think, Sybil, you said that a farm plan is not required for there to be a farm dwelling? Is that true?

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

Ms. Crandall: There is attached as an exhibit the declaration that was signed when, in 2013, the farm plan was applied for. Do you have a copy of that in front of you? Let me ...(inaudible)...

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

Ms. Crandall: It is not attached to the memo. It's supplementary to it ...(inaudible)...

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

Chair Jennings: Yes, I believe, Ms. Crandall, I believe we all have that.

Ms. Crandall: You all have that. And you know the representations made ...(inaudible - not speaking into the microphone)...

Chair Jennings: Ms. Crandall, could you please talk into the microphone, please?

Ms. Crandall: I wish there were a table here ...(inaudible)...

Chair Jennings: Thank you, Ms. Lopez.

Ms. Crandall: It is Exhibit E. Exhibit E, filed April 29, 2013. Page 2, Farm dwelling defined, single-family dwelling located and used in connection with a farm, or where ag activity provides income to the family occupying the dwelling. Page 4, the declarant, that would be the Perells, page 4, of Exhibit E, signed with the county when the farm plan was submitted, "The declarant understands and acknowledges that failure to implement the farm plan may constitute a violation of Chapter 205, Hawaii Revised Statutes." I won't continue to read those. They're in front of you. Item 7, page 4, "Declarant represents in covenants that the dwelling shall be a single-family dwelling located on and used in connection with a farm, and shall be a use that is accessory to the principle use of agriculture and/or agricultural conservation in accordance with the farm plan. 8." -- it goes on and on. It's something to read. These are covenants and conditions signed by the Perells, filed with the county in 2013, which represents that they have a farm and, therefore, they got a permit for a farm dwelling. That dwelling was never a single-family residential home. It was never submitted -- there was a submission by the Perells to the association and it was a scheme to build all sorts of things, including a main house and a guest house, but the main house and the guest house were never built. The only thing that was built wasn't even in the design plans. What was built was a garage, carport with 500 feet of space. It continues through the years to have been assessed and valued as an outbuilding, basically, \$126,000 valuation. Wouldn't we love that and represent that we have a 1500 square-foot home now that we can make money on as a short-term rental?

Now let's go to the -- unless, do you have any questions on that? Okay. Let's go to the question then of notification.

Chair Jennings: Ms. Crandall, we can take questions later. Please go on with your --

Ms. Crandall: Okay. The other main issue is the question of notification. Who was entitled to get notice of this application, both for the land use, special land use application as well as the short-term rental application, and, of course, we all know it's 500 square-foot radius from the proposed location, which is number 4 on that map. So who owns parcel no. 1 abutting property? Molokai Properties Limited. And I don't know, Marshall, if that makes a conflict for you or not. I'll let the Commission decide that. No. 3, who owns that? The Perells. No. 5, who owns that? The Hamamotos. I don't think they've written a letter for or against. Have they? None. So that leaves parcel no. 2. Parcel no. 2 is a 127-acre plus strip of land owned by 56 owners of the property that adjoin it. Basically, it's a section of land that goes the entire west side of the Papohaku Subdivision, and it's there for a purpose, it's not there for our simple use and enjoyment as landowners, it's there to protect the coastline. It's a conservation district in the general subzone. And the reason why every single person with an interest in that property should be able to weigh in and should have gotten notice of what was coming down today, and what came down last fall. But it wasn't.

And the county instead chose to send one notice to one entity for that property, Kukui Molokai, Inc. Marshall, I don't know, do you know who that is? Kukui Molokai, Inc., I've looked at it on the Department of Commerce website, there's a person's name, there's one officer, there's 20 shares, I don't know who owns that corporation. When I sent them two different notices, with return receipt requested, I never got a return receipt, and I sent it to two different addresses 'cause there were two different addresses in the file, and I have no idea if that landowner, who's supposed to represent all those 56 owners, even knows or cares. I asked staff, even before Sybil, I asked, the first question I asked Mr. Stitka or Sticka was: Who got noticed? And the answer was, "Kukui Molokai, Inc." And I said, "Why?" He said they pay the taxes. Well, my mortgage company pays my taxes out of reserve funds but they're not entitled to notice. The code says the notice has to go to the owners. I think, at best, Kukui Molokai, Inc. owns one lot, 1/56th interest, and none of us know who it is and never got any notification from them. So I think the first thing is that --

Chair Jennings: Ms. Crandall?

Ms. Crandall: Yeah?

Chair Jennings: Could you please just put everything -- kind of wrap this up, please --

Ms. Crandall: Sure.

Chair Jennings: For us?

Ms. Crandall: Will I get rebuttal?

Chair Jennings: Excuse me? I'm sorry I didn't --

Ms. Crandall: I was just questioning whether there would be rebuttal.

Chair Jennings: I think if we could just get to the point, please.

Ms. Crandall: Let me just -- yes. Let me just do one more thing and that is notify the Commission about one thing that you may not know about and that is I know this whole question of abutting property owners and who's entitled to notices come before the Maui County Council and it was brought to them by Mr. William Spence, the Director of Planning, and this is what he said in his memo, "The department has had numerous applications with adjacent lots that are common HOA areas, landscape buffer lots, vacant, remnant, or roadway lots or similar. We have been reviewing each case individually to determine if a lot adjacent to the nonresidential lot qualifies as an adjacent neighbor protest. However, the department would like council," meaning the Maui County Council, "to provide direction on this." I can only guess that the council's told Mr. Spence that they just -- I don't know

what he told him. I shouldn't even suggest what I think he thought. But anyway, that's the issue that we have. There's nobody here to object really except for those of us who -- I'm the closest neighbor, so I get that honor, there was a faulty mailing and, hence, all these proceedings, I think, are just not properly called.

Chair Jennings: Okay.

Ms. Crandall: Thank you.

Chair Jennings: Thank you. Thank you, Ms. Crandall. We appreciate it.

Ms. Thomson: Thank you. So we're going to allow the applicant, who has filed a memorandum in opposition to the petition to intervene, to go ahead and present the opposition.

Mr. Luigi Manera: Hi. Luigi Manera, for John Perell Ranch. A couple about what Mrs. Crandall say can bring out of the notice for the neighbor, we actually did send the notice showing on the county record to all the people they own the lot, 120-acre lot on conservation. Whatever name was on the county website, that's what we sent it to. There no was 56 owners; there was like I believe 28 or whatever. Her name is not even in there. So I'm sorry about that, if you're not on the county ownership. And in regard of the easement, 1/56, you only own an exclusive easement in front of your lot. Only that is stated on the deed, everybody's deed. You only own an easement in front of your lot. So we did -- and we sent a notice two times, and the reason why we did two times is because they canceled the meeting on the first one. So we did whatever we can and we followed the county rule. I want to just clear that up.

Chair Jennings: Thank you. Thank you, Mr. Manera.

Mr. Manera: Thanks.

Chair Jennings: Okay, is there any -- let's do -- is there any other public testimony? Okay. Is there any questions at this time from the Commissioners?

Ms. Dudoit: Yeah, I would just like, Sybil, I think through your presentation I heard you but, just for the record, can you restate that we were correct in hearing that the applicant is in complete compliance with whatever discrepancies that she has in relation to any county permits, codes, approvals, and so forth?

Ms. Lopez: So the notice of public hearing is correct. Luigi, they did send it out twice because the March 25, 2015 meeting got canceled due to lack of quorum. They had to send it out again, which they sent it out April 13, 2015, and I do have the list with the

certified receipts on all of the owners and recorded lessees adjacent to the subject property. So I do have it on record in file.

Ms. Dudoit: And then also to the issues with the dwelling and permitted as a single-family dwelling and so forth?

Ms. Lopez: Yes. So part of the exhibit that Mrs. Crandall provided, along with that unilateral agreement, there was an approval on the farm dwelling. Just so that you guys are aware that he is zoned agriculture, so it's -- it's not -- he -- it's an allowable use. If it's not a single dwelling, it can be a farm dwelling because of the zoning that he has on the parcel. Anything else that you asked, Zhantell?

Ms. Dudoit: I just wanted to make clear, so when you -- when the county specifies a single-family dwelling, is it just the type of house that is there or is there specific language in there that states that the family has to be living in the house for a certain amount of time?

Ms. Lopez: No. The single-family dwelling is in regards to what district, so it's zoned specifically that, but because he is on the ag district, he's allowed.

Chair Jennings: Any other questions from the council? Oh, yes --

Ms. Dudoit: So just to be clear, I earlier heard -- heard you state, Sybil, in your presentation, and I want to make sure we're clear, so the county, which includes us, is not held accountable to any private codes, policies, or covenants. Is that correct?

Ms. Lopez: Correct. That's stated in Chapter 19.65.030, under restrictions and standards, letter N, pertaining to the short-term rental homes, and specifically pertaining to such covenants as West Molokai Association.

Chair Jennings: Thank you. Yes?

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

Chair Jennings: Ma'am? Ms. Crandall, could you get up to the microphone, please, and state to Ms. Lopez? Thank you.

Ms. Crandall: I would like clarification about which adjacent property owners got notice, and when, and of what, because when I looked at the file, of course it's a little hard on Molokai to see the file, there was a notification list for this hearing, right? And I had five people on it, right? That's what I got. It didn't have 65 or 50 or 20. Had 5 people. And those people who do -- would have gotten notice, I haven't met one yet that did of anything.

Chair Jennings: I think Ms. Lopez is looking for the notification.

Ms. Lopez: You want to -- okay, so I have all of the certified mail receipts for April 13th and April 21st, I mean and then I have the list, I just have to look in my file folder, so it's pretty thick.

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

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

Ms. Crandall: Oh, okay. That's what I thought.

Chair Jennings: Okay, thank you, Ms. Lopez. So everything was done correctly?

Ms. Crandall: I stand on the record as saying it was not done correctly for evidentiary reasons. I assume this is all being recorded.

Chair Jennings: Yes. Yes, ma'am, it is.

Ms. Crandall: Yes. Well then I want to note my objection to the mailing of this to not all of the abutting property owners who have a legal interest in it recorded or otherwise.

Chair Jennings: Ms. Lopez.

Ms. Lopez: So part -- what we issue during the short-term rental process, which I've showed you guys in the first slide, is the -- so it's a 500-foot boundary notification list and map instructions that every applicant has and it actually goes and explains to you how you go about retrieving the TMK, the parcels, how to create your location map, and who would be your abutting, and who would be your 500-foot radius. So the map that I showed you is where that they got it from. If I need time to -- if you need it, I would need time to look for the TMK parcels that only specifically states a total of 28, so there's not 56 owners. And as far as what the code says, it's those that are recorded with the government, owners and lessees, and as far as the chapter goes, if there are deemed any written protests, it has to have one per property, one per property. So does that answer --

Chair Jennings: Richelle?

Ms. Thomson: So I just handed out to you the section of your rules of practice and procedure, and I would like you to refer to the first page, it's 12-301-26, so what you're going to be considering is whether or not Ms. Crandall's petition to intervene has satisfied this section of your rules. So intervention is mandatory if, under section (b): If the petitioner can show that they either lawfully reside on the property, on the applicant's

property, or they can demonstrate that they will be so directly and immediately affected by the matter before the authority that their interest in the proceeding - hang on - is clearly distinguishable from that of the general public. So those -- that would be a mandatory intervention. If you skip down to section (d), that is permissive interventions, so that's: Leave to intervene shall be freely granted, etcetera, and the criteria that you'll use in your decision making is whether or not the petition position or interest of the applicant for intervention is substantially the same as a party already admitted to the proceeding whether or not the admission of the petitioner would render the proceedings inefficient and unmanageable, or whether the intervention would aid or not aid in the development of a full record and will overly broaden the issue.

So if you, as a Commission decide that the petition does not meet or meets those criteria, that's -- those are the criteria you'll use to judge whether or not to grant the petition to intervene.

We also have an executive session listed on our agenda, so if you need further advice, that should probably be in executive session, one of you could make a move -- motion to request that we go to executive session. Thank you.

Chair Jennings: Thank you, Richelle. Do we, as the Commissioners, want to go into executive session? Seeing none, okay. I understand then. Okay, we're going to discuss the petition to intervene and who --

Ms. Dudoit: Maybe I should just ask Corporation Counsel, if what we want to do is clarify the definitions of the content of petition to intervene and the reasons by which, should we go into executive session, or is that something that we should state for the record?

Ms. Thomson: It's something that you should state for the record. Yeah. If you're having questions on your legal authority or the ramifications one way or another, I'll let you know if it's a question that should be handled in executive session if it comes up. But discussing the merits of the petition, whether or not it would aid you in your decision-making on the application itself, or whether it would be overly broad and unmanageable to have a petition, and intervention and then go into a full contested case procedure, if you don't feel that the information or the intervention is -- meets those criteria, then you could deny it.

So I think the -- the first, perhaps the first area that you could discuss is does this petition meet any of the criteria to make it a mandatory allowing -- allowance of intervention, and those three criteria are: Does the petitioner have a property interest in the application, so in this STRH property application; does the petitioner lawfully reside on that property; or has she demonstrated that they will be so directly and immediately affected by the application before this Commission that their interest in the proceeding is clearly

distinguishable from that of the general public? So that would be mandatory intervention, so what you would want to discuss is whether this petition has any of those criteria.

Chair Jennings: Marshall?

Mr. Marshall Racine: Yeah, it's on that issue of whether or not the petitioner is other than -- I mean have any interest different than the general public. I would like some clarification. One of the items that has been contested is the interest in the easement of the beachfront. As 1/56th owner of that beachfront, is the petitioner an owner of an adjacent lot or, as stated by Mr. Manera, is it just the section beach in front of her property, and so if that's the case, then she isn't within either an adjacent lot or within the 500-foot radius, and she has no greater interest than the general public. So that's a question I think that we need to clarify if we can.

Ms. Thomson: And that information should be provided by the petitioner if she has any proof to show you that she is an owner of an adjacent lot, so that would be up to the petitioner to provide you sufficient proof to make that decision.

Ms. Dudoit: So then is it appropriate for us to ask the petitioner if you now have evidence or proof that you are owner of an adjacent lot?

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

Chair Jennings: Ms. Crandall, could you please step to the microphone? Thank you.

Ms. Dudoit: Yeah, and I'm sorry, but the question --

Chair Jennings: So everyone can hear. Thank you.

Ms. Dudoit: And I'm sorry but the question is: Are you a property owner of an adjacent lot to the property?

Ms. Crandall: Yes. Yes I am.

Ms. Dudoit: And you have proof with you at this moment to --

Ms. Crandall: We can Google it up right now. I mean property records and ownership records are online and yes, I can Google it up, just put in my TMK. I've given you my TMK in my -- well, I think in everything that I've submitted. I've included my tax parcel.

Chair Jennings: Luigi? Mr. Manera, do you have any information on -- please, sir, step to the microphone?

Mr. Manera: Hi. Luigi Manera. The reason I said that early, you can go online. You type the TMK of the conservation lot, there's a list of the owner. Her name is not even there. Furthermore, on all the deed of the property owners, there's a -- on the -- there's attachment so and so, and they say specifically she own an undivided easement in front of her property. That's all. Nothing more. And that's all. This is the list of the owner.

Ms. Dudoit: Corporation Counsel, can you give us a definition or a difference of an undivided easement as opposed to an actual property owner?

Ms. Crandall: I think --

Ms. Thomson: An easement is --

Ms. Crandall: I'm sorry.

Ms. Thomson: It's an interest in land so you have the rights granted under that easement whether it'd be for access, water, utilities. It's a specific right to use another person's property but it doesn't rise to the level of ownership. So it's not a fee ownership interest, it's the right to use another person's property for a certain use.

Ms. Crandall: But by way of further clarification, the ownership interest is separate from the easement interest. The ownership interest is fee simple, 1/56th interest. In addition to that fee simple ownership interest, and that's in my materials too, is, in addition to that, you have special rights to use the section in front of your property, okay. So we need to separate out ownership interest of all 56 of -- say, for example, when DLNR wants to come and increase, say, the subzone from general to special use, whatever category, they notify all of us because that's important to all of us as owners, not -- easement aside, I'm not talking about the easement part of it, I'm talking about ownership part of it.

Ms. Thomson: So my advice would be to -- to look at 12-301-26, and look at (b), and also at (d), and those are the sections that you need to decide whether or not this petition to intervene has risen to the level of being admitted as a party. So if you -- section (d) says that leave to intervene shall be freely granted, except that if this body feels that one of the three conditions, listed there below, apply, then you could deny the petition to intervene.

Chair Jennings: Are there -- are there any further questions for counsel? Zhantell?

Ms. Dudoit: No. Just can we have detailed direction of how we are to vote and move forward on this item?

Ms. Thomson: So if there's no further information you need and you're ready to make a motion, you would either move to grant the intervention or deny the intervention. If you're

voting to deny it, I recommend that you put your reasons on the record. So you could make a motion, but then in the discussion and before you vote, it would be important for you to put the reasons on the record for either granting it or denying it.

Ms. Dudoit: I make a motion to deny the intervention.

Chair Jennings: Okay, there's a motion on the floor to deny. Is there a second to that motion? There is a second. And now is there any discussion?

Ms. Dudoit: I would like to say, for the record, that this decision is based on section 12-301-26, section (b), the applicant, who may have a property interest in the land subject to authority action, who lawfully -- does not lawfully reside on the said land or has not demonstrated that she'll be so directly and immediately affected by the matter before the authority that their interest in the proceeding and clearly distinguishable from that of the general public shall be admitted as parties upon timely application for the intervention, and the fact that other concerns brought up concerning a discrepancy with county permit approvals and structure has been clarified and put on record as being in compliance.

Chair Jennings: Okay.

Ms. Thomson: Thank you. I just wanted to clarify that Commissioner Dudoit's comment is that the application -- petition to intervene does not meet subsection (b) for mandatory intervention, and that the intervention will not aid in the development of a full record as the questions presented have been discussed and answered.

Ms. Dudoit: Yes.

Chair Jennings: Okay. There is a motion, and there's been a second, and there's been discussion.

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

VOTED: to deny the Petition to Intervene by Ms. Patricia I. Crandall, on behalf of Patricia I. Crandall and Jack D. Brenton, pro se, dated April 27, 2015, as it does not meet subsection (b) for mandatory intervention, and that the intervention will not aid in the development of a full record as the questions presented have been discussed and answered.

Chair Jennings: Motion carried. Thank you.

Ms. Dudoit: Can I just ask another question before we start? So if we were to approve the intervention, what would be the next process for the applicant? There's an appeals process and does it take it away from this body to a higher body or how does that work?

Ms. Thomson: Granting a motion to intervene transforms this application into a contested -- well, it is a contested case proceeding but we'd go into a formal contested case procedure and what the Commission would do at that point is decide whether you, as a group, want to be the hearings officer, whether you want to approve an outside hearings officer, so staff did identify one hearings officer from Maui who would be willing to come over and hear all of the parties' evidence, and then come back to this body to make the final decision. So it doesn't take any of your authority away; it just --

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

Ms. Thomson: Yeah, it prolongs the procedure but it allows both parties to present evidence, and testimony, and do a much more formal proceeding.

2. **MS. PATRICIA I. CRANDALL on behalf of PATRICIA I. CRANDALL and JACK D. BRENTON, pro se, submitting a Motion to Reschedule Public Hearing dated April 27, 2015 and received by the Planning Department on April 29, 2015 on the application by MR. JOHN SID PERELL for 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) (public hearing was originally scheduled for the March 25, 2015 Molokai Planning Commission meeting but the meeting was canceled.) (S. Lopez)**

- a. **Memorandum in Opposition to the Petition to Intervene and Motion to Reschedule Public Hearing dated and received on May 5, 2015 from LUIGI MANERA, agent for MR. JOHN SID PERELL, Applicant.**

*** An Executive Session may be called in order for the Commission to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities and liabilities.**

The Commission may take an action on this request. This matter becomes moot if the Commission denies the Petition to Intervene request.

Ms. Thomson: Just procedurally, since you have voted to deny the petition to intervene, that renders the second item moot, the motion to reschedule the public hearing, and we

would go on to Lori Buchanan's petition to intervene, that's the May 8th letter received by the department.

Ms. Lopez: So just for the record, E., Communications, 2., is with E.1, so we're going on to E.5., 1.5. Okay, so Mrs. Lori Buchanan, on behalf of Mrs. Lori Buchanan, has submitted a motion -- I mean a petition to intervene regarding the application by Mr. John Sid Perell for 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. It was received by the department, well, pro se email, on that May 11, it was accepted on May 12, but just for the record, it's an incomplete submittal, but it made it to be heard today to the Commission. So I have Mrs. Lori Buchanan, so I'll turn it over to her. Thank you.

Mr. Yoshida: I guess the department would note, for the record, that pursuant to your rules, section 12-301-25, this is an untimely petition because it states in your rules of practice and procedure that the petitions to intervene shall be in conformity with section 12-301-16 herein and shall be filed with the authority and served upon the applicant no less than 10 days before the first public hearing date. Untimely petitions will not be permitted except for good cause, but in no event, after the authority has taken the final vote on the matter before it. So I hope the petitioner will address the issue of good cause for the filing of an untimely petition.

Chair Jennings: Thank you, Clayton. Ms. Buchanan, would you state your name, everyone knows you, but I'm going to -- for the record.

Ms. Lori Buchanan: Aloha, Commissioners. You guys can hear me? Can? For the record, my name is Lori Buchanan. Thank you all for always giving of your guys' time freely 'cause I know you guys don't get paid for this.

After Sybil's presentation, I don't know about everybody else, but I was sitting in the back going, "whoa. You can say that again?" So I'd like to get that copy of that presentation. It was well put together, by the way, Sybil. Thank you for that.

My interest, as you can see, was because this permit is precedent setting. It will be the first one issued in West Molokai. So I just wanted to make a statement first, and then go into my reasons why I -- you need to oppose this permit.

Chair Jennings: Excuse me. Yeah --

Ms. Dudoit: Sorry. Because it's on record, Clayton just gave us a whole bunch of legal issues that bound us to this, so, Corporation Counsel, if I'm not mistaken, Clayton read us the rules by which we can allow someone to intervene, we need your advice, or what is the next step to proceed?

Ms. Thomson: Sure. Excuse me. I'll just answer the question quickly. So what the petitioner will need to provide you is evidence that, it's an untimely petition, and the rules say that that will not be permitted except for good cause, so the petitioner will need to provide you with information that she had good cause for filing her petition in an untimely manner. And if you find that credible, then you would judge the petition to intervene in the same manner that you judged the last petition to intervene. So, procedurally though --

Ms. Dudoit: What is considered "good cause?"

Ms. Thomson: That's going to be up to you, so it's the reasons that it was not filed on time and it's whether you believe those are sufficient or not sufficient, so it's really a value judgement.

Chair Jennings: Lori, I'm sorry, would you --

Ms. Buchanan: Okay.

Chair Jennings: I think we're -- Ms. Buchanan, please proceed.

Ms. Buchanan: Okay. Would the -- go ahead.

Ms. Thomson: I would just like to ask the petitioner to go ahead and provide her reasons for the petition and also the reasons for the date of the filing.

Ms. Buchanan: The reason for my petition, I feel that the possible adverse impacts from this SUP permit will have environmental, not only environmental, but other impacts to Molokai, and you'll see that if allowed to proceed.

I didn't receive my notice of mailings in my mailbox until the day before I called the county to ask if I could intervene. I notice that the mailings to my PO box is fashionably late, but most of the time I don't have an issue, and so that's why you don't really see me at every one of your meetings, but in this case, where you're setting precedence, I think it's very important for you to really do your due diligence in any precedent setting case, and I think I can share facts that would help this Commission come to that decision. Thank you.

Chair Jennings: Thank you, Ms. Buchanan. Is there any questions for Ms. Buchanan at this time from any of the Commissioners?

Ms. Dudoit: I really don't know what to say. I mean we're bound by this policy, we're asked to ask for good cause, but there's no clarification on what a good reason is, and then she's well justified for saying that she hadn't gotten her notice on time, but it begs the speculation of whether or not she checked her mail, and then who are we to say that she didn't? So

I mean I just asking for some kind of guidance before we move forth and totally, you know, go against what's written over there in a policy.

Ms. Thomson: So what I think what you could take into account in considering whether or not she had good cause to file the petition late, so that would be the first hurdle that she would need to get over; the second hurdle would be is this a mandatory intervention, or is it a permissive intervention, so those are the order of criteria that you would go through.

Whether or not she received the notice late or didn't receive it on time, you might want to ask is she within the 500-foot radius in that she would be required to receive notice. So if she would be required to receive notice, and did not receive it, that might good cause. If she doesn't reside or own property in that vicinity where notice is required to be mailed to those landowners, then that takes her farther afield and she may only receive notice the way any other member of the general public would receive notice either by publication, or if you sign up for meeting notices, so it would be the way that the general public is noticed of meetings so --

Ms. Dudoit: And then because we know of her expertise and affiliation in environmental issues in our state and in our county, where does the expertise boundaries of this come into play?

Ms. Thomson: So setting aside the issue of good cause, it's obvious that she did get notice of it because she's here and, you know, she may have filed her petition to intervene late, you would go on then to analyze whether she has those -- had met those criteria, does she have any property interest in the application, you know, those criteria. As far as the expertise that a certain person may or may not bring to the table, that doesn't necessarily rise to the level of allowing someone to intervene. An intervention means that they have -- they have a property interest, they're directly and dramatically affected different than a member of the general public. You can -- she can potentially be a resource person, you know, when we get back to considering, you know, if, say, if intervention is denied and we get back to considering the main application, if you have questions that you feel that she is a specific resource for, you could ask her to be a resource and ask questions of her if it would aid you. But you still have to decide whether or not she has met the criteria to be admitted as a party.

Chair Jennings: Mr. Manera, do you have anything you'd like to say, anything into this?

Mr. Manera: Excuse me. Luigi Manera. What -- what I wanna say is I not even know about this motion to intervene until an hour ago. I think it's kind of ridiculous, without letting me know, and file one day before the hearing. I know she don't own any property there. I know she -- she live probably 20 miles away. I don't see why we -- we have to allow this.

I think we should be informed, if not me, the owner, and many other owners around, not just come in the day before and say this is it. Something's wrong.

Ms. Dudoit: Okay, so does this take a vote or what is the -- what is the deal?

Ms. Thomson: If you're -- if you have no discussion, you may want to discuss -- discuss the merits of the petition to intervene and how it meets or does not meet the section of your rules. I would first discuss whether or not there was good cause for the late filing. There may be prejudice to the applicant who didn't receive notice.

Ms. Dudoit: No, so that was my question. My question was just we're addressing the good cause, so what -- how do we address that officially?

Ms. Thomson: You can just discuss what evidence has been presented for the reasons that she filed the petition to intervene late and whether or not that rises to good cause, whether you feel that those reasons are sufficient to move on to the next level of analysis in the petition to intervene.

Ms. Dudoit: And then if it is or is not, we do a formal vote?

Ms. Thomson: I don't think that you have to vote one way or another on the good cause, but that's just something that you're considering in a threshold. If you decide that she did not have good cause to file late, you could vote to deny the petition to intervene based on a failure to find good cause for late filing, so that could be a possibility. You could also feel that she did have good cause and then go on to discuss the merits of the intervention, you know, whether -- whether or not she has shown sufficient grounds to be admitted as a party and to have this application be a full contested case or whether you have sufficient information and her being admitted as a party would not add to your decision making.

Mr. Racine: Whether or not the timeliness of the submission of the petition, we can guess, but the next move is to weigh it as its merits, and she hasn't demonstrated that she has property interest or is, you know, adjacent to within the 500-foot and has no greater interest in the process than the general public. And on that basis, I move that we deny this application of intervention.

Chair Jennings: So are you -- are you making the motion to that effect?

Mr. Racine: Yes, sir.

Chair Jennings: Is there a second to -- there's a second?

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

Chair Jennings: Okay. We have a motion and a second. Any discussion? Yes?

Ms. Dudoit: So I just wanna just state for the record that I think all of us here respect and really love Lori, and plenty of the information she shares with us on everything is -- is unbelievable and very beneficial. But based on Corporation Counsel's definition of being able to accept and find good cause for which we -- we can allow her to intervene at this last minute and the untimely application of intervention, and based on our county's relaying of the rules and procedures that we must follow in this particular case, I would have to concur and deny.

Ms. Buchanan: Chair, point of order, please?

Chair Jennings: Yes. Yes, Ms. Buchanan?

Ms. Buchanan: Okay, I wasn't going go there yet, however, based on the representations made by Planning staff, this is what I going bring up in one contested case hearing, okay. On -- based on her own analysis of this project, this is illegal. I going tell you why. You guys like follow me? You can. This going add to good cause. Okay, I didn't want to take up too much time in establishing good cause, but maybe I should have went do the same thing as Pat did and go on the record.

Chair Jennings: Ms. Buchanan? This is out of order. This is -- we're in discussion.

Ms. Buchanan: I cannot believe my community -- I cannot come to this community members, who all my leaders, when I have an issue. I going tell you what is my good cause. I am a subsistent fisher person and hunter practitioner. This property falls within -- under Chapter 205A, under Chapter 343, which this county said wasn't applicable. It is. That's my big beef right there. I hunt and fish, and no tell me that the adverse impacts for me -- now I -- I sorry. But now I'm upset.

Chair Jennings: Well, Ms. Buchanan --

Ms. Buchanan: Because you never give me chance to show good cause, and you voted in the beginning of this meeting to amend your agenda.

Chair Jennings: Thank you.

Ms. Buchanan: And this is on Akaku, by the way.

Chair Jennings: Yes.

Ms. Buchanan: This is how we operating, okay, Akaku?

Chair Jennings: Thank you very much, Ms. Buchanan. There's a -- there's anymore discussion by the board? There's -- yes, Zhantell?

Ms. Dudoit: No, but I just would like to clarify, so during public testimony, she was able to ...(inaudible)...

Chair Jennings: Yes.

Ms. Dudoit: Okay.

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

Ms. Dudoit: Well, and that's why I'm asking. I mean is this a matter of whether or not the Chair and Corporation Counsel allows public testimony back up.

Ms. Thomson: Well, we're in -- we're in discussion on the merits of a motion being made, but if you're lacking information and you need to ask the petitioner further questions prior to your vote on this motion, that could be allowed if the Chair -- if the Chair feels that's proper.

Ms. Dudoit: Okay, I understand that but I no think that's the issue. The issue is that this is pretty cut and dry what we gotta do regardless of how we feel; on the other hand, there is reason to wanna listen to what she has to say so that's why I'm asking if, procedurally, we to do this, there is no other way to do this according to our laws, but is there a way to be able to hear her out if she wanted?

Ms. Thomson: Procedurally, during the petitioner's presentation of her petition and her reasons that she wanted to be admitted as a party, that was her opportunity to tell you every single reason to support her petition, so it may be late, you know, since she ended her presentation and, you know, you didn't have questions at that point, there's a motion on the floor, if you're lacking information, you can ask her questions, but to allow her to, you know, represent at this point would probably be out of order.

Ms. Dudoit: I don't think that's what we're asking. I think what we're asking is, procedurally, we gotta do this. You stated it, he stated it, so we're doing what we're supposed to do by the boundaries of our -- our rules, but what we asking is, is there a way that public testimony can be opened up so she can be on record to say what she has to say and -- or is public testimony over and there's no more at this meeting for her to be able to say?

Ms. Thomson: I understand what you're asking. Let me -- let me see if I'm thinking of this correctly. If -- so there's a motion to deny the petition to intervene, and what would happen

next, provided that that motion passes, is that we would go back to the main application and while public testimony has been closed on that main application, it's within the Chair's purview to go ahead and reopen it to take any further public testimony on the application and also to set time limits and things, so if -- you know, once you get back to the main motion, yes.

Chair Jennings: So we have the main motion, we have a second.

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

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

VOTED: to deny the Petition to Intervene by Mrs. Lori Buchanan, dated May 8, 2015, received by the department, pro se email, on May 11, 2015.

Chair Jennings: Motion carried. Thank you. We're onto the next --

Item D.1. - Continuation

Mr. Yoshida: I think we're back to item D.1., which is the state special use permit for the Perell Ranch short-term rental home.

Chair Jennings: Zhantell, did you want to readdress -- I don't have a problem if you want to -- if we want to open this and public testimony.

Ms. Dudoit: No, I think Corporation Counsel stated it clearly, we're going to open up the next issue, right? We're going to hear from the applicant and then we have the opportunity, or does it need to be prior to opening the discussion?

Ms. Thomson: So if the Commission feels that they want to reopen public testimony for the application, that's within your right to go ahead and do that as well as to set time limits on the public testimony. I would just caution not to mix a lot of discussion into it, just to have -- let the public do their testimony; if you have questions on their testimony, then ask those questions.

Ms. Dudoit: Yeah, Chair, I feel like it would be appropriate to reopen even though Mrs. Buchanan was not able by the restriction bounds of this procedure to intervene, I think what she has to say is critical and crucial to decision making in us taking up the next item.

Chair Jennings: I would agree with that, so I will ask Ms. Buchanan if she would like to continue on with her petition -- or her discussion? And, Ms. Buchanan, if you could, please, limit this presentation to three minutes, please.

Ms. Buchanan: Thank you, Commissioners. I have to apologize because I'm really upset, and I hope you can understand why. The reason why is because we've been fighting for this community all our lives. I going read you some -- "Want to make lifelong friendships bonded in teen challenges, night missions, jungle treks? Hone your leadership skills in paradise? Build your confidence by learning Navy Seals survival navigation skills? How to hunt, fish, surf, camp like a pro. Want to explore abandoned yurt villages and hunted leper colonies?" That said, "We will eat mostly local fish, game that we have fished for and hunted." Okay. "Nobody knows about Molokai because the locals have fought off hundreds of land developers, hotel chains, cruise boats; and really, everyone and anyone who has tried to ruin the last unspoiled Hawaiian Island through commercial development. As a result, Molokai is pure magic and teeming with wildlife. Lobster diving, fishing, spear fishing, overnight camping, night hunts," which is currently illegal, if you guys don't know that already, okay. "Jungle treks, hikes, rock climbing, cookouts, kalua cookouts," fire hazards. This I got off the internet, by the way, okay. The last it says, sorry, 'cause I messed up all my papers when I got fussy, "Come join us on the lost isle for the adventure of a lifetime at Man Camp." No worry. I no more my house yet. I get 26 acres that I developing for Man Camp but we going rent this ginormous 6,000-foot mansion on the beach. Okay.

I just heard the west end homeowners association come up and say we not responsible. We don't have a protocol. I not going assume enforcement. Okay. The county's asking for a million dollar liability to be attached to this permit. So where's my compliance and enforcement? So when people are Navy Seal training, eating my fish, throwing net on my beach at Dixie, what? What I going do? Who went notice me, as a practitioner of the 'aina? Who went notice me? Nobody went send me one notice said your resources may be impacted. Do you want to intervene? Nobody. Okay. I am the Aha Moku representative for Palaau Moku, okay. It's a resource advisory council to the Department of Land and Natural Resources.

In your own packet, Commissioner Dudoit said, "Are we compliant?" You not compliant. I going tell you why you not compliant in your own packet. You -- you say that there's no triggers for Chapter 343. I just gave you one trigger for Chapter 343. You on the shoreline, you are under Chapter 205, Coastal Zone Management. I sit on the advisory council for the Marine and Coastal Zone Advisory Council for the Office of Planning. Let me tell you, you not off the hook for Chapter 205. You on the shoreline. You in the SMA. Okay? So, by her saying that the county is compliant is wrong and going be one source of contested case should this -- should you go and apply and approve this permit. I going tell you that right now. Okay? And I not trying to be sassy and I'm not trying to be mean. I come from

a place of passion as a practitioner, as someone who loves this island like everybody sitting in this room love this island, and we don't want it to change.

There is no cap for Molokai. What does that tell you? You putting the cart before the horse. If you not capping, put in a cap on the permitted use, which is, by the way, it's a special use because why? Because it's not a permitted use. Hello. It's not a permitted use, so that's where we are. You need a special use. It's up to you guys. Now, the contested case might not even come back to you guys. It's going to go to the state. So you don't even have a chance to chime in again on the process. I am a process person. I understand the black and white. I not -- I've been told, from the last time I came, and I sorry I always come, I full of passion, please don't misunderstand my passion for anger or trying to be condescending. That's not really my place. And I apologize if that's how you feel, okay? All I saying is I do have the right, as a community member, born and raised on this island, fishing right outside Dixie, taking my kids over there all the time, I do have a right to intervene. I don't have to be a neighbor 'cause guess what? I poor. I cannot afford one lot down west end or I would have bought one.

The Department of Land and Natural Resources has been trying for years to get that Papohaku Dune Restoration Project off the ground. Nobody get money. Again, we not compliant to the CC&Rs of the west end association. That mean nothing. But they just told me they not going enforce and oversee this. So who is? Who I going cry to when I go down there and I no more -- no more fish, or I get people, Navy Seal training while my kids are there, and checking out haunted leper colonies? I'm offended. It hurts my feelings.

Okay, so I wasn't going have to drag everybody through your own staff's, but I will point out one thing, one thing because going come up in a contested case hearing, so might as well prepare for it now.

Chair Jennings: Lori, if you can --

Ms. Buchanan: Yes.

Chair Jennings: Could you, please, wrap it up? Thank you.

Ms. Buchanan: Yes, Chair. In this packet you folks all got, pages 1 through -- with all the maps, and all the exhibits, the first few pages, and this might help you in your decision-making process, description of the project, description of the property, it goes on to page 4, okay? On page 4, after number 5 at the top of the page, the county planning commission may impose such protective conditions, and it goes on and on and on, the last two sentences there: "The county planning commission, with the concurrence of the commission, may extend the time limit for granting" -- oh, wait. Sorry. Oh no, that is. Okay. So it doesn't say it's going to come back to you, okay. If I was you folks, I would

say, you know what? Gotta come back to me for review. It doesn't say it doesn't come back. There's no mention of that. On page 5, number 6, "The subject application does not involve an action that triggers compliance to Chapter 343." Wrong. It does. And if any event, you can deny this permit based on precautionary principle. The same principle I use at the Commission on Water Working Resources to intervene on two well permits for water desalinization on the west end because your properties are going to have deal with toxic brine should that desal well go in, okay. So, by the county finding that there's no triggers, I think is already wrong, and that is the same principle for Chapter 205. And the information used is 13 years outdated. Did anybody catch that? On land use? The information being used is 13 years outdated. 13 years.

Chair Jennings: Lori --

Ms. Buchanan: Okay, I'm sorry.

Chair Jennings: Thank you. We're really --

Ms. Buchanan: I'll wrap it up.

Chair Jennings: We're over the limit here but I appreciate --

Ms. Buchanan: I apologize again for my passion.

Chair Jennings: Don't.

Ms. Buchanan: I love all of you guys. I love everybody here. And all I want is to just help my island, okay.

Chair Jennings: Thank you. Appreciate it. Appreciate your presentation. Are there any -- Commissioners, do you have any questions for Ms. Buchanan? Okay, if not, we will vote on the motion. Oh, excuse me. I'm sorry. Any other public testimony at this time? Yes, state your name, please, at the microphone.

Ms. Dana Harris: Dana Harris. I totally -- I get what she's saying. This is going to start a precedent, and he will be the first one, and if he get passed, then, yes, there'll be some other people coming through 'cause this is the deal, you guys, with it ag zoned, it will come to you, so when the guy with the Man Camp comes up and says I want to get legal. No, no, no. We don't want him to get legal 'cause we don't want him doing what he says he's going to be doing. But this property is just used for like two, four people to just enjoy Molokai. They're not here to do anything else. So I just want you to take that into consideration that when these other ones come about, then each one can be taken separately.

Chair Jennings: Thank you, Ms. Harris. Is there any other public testimony? Ms. Crandall, you've already testified.

Ms. Crandall: I know I have.

Chair Jennings: Unless you --

Ms. Crandall: But I didn't get ten minutes, I got three minutes, and I'd like to have just a few more minutes. One is that I think that --

Ms. Dudoit: Point of order. 'Cause she did her testimony and she had a whole presentation --

Chair Jennings: Yeah.

Ms. Dudoit: By which to say --

Chair Jennings: So I'm sorry. We --

Ms. Crandall: Okay.

Chair Jennings: Thank you very much. Okay, if there is no further -- Mr. Ritte?

Mr. Ritte: Yeah, as I said earlier, I didn't have much information. I just wanted to make a comment as a person sitting in the audience and watching all of this go down. It's a trip, you know. It's like we setup processes for community input, and we got so -- every time you want to do something, you gotta ask the lawyer, and a lot of this process don't really work, but in the end, what you're going to have is people are going to do what they're going to do in the end. If the process doesn't work, it doesn't work. And I'm kind of amazed at this process where crooks can come in, and they get treated like they all good guys, and then bonafide people come in, and they nitpick, and you cannot be part of the process, but we're all here because these guys been doing illegal activities, and yet the process protects them. This thing is kinda really weird. I don't understand this kind of process, and I don't understand how we're going to communicate with the people that represent us with all this legal jargon and you cannot do this, you cannot do that, and all of that, and I guess if you're part of it, it makes sense, but if you're part of the community, you cannot solve the problem. So -- and yet, we live on this island we know we going solve this problem one way or the other, so if you force -- you force your way into this thing, it's still not going to happen. Maybe some of us going have to be criminals in the process along with the guys who already criminals. But this ain't going to happen because we're going to protect this island, and if the process doesn't change, where we're dealing one on one with each other, and we're depending on every single move with some lady who got trained somewhere to tell

us what we can and cannot do and how we can communicate with each other, this process is doomed.

Chair Jennings: Thank you, Mr. Ritte.

Ms. Dudoit: Marshall -- first, Chair, to be fair to miss --

Mr. Perell: I'd just to say one thing that --

Chair Jennings: Excuse me, just a minute please.

Mr. Racine: Hang on. We want to hear you --

Ms. Dudoit: Yeah. To be fair to Ms. Crandall, so both Ms. Harris and Mr. Ritte had three minutes to testify, so I think we cut her off, and to be fair so that you probably should let her testify again because --

Mr. Racine: While she's walking up, Mr. Ritte, what the petitioners have asked for is a higher level of participating in the process than the general public. We have rules by which to judge that, not to silence them, but to stop frivolous -- I would -- no, I'm not going to judge it, but intervention into the process that binds this board. We've been appointed, we've been given a responsibility, and we're going to do our best to exercise that, and we want to hear everything, this is why we gave ... another chance, alright, not to shut her up, but not to come in as an intervention, which would give her a higher authority over this body. We had to deal with that. We're now we're listening to what the public input is on this issue, and we will hear that, and were you threatening us?

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

Mr. Racine: Were you threatening us with your talk about becoming outlaws?

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

Ms. Dudoit: Point of order.

Mr. Racine: No, sir. We're trying to --

Ms. Dudoit: Chair, point of order.

Mr. Racine: We're trying to, with the process, we are bound by law and we're trying to do this right so that there is no question, down the road, did we favor one group over another.

Chair Jennings: Marshall, thank you.

Mr. Racine: I just -- please, be patient with us. We're going to do this right.

Chair Jennings: Okay. Thank you, Marshall. Any -- anyone that hasn't testified, you may give public testimony at this time. I believe, sir, you made your public testimony.

Mr. Perell: I would like to speak to being called a crook.

Chair Jennings: No. I'm sorry. That's --

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

Chair Jennings: Mr. Ritte, I'm just following what the rules are that we have and I'm very sorry about that.

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

Chair Jennings: Okay, public testimony is closed, so now we're going to -- we're going to vote? Okay, yes, ma'am.

Ms. Loretta Ritte: Wow. Is this what Molokai is coming to? Wow. It's really changed.

Chair Jennings: Could you state your name, please?

Ms. Ritte: I will. My name is Loretta Ritte, born and raised in Hawaii, resident of Hoolehua. I'm just really offended by the whole process. I'm offended by what you said that if you don't own land, then the public has to interest. I'm sorry. While I may have misinterpreted -- yeah, well, I may have misinterpreted it, but whatever happens, wherever it happens, especially on the beachfront, it affects the public, all of us, and you're -- I know what you're saying. I go down to Dixie Maru. Before there were houses there, that place was closed. Molokai Ranch wouldn't allow any people to go there except if they had a special permit. We, as a community, said that's wrong. We have the right. So we marched. It opened. Molokai Ranch goes and sells property. Who buys the property? Not us. We cannot afford it. So people living on the beach affect the locals. I go down to that beach, it's not the same, and I'm not saying I don't like the people, but you have to realize that what you do down there affects us. It's like we want to go. These beaches were our beaches. And there's hardly any place on this island that is our beaches. And it's not that we don't want to share, but there are people who come that don't have the heart that maybe you have, and they think we owe them. We give aloha, and we expect that in return. So you might have a pure plan, but what comes after you, you have no control over, and that's what we're trying to protect because there are people out there who only see what they want to

see and they have the means of doing whatever they want, and so I want you to know that your decision is going to affect me, my children, my grand -- this whole island, and we want to have aloha, but when is enough enough? Water. Those are not ag lands. Water is too expensive. I don't know why they even call it "ag lands." There's no common sense to this whole plan. It's not ag. And it shouldn't be -- if you come to live to Molokai, you should come to live on Molokai because this is our home, and if you don't live here, this is not your home, then you should sell your property and give it to somebody else. Don't let Molokai -- you said you and your wife want to see what Molokai can do for you, the best thing you can do is to sell it to somebody who's going to stay here, love it, take care of it. That's all we're asking is that you love this place like we love this place. We want to protect this place so it's not like Waikiki or Hanalei or Lahaina. It was beautiful just like you see it now. Those places were like that. So I just ask, from my heart, that you really think about what you're doing in your decisions. Mahalo.

Chair Jennings: Ms. Ritte, thank you. Thank you very much. At this time, we're going to close -- I'm going to close public testimony and we're going to take a ten-minute break, so thank you very much.

(A recess was called at 2:15 p.m., and the meeting reconvened at 2:21 p.m.)

Chair Jennings: I'd like to ask the applicant if he has anything he'd like to say or -- if you would, please -- please come to the microphone and state your name.

Mr. Perell: John Perell. Well, I'm -- it's quite interesting to see all the people coming out here and, obviously, this is a, you know, a very interesting topic here on Molokai, and I -- I was taken aback by being called names. I don't think that I deserved that in a meeting like this. I am a -- I'm hurt by that, Mr. Ritte. I felt that was unfair. And I just wanted to state that. I feel that what we've done on Molokai, we have a very small house at Dixie's, obviously it barely makes it as far as what you call a house, but it's a special place and people, on Molokai, have been down there many times and have enjoyed it. I've kept the beach open for everybody down there, and I don't -- I mean I understand the resistance here, and I love Molokai, and I want Molokai to hold a special place in all of our hearts, and it's shameful that we have to point fingers and call each other names. That hurts my pride and my feeling. My wife is here, my friends, and I'm sorry that that came out today, that people feel that way, but I just want to say that I'm sure that you people will make a wise decision, more love to Molokai and to the people that are here, and I hope that the friendly island persist. Aloha.

Chair Jennings: Thank you, Mr. Perell. Okay, Sybil, do you want to make your recommendation?

Ms. Lopez: Yes. Thank you, Commission, and the community for all your input. I just wanted to address some before I do my recommendation. As far as the Chapter 343, Hawaii Revised Statutes, Chapter 205, because it's a state land use agricultural district, it is in compliance with Chapter 205-6, under Hawaii Revised Statutes. As far as it being a portion of the SMA, our -- it's conclusionary that the request is that there's no change, there's no alteration, there's no change, there's no adverse impact in a short-term rental home. Because the requirements stated in the beginning that for every permitted home on Molokai, they cannot have more than three bedrooms, so every one bedroom, you can have only a max of two adults and max of two children, so it's not compromising what is already existing or it's not extending, expanding, or enhancing, so it doesn't change what it currently has. So it's --

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

Ms. Lopez: Yes, so in regards to traditional uses, like what Mr. Perell said, it is open to the community and what -- what he did to the place and how he -- and how he caretakes and all of the challenges that he comes up -- and all of the adverse already impacts -- that impacted the applicant, it already shows that it minimized the impacts versus trafficking where, you know, vehicles go over the -- over rocks, he's there to help manage that, he helps to control the deer population, he helps control vandalism, so it has certain control and it minimized the adverse impacts, therefore, there's no adverse impacts being compliant with Chapter 205-6, under the Hawaii Revised Statutes. So the regulation is under state land use special use permit, which the applicant has been in compliance of, but the operation is a short-term rental, which does not change anything what it's currently doing, meaning they're not -- like I said earlier.

On top of that, it does set a precedence because it'll be the first permitted one on the west side of Molokai, and as you've already heard in the testimonies that there already, right now as we speak, people operating illegal, so this is the regulatory action to help minimize or reduce the illegal operations that is impacting Molokai and help bring them here, like what Mr. Perell is actually showing, to be an advocate to help unpermitted, you know, illegal operations to come into this place to help become -- help them to become into compliance, so that is what the Maui County Code, 19.65.030, allows this Commission to help regulate that. And before I put down my recommendation, the recommendation is also open for discussion that the Commission can add conditions to this project and the project that comes forth in front of you. So I will read my recommendation.

Oh, as far as the cultural part -- portion, and the Aha Moku System, under the BLNR, I think the recommendation to that sense is we do have our community plan update right now, and I think that would be the most -- the area where it could be addressed that the Aha Moku can have some type of ruling policy or something in place where the community plan does

take action in consideration with all of our traditional uses, our access, and our cultural and all of our practitioners.

So with that being said, the conclusions of law, recommendations, that the Maui County Planning Department recommends to the Molokai Planning Commission approval of the land use commission special permit subject to the following conditions: That the land use commission special use permit shall be valid until May 31, 2018, subject to extension by the Maui Planning Director upon a timely request for extension filed at least 90 days prior to its expiration. The Planning Director may forward the time extension request to the Planning Commission for review and approval, and may require a public hearing on the time extension by the Planning Commission.

So a total of seven conditions are being made to this project. The second -- I don't know if you want me to read it word for word, it's a page and a half, but I'll kind of summarize.

So the two -- the second is the subject to the land use commission special use permit shall not be transferred without the prior written approval of the Maui Planning Commission, however, in the event that a contested case hearing precede issuance of said land use commission special use permit, a public hearing shall be held by the appropriate planning commission. The third is regarding to the insurance and the insurance liability. The fourth is that the full compliance with all applicable governmental requirements shall be rendered. That the applicant, no. 5, shall submit to the department two copies of a detailed report addressing its compliance with these conditions. The compliance report shall be submitted to the department with the request for the time extension when the time extension is at hand. No. 6, that the applicant shall develop the property in substantial compliance with the representations made to the land use commission in obtaining this special use permit. Failure to so develop the property may result in the revocation of the permit. And no. 7, that the farm plan shall remain implemented throughout the duration of the special use permit. Evidence of implementation shall be submitted as part of any request for a time extension, and at any time, the applicant is able to amend or modify the farm plan during its existence.

So these are conditions of this state special use permit that shall be enforced pursuant to section 205-12 and 205-13, under the Hawaii Revised Statutes.

In consideration of the foregoing, the Planning Department recommends that the Molokai Planning Commission adopt the Planning Department's reports and recommendations prepared in front of you on May 13, 2015 as its findings of facts, conclusions of law, and decision and order, and authorize the Planning Director to transmit the said written decision and order on behalf of the Molokai Planning Commission. Thank you.

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

Mr. Yoshida: The department would like to correct condition no. 2 to reference the Molokai Planning Commission.

Ms. Lopez: Thank you.

Chair Jennings: Okay, is there -- thank you, again, Ms. Lopez. Thank you, Clayton. Are there any questions by any of the Commissioners? Seeing none, do I have a motion? Excuse me.

Mr. Racine: I have a question.

Chair Jennings: Marshall?

Mr. Racine: We can amend this, the conditions?

Ms. Lopez: Correct. So the conditions are before you.

Mr. Racine: Yes.

Ms. Lopez: And you can discuss conditions, you can add conditions. It is up to the Planning Commission on how they would want to regulate the -- the project.

Mr. Racine: Since this is such an emotional issue and a sensitive issue with our community, where in the first condition, and it says, "The Planning Director may forward time extension," what if we were to say they will so that we have another opportunity for open forum?

Ms. Dudoit: And I -- I also think, to add on to that, it's not the Planning Director, that any extension should be reviewed by the Molokai Planning Commission and approval -- for review and approval, and will require a public hearing at the time extension by the Planning Commission.

Ms. Lopez: So, Zhantell, for the record, you're omitting "the Planning Director," I mean for the time extension, and just going to put "the Planning Commission will review" -- "will require to review?"

Ms. Dudoit: Yes. So I guess the main point is just saying that the Planning -- I would want that the Planning Director doesn't have the sole responsibility or authority to decide whether or not something needs to be extended or not. I think it should come -- the extension should be applied directly to the Planning Commission and that we have the opportunity to review it and approve it, and that it will require a public hearing on the time extension.

Chair Jennings: Sybil? Is there a -- is there a motion -- excuse me.

Ms. Thomson: Just to clarify what we're talking about. It's condition no. 1, removing the entire second sentence, so that the condition no. 1 would read: "That the land use commission special use permit shall be valid until May 31, 2018, subject to extension by the Molokai Planning Commission upon a," etcetera, and then removing that entire second sentence. Does that address your concerns?

Ms. Dudoit: I think it should read, "That the land use commission special use permit shall be valid until May 31, 2018, subject to extension by the Molokai Planning Commission upon a timely request for extension filed at 90 days prior to its extension for review and approval and will require a public hearing at the time of extension by the Molokai Planning Commission."

Ms. Thomson: The -- the only consideration with a public hearing though is the expensive publication so, you know, I just wanted you to be aware of that, that it does with expense.

Ms. Dudoit: Well, sorry, but I don't really care about the expense, as long as the -- so what I'm -- if it comes before the Commission, maybe that's not even relevant to put in there, but anytime it's going to come before the Planning Commission, the community going have one opportunity to testify anyway, right?

Ms. Thomson: Right. Having it as an agenda item, the extension of a permit as an agenda item, similar to the one that's later on in our agenda here, it's not a public hearing, although it's an agenda item. A public hearing requires 30 days notice, publication in the newspapers, all of that stuff.

Ms. Dudoit: Oh, okay.

Ms. Thomson: So ...(inaudible)...

Ms. Dudoit: So yes. I want to keep that the way that it is.

Ms. Thomson: Okay.

Ms. Dudoit: Sorry. 'Cause I think that's important that people have a timely -- and then I also wanted to add in and maybe just clarify that the -- so, no. 6, "That the applicant shall develop the property in substantial compliance with the representations made to the land use commission in obtaining special use permit. Failure to so develop the property may result in the revocation of the permit," so is this -- okay, so no. 7 is talking about the farm -- I'm trying to get to the part where it solidifies that if you're on ag land, you have to comply

to agriculture zone requirements. So whether he grown whatever he's growing that his farm is implemented and put into action.

Ms. Thomson: So that's part of the STRH approval process through the Planning Department, so if you grant the special use permit, it does go back to the Planning Department and all of those considerations in the Maui County Code, that goes into their -- into the Planning Department's determination of issuing the STRH permit. But as far as complying with state law, having a permit like this doesn't take away that they have to comply with all other provisions of state -- state and county laws.

Ms. Dudoit: And then so where it says no. 5, "The applicant shall submit to the department two copies of the detailed report addressing its compliance with these conditions," can that be added in as part -- as information given to us as part of the extension review?

Ms. Thomson: I think it automatically would be, you know, because with a request for extension, they're going to have to prove to you that they've complied with all their permits terms anyway.

Mr. Racine: Counsel, going back to item 1, who bears the cost of public hearing?

Ms. Thomson: The county.

Mr. Racine: Okay, so it's not the applicant? So the increased cost is part of us doing business. If there isn't a public -- notice of public hearing, we're not going to get the input just but a few people? This was part of a -- was there not a news release or considerable discussion about this one, publicity ahead of time so we got the kind of input we did, we want to guarantee we got this kind of input, so we do want it to be a public hearing. Okay.

Ms. Thomson: Clayton, maybe you can clarify. If, for an extension request, if they had to do a full-blown public hearing, who bears the cost for that, would it be the department or the applicant, or would they have to specify that the applicant bears the cost for all the publication and etcetera?

Mr. Yoshida: Well, I guess if there's been, over the duration of the permit, you know, a lot of concerns raised, then we may move it up to a public hearing, normally. If it's there haven't been a lot of complaints, things seem to be running okay, then it probably be brought back as a communication item, normally. The public is subject to the Sunshine Law, so the public can testify on the agenda item. But the applicant would not have to do the noticing and the department would not have to do the noticing as it does for the public hearing.

Mr. Racine: This is a test case. Can we not just ask on the first renewal that we call the public hearing, the department bear the expense, that way -- again, we're stepping into new water here, or opening a door, did we make a mistake? We want to know. So, yes, we're going to go to public hearing on the first review. If there's subsequent extensions and there's no problems, maybe we can just put it as an agenda item on our regular meeting, but I think the first one we need to pay close attention to and get as much input as possible.

Ms. Thomson: I have a possibility for you to consider. Under no. 1, rather than requiring a public hearing, why don't you say something to the effect of, "The Planning Commission may require a public hearing on a time extension." That way, if there, as Clayton was saying, if there are, you know, any complaints about it, that kind of thing, that would be brought to you at the time of the communication item as put on your agenda but it wouldn't involve the -- it is quite an expense and entails a lot of work, as I'm sure the applicant can tell you.

Mr. Racine: Okay then, as a matter of procedure, it would show up on our agenda, which we get not a full week ahead of the meeting, and then will we have to defer it to the next meeting so that then we can put it out for notice?

Ms. Thomson: So what -- what you'll do is if it showed up on your agenda as a regular communication item, and you decided that, at that point, a full public hearing is necessary, then they would schedule it at the earliest opportunity, it may not be at the next meeting, it might be 30 to 60 days out.

Mr. Racine: Okay, that sounds -- change the word "will" for "may" on the public hearing, Zhantell?

Ms. Dudoit: You know me, I not -- I not comfortable with that. I mean we going bear the cost of what we going bear the cost of. Obviously, this was an example of how important this issue is to our community, and that's just the way it is. I mean I going be honest, when I looking at my agenda, sometimes it's so much stuff to read that I miss the communication items on here. I not as abreast of the communication items on our agenda as we are with all the other public testimony stuff, and people are getting left out of the loop, whether by chance or, you know, faulty procedure, whatever it is, and that's the cry that came out today, and I think that we have the responsibility to try and address it. This is the first one of its kind. We all know that that whole place is filled with illegal vacation rentals and so are we going to pass it off, after we've heard how much, you know, concern there is as just a communication item versus something that should be let out to the community to discuss and hear about it in adequate time to come and talk about.

Ms. Thomson: Well, one of the things to consider is that this isn't the first STRH permit on Molokai, it's just in that geographic area. You have, directly after this item, on this agenda

is a request for a 15-year time extension on a special use permit for a vacation rental, so this kind of topic has come up repeatedly. I think requiring a public hearing may be more arduous than needs to happen. I think at that time, you know, in three years time, you'll have a lot more information and if you have it as a communication item, you can always, at that point, say this requires a public hearing. So you would always have that opportunity.

Ms. Dudoit: So I guess I would feel -- I was going to wait till later to bring this up, but I guess I would feel more comfortable about that if there was some answers that I could get from the department, like what about enforcement? What about -- so this wouldn't even be one concern to me if there was adequate enforcement. The Police Department has its own Facebook page to monitor drug deals that going on and social media stuff so they can bust people and different things. I mean it's really -- I know that it would take more effort but there are advertised illegal stuff going on. Enforcement is zero. We go through this whole process. We offend each other and have all these emotional scars that we leave these kinds of meetings with that could be settled by adequate enforcement. And so we make all these decisions, we pass or we deny, is there somebody that holds these people accountable for what they promised to do and not to do? And -- and so that would be my first. And then the second would be addressing the idea that there needs to be a cap on vacation rentals on Molokai, and the no cap thing is scary, so I think there are several different things that we have to address as a Commission and not wait -- wait on them.

So I guess if it's the advice of our Corporation Counsel to -- that, you know, and you're right, I mean that's right. We do have other vacation rentals and they don't necessarily require so maybe the wording needs to be changed, but I would, for the record, state that if we're going to proceed as we are, that we address those two fundamental issues, which is enforcement and how we going to address those things, and coming out with a cap for Molokai on vacation rentals.

Ms. Lopez: Can -- can I -- can the department address that, you concerns? So the Current Division is just basically permit processing, so we come before you to show you the projects that we have that's going through permit. As the Molokai planner though I've been working with the enforcement, like some of the testimonies that you guys heard already that they are known to the enforcement division and they already sent out cease and desist letters, which one of them you heard, and with that letter, it specifically says what they're in violation of, and if you read Chapter 19.65.060, it's enforcement, so it's -- and it has a detailed what the enforcement is and how it's enforced. We are looking -- the department is looking towards, for those that do not comply, meaning come before you or go through the permit process within a given amount of time, enforcement will follow through with a five-year ban, and that's part of the enforcement criteria in 19.65 with the short-term rental title. So there is enforcement. Enforcement is happening around. You've already heard it from one testifier. It's just a matter that -- it's because you either don't see it, or, for example, if they've been, you're probably going to be seeing it further. Like I said, there's

been about 26 to 30, one already served with cease and desist letters. So they do have a time frame to work with the department to come into compliance, so you -- after this, you will be seeing a few more, just to let -- for your information, I already got three on my desk for Molokai that's pending short-term rentals, and not necessarily in the SUP, the state land use area, so -- and there will be more to come.

Chair Jennings: Okay. Thank you. Okay, we've got other things to discuss here this afternoon, so I will ask for a motion.

Mr. Racine: I move we accept the department's recommendation with the amendment to condition 1 that the Molokai Planning Commission receive the extension and that we may require a public hearing before -- I mean, yeah, require a -- we may require a public hearing for extension.

Chair Jennings: Is there a second to Marshall's motion?

Mr. Lawrence Lasua: I'll second

Chair Jennings: Second by Lawrence. Yeah, I'm -- is there discussion on this?

Ms. Dudoit: So I just -- I just wanted, for the record, thank everybody for coming. This is always a tough issue, and thank Mr. Perell for coming out to be in compliant. Ironically, I was sitting on the Commission when Mr. Dunbar first came with the first compliant vacation rental property on our island, and it wasn't an easy task then and it's not one now. It's a delicate balance between what we want to preserve as people who love this place and the emotional turmoil that we go through seeing changes, and then acknowledging that there is a need for certain things and that as we progress as human beings in our society, that there is need to find change and order and different kinds of things that we need to do, so I just thank you guys, we don't always make the perfect decision that satisfies everybody, but I thank you for being respectful to us, I thank the Commissioners for being respectful to our -- our people, and just appreciate everybody's comments and their heartfelt testimonies.

Chair Jennings: I'd like to second her -- say yes to what Zhantell -- Zhantell said. Ms. Buchanan, Mr. and Mrs. Ritte, thank you very much for your comments, we appreciate it, and thank you very much. Okay, we have a motion, we have a second.

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

It has been moved by Commissioner Racine, seconded by Commissioner Lasua, then unanimously

VOTED: *to accept the Planning Department's recommendation with the amendment to Condition no. 1 that the Molokai Planning Commission review and approve any time extensions for the permit and that the Commission may require a public hearing for the time extensions.*

Chair Jennings: Motion carried. Thank you.

Ms. Lopez: Thank you.

Mr. Yoshida: Okay, we're on item E.3. I think we do have a time constraint that we have to end the meeting by about 3:15 'cause people have to catch a boat back to Maui.

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

- 3. MR. LANCE KIP DUNBAR on behalf of DUNBAR MAKAI PROPERTIES and DUNBAR RANCH PARTNERS requesting a fifteen (15) year time extension on his State Land Use Commission Special Use Permit in order to continue to operate the Dunbar Beachfront Cottages, two transient vacation rentals in the State Rural District at TMK: 5-7-003: 061 and 063, Pauwalu, Island of Molokai. (SUP2 2000/0006) (S. Lopez)**

The Commission may take action on this request.

Ms. Lopez: Hi, Commission. This is in regards to SUP2 2000/0006 in regards to Mr. Lance Kip Dunbar, on behalf of Dunbar Makai Properties. The request is for 15 years on a time extension. It actually got reassigned to me. It was before it was for Molokai Planner, Benjamin Sticka, but the 15 years request is because he already had it for 15 years, so he had it since the year 2000, so we figured since he's been in compliance. I do have the compliance report filed and recorded with the department. If any of you request for that, I can send that to you. But all of the compliance report has been -- has been justified, his insurance and certificate, and so the request is just for something that he's in continuance of and he's been operating 15 years. I do have the applicant here, at this time, if he would want to say anything or if the Commission would want to address him.

Chair Jennings: Mr. Dunbar, would you --

Mr. Kip Dunbar: Aloha, Chairman and Commission Members. Zhanell, you're absolutely correct. You and Diane Swenson were the two members on the board when this went through 15 years ago. Essentially, nothing has changed. They're the same 720 square-foot units they've always been. They're -- they've received no complaints. We are in total

compliance with Department of Health, Department of Fire. We notified, well in advance of our 90-day expiry, which is July 5, 2015. I'd be happy to answer any questions. Some of the things that you might not know is that once you do your special use permit, you already have your conditional use so your special use comes in effect. Your time limit runs from the time frame of receiving the special use permit, so that's why, in my particular case, it ran quite a bit longer because there were a couple ordinances that had to be passed in the meantime, so it was originally a term of 10 years, however, by July 15, it will be nearly 14.

Chair Jennings: Thank you.

Mr. Dunbar: So I'd be happy to answer any questions.

Chair Jennings: Is there any questions from the council for Mr. Dunbar?

Mr. Doug Rogers: Yours is right on the beach, yeah?

Mr. Dunbar: Yes, Doug.

Mr. Rogers: Down in Wailua?

Mr. Dunbar: No, no, no. Kainalu. They're the two little green and white ones on the -- on the side of the road. It's before Wailua.

Chair Jennings: Any other questions by Commissioners? Is there -- thank you, Mr. Dunbar. Is there any public -- anybody, questions? Ms. Buchanan.

Ms. Dudoit: While she coming up, Chair --

Chair Jennings: Yes. Please. Yes?

Ms. Dudoit: Remember when we just discussed the previous like reviewing extensions, and we talked about compliance forms and documents, so is there any to review? Are there any to review? 'Cause I think I asked that question, if it would come before us, if we would be able to see the review, compliance review document.

Mr. Dunbar: There are compliant documents because when you are approved, you're given the documents that you have to comply with. In order to go through the extension, you then have to answer that compliant list, and I believe Sybil has it even though it came from Sticka, who started the process, but I answered the compliant list. I'm sure I have it in my records.

Ms. Lopez: So the compliance report is already filed administratively, so that is what we go over, so before it actually comes to the Commission, we have to make sure that they complied with the report, so whether we go out there for inspections, make sure that everything is specific to the conditions and in compliance, so the reason why it's here today is because they've complied with the report that they had to hand in, so I think it was 16 conditions on that one.

Chair Jennings: Thank you, Ms. Lopez. Ms. Buchanan. Please state your name.

Ms. Buchanan: For the record, my name is Lori Buchanan. The Dunbars are good friends of mine, and I was also on the Commission at the time when we approved it and we had, just like the case before, we had a lot of controversy because it is on the shoreline, and that's what the special use permit is so you can go back, time has passed, you can see if it's a problem or it's not a problem. Actually, the real solution is in your community plan, whether you going change the zoning or not. So Commissioner Dudoit brought up, prior to this, about the cap. All of those issues should be addressed in your community plan update, okay, that is one of the reasons why I volunteered to be on there and the council was good to put me on there for give everybody bad time, but Commissioner Dudoit came and did a presentation to the advisory council at our last meeting. Tomorrow, there's one on water. And so the last time I was testifying at this Commission, all I was trying to get across was the process, not to circumvent the process by piecemeal and arbitrary permitting, process permitting. He said it's almost 15 years. Guess what? That's how long our community plan never get updated. So that's how come I said no take things personal, for me, you know, and having to go against my friends and my family because it's about the process. The community has a chance to participate in the process, they get to say I like short-term vacations over there, I want that resort area zoning, I don't want -- and I don't want short-term bed and breakfast in my neighborhood. That's the reason for planning. And that's only county. So with that, for any special use permit on Molokai, regardless of who they are, what they are, or what the project it, I never want to give a very long-term permit because that circumvents the process by this community to evaluate if that special permit is causing a problem or not. If I gotta wait 15 years for come back to you and say this thing is one problem, no more parking, no more this, had accident over there because was trying to avoid tourists, and all that kind of stuff, that's a long time. With that said, the Dunbars have been more than compliant, I've not heard of any complaints, they always help our community, and I, personally, don't have an issue with that. I just talking about process. So going out from here, just keep that in mind that the ability to review more often than longer, is what I would suggest because then I can be a part of that. And that's all. So please come and participate in the advisory council because things on Molokai is heating up, if you don't already know. The Kalaupapa has a draft plan to encompass all of the north shore of Molokai and SMA in Kalaupapa - I know, wrap it up - but get plenty things happening, and so eventually that might come back to you guys, so just be aware. Thank you.

Chair Jennings: Thank you, Ms. Buchanan.

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

Chair Jennings: Mr. Dunbar, please.

Mr. Dunbar: You know, basically, when I sat on the Planning Commission, I never really thought of anything such as a precedent. You know, everybody that came before had to -- had to state the case, and just because you give it to one, you don't give it all. And this process -- and I sit on the CPAC with Lori also, and I'm appalled that there's not cap, I'm appalled that there's no spread between a vacation rental and another vacation rental. You can have one right next door to the other. And so I mean A's not going to complain to B, B's not going to complain to A, or C, if they all want to be in the same spot. So, you know, that process kinda is not working. So being on the CPAC with Lori, I mean we are going to look at this, and I think there will be a cap, I'd like to have footage between everybody, I'd like to have, if someone comes in for an after-the-fact permit, there'd be serious penalty, you know. I mean you don't know what they've been collecting. You don't what excise tax or TVA tax they have or have not paid. You know, and when the lady said -- when the gentleman said that he was rezoned B&B, the ag property I'm on has been zoned commercial, so I pay a higher real property tax on it. So it's -- the 15 years is -- it's complaint driven. If you got somebody that doesn't like you, they complain, they respond. And with TVRs, they respond pretty instantly. So, for us, it's a matter of we've gone through, this is the second -- we're up for our third renewal rather, and so we'd already been there 13 years, we thought that we would just make the request for 15 years and -- and we've complied, and I hope you see it that way. Mahalo.

Chair Jennings: Thank you, Mr. Dunbar. Is there anymore public --

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

Chair Jennings: Okay.

Mr. Ritte: I opposed it then, and I oppose it now. I haven't changed my position one bit. But I think the whole idea of process is coming -- coming out. I think that's probably the best thing we can all figure out: How can we improve this process? So I'm here to say that we need to defer this guy's action until after the process. CPAC is going to come up. He said he's going to make all kinds of rule changes to it, so we should wait for all those things before we start piecemealing out these permits. So I'm here to ask you guys to defer this until after the -- the planning process.

Chair Jennings: Thank you, Mr. Ritte. Ms. Lopez, would you make your -- public testimony is closed. Mr. Lopez, would you make your recommendation, please?

Ms. Lopez: So, hi, before I make my recommendation, I'm Sybil Lopez, the staff planner. It's -- it is absolutely right, you guys are -- it is the process, and the Commission does have the right to recommend to the council to add more stringent rules on Molokai, regarding Molokai and short-term rentals and state land use permits, so when it does come into ordinance or amended laws, that it can be -- that during the permit process where we go through, that it can be adhered and addressed, yeah. So as far as compliance that Mr. Dunbar did comply with the conditions that was set forth with his permit, we do, as part of the ordinance does have revocation procedures so if at any time you'd want to look at the revocation procedures, this is why Mr. Dunbar is in compliance because he, number one, never met any revocation procedures that he has been in compliant, that there was no written protest during the ten years that he was in operations, and nothing within that lieu was brought to the attention of the department or in an RFS's, request for services, or that of such.

So in that, I would like to do the recommendation to the Maui -- in regards with the Maui Planning Department recommends approve of the state land use commission special use permit time extension subject to the following conditions, the basic standard conditions that was already placed on this permit, with the extension to be from May 31, 2030, so that will valid until, again, I'll repeat, May 31, the year 2030, subject to extension by the Planning Director upon a timely request for extension filed at 90 days prior to expiration. So that is the first regular standard condition, which that condition was already amended previously. So it would -- so that the standard conditions base from 1 to 8, so there's a total of 8, and there's actually project specific conditions, from 9 to 14, that relates to specific in regards to hazards, inherent hazards of exploring or swimming in the fishpond, that said notification shall be plainly posted inside of each unit, said notification shall be reviewed by the Planning Department as to the conformity with this condition; in addition to naming the County of Maui as additional insured as required in condition 4, the applicant shall notify guests of the sensitive cultural nature of the fishpond and that rocks or other items are not to be moved or removed, said notification shall be plainly posted inside of each of the unit, said notification shall be reviewed by the Planning Department as to the conformity with this condition; that the guests stay -- the guests will stay a minimum of three days and a maximum of 180 days as said with the original condition. In consideration of the foregoing, the Planning Department recommends that the Molokai Planning Commission adopt the Planning Department's report and recommendation memorandum prepared for the May 13, 2015 meeting as it findings of fact, conclusion of law, and decision and order, and authorize the Director of Planning to transmit the said decision and order on behalf of the Molokai Planning Commission to the applicant.

Chair Jennings: Thank you, Ms. Lopez. Is there -- are there any questions for Ms. Lopez on the recommendation? I would ask for a motion?

Ms. Dudoit: Okay, no, I actually I was reluctant to make a motion because I wanted to ask a question but I wasn't sure, procedurally, whether we should discuss it now or I gotta wait till somebody makes a motion to discuss it. Okay, so Walter brought up a really good point, and I've been fussing about this for several meetings now, that to be consistent in our rulings with the Molokai Community Plan, so my question then would be: One, is his time extension due so that he would be in violation before the community plan is actually done and adopted and finalized? And then, two, are there specific things regarding the length of time extension that can be mandated by the community plan, which we can follow rather than us putting in a time limit and then they decide that it's shorter, and then we come back and try to amend or --

Mr. Yoshida: I think we ran into the same issue with the Feeder Pukoo Hale special use permit, and it's hard to predict how long it's going to take the community plan process. We say it's two years. We said the Maui Island Plan will take two years; well, it took ten years. Okay, so I don't think you can hold the applicant back on a process with kind of an uncertain time line as to when it will be completed.

Chair Jennings: So, saying that, do I hear a motion?

Ms. Dudoit: Well, prior to this, the time extensions have been in what, five year -- five-year segments?

Ms. Thomson: The length of the time extension is up to this Commission, so there's not any kind of a set period of time.

Ms. Dudoit: No, but prior to this time extension, was it every five years he's been coming or -- 'cause I know the first one was five years, right, and then did you give him a ten year, 'cause I wasn't here when the extension happened the first time?

Ms. Thomson: Possibly, Mr. Dunbar knows.

Mr. Dunbar: It was two years ...(inaudible - not speaking into the microphone)...

Ms. Thomson: And then the subsequent?

Mr. Dunbar: The second one was ten years, but because -- because -- because these units were the first ever approved, and the only approved units on the island, the first renewal was a two-year period. When you think about it, where we were in May, I started this process in November, so it takes you six months to get going so you for a year-and-a-half, and then you're into the six months renewal process again. And quite frankly, the process is exactly the same from starting from scratch. You gotta notify everybody within a hundred-foot radius -- you still have to -- I mean 500-foot radius; you still have to wait for

all the answers; if there's uncomplimentary letter that comes back through, then you respond to it; if you can get it changed or rescinded, you do. Anyway, I mean the process is exactly the same. So when we went for the second renewal, it was renewed for ten years. But as I said, because it took three years of ordinances that they were writing before the special use permit kicked in, we -- our time extension was now between 13 and 14 years. So by July 5, 2015, I think it'll be pretty close to 14 years that we've been operating. And what really controls a vacation rental is the complaint of the people around them. You know, if there is a -- if there is a fire issue, or there is a -- a parking issue, if there's -- if you're holding marriage ceremonies on your property, I mean these can all be -- they're legitimate complaints, and the county can come in and shut you down. So what you don't want to do is ever having any complaints, which we haven't because we live onsite, this is, you know, part of `ohana property and we take care of it. So happy to answer anymore questions.

Mr. Racine: I heard something today having to do with our process and it says why can't we ...(inaudible)... and what people do is a measured response, he's already demonstrated that he lives here, he cares, he's in compliance, he's demonstrated that he's trustworthy - I hate to use the word - but he's asking for no more than he's already given. The review process of complaints, it's in the conditions that if he sells it, the new person falls under our review and it's a whole new set of rules. This man's demonstrated that 10 years is not too long and 15 years wouldn't be too long 'cause he's going to operate his properties in a respectful and responsible manner. I see no reason not to give him the 15 years he's asking for.

Ms. Dudoit: So, Sybil, the department recommends the 15-year extension, that's the department's recommendation?

Ms. Lopez: Yes. The department is recommending.

Ms. Dudoit: And you concur with him that the reason for asking for the 15 years is that it takes a lengthy process and the timeline and all of that so -- okay.

Ms. Lopez: Correct.

Ms. Dudoit: And then --

Ms. Lopez: And for what Mr. Racine said that, yes, because he's been doing it for 15 years, we already know that he's going to be stuck with us for the next 15 years.

Ms. Dudoit: Okay, so one more question and then I going tell you what my thought is. So overall, in rural areas like us, what is the normal time extension for a vacation rental?

Ms. Lopez: There's no -- there's no -- there's not --

Ms. Dudoit: So it's just whatever?

Ms. Lopez: It's up to the Commission.

Ms. Dudoit: Okay, so --

Mr. Yoshida: Yeah, it varies.

Ms. Lopez: It varies.

Mr. Yoshida: It's kind of up to the Commission.

Ms. Dudoit: Okay, so -- and then can an extension --

Ms. Lopez: I've seen 20. I've seen 30.

Ms. Dudoit: In the event that Mr. Dunbar was deceased or the property was turned over, does the extension carry over to the new owners or does it just end?

Ms. Lopez: No, it changes -- it's nontransferable as part of the conditions.

Ms. Dudoit: Nontransferable attached to the property owner himself or attached to the property? If it's -- so in some situations, I've seen where nontransferable applies to him at sale but not necessarily at inheritance, so I wanted one clarification on whether or not -- and so I not trying to be rude, but we all pass, and 15 years is a long time, and I wanna know that if we dealing with Mr. Dunbar, and, you know, I mean -- I mean if we -- and I serious.

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

Ms. Dudoit: And I serious. I mean it's --

Ms. Lopez: We can add that in. We can add that in as part of that condition that's already there. 'Cause as far as to what the condition currently say, it's for nontransferable through sale.

Mr. Racine: Does it say for sale -- through sale ...(inaudible - not speaking into the microphone)...

Mr. Dunbar: You know we've owned this property for a hundred years. In July of 2016, we would have owned this property for a hundred years, and, you know, as a steward, as a -- I can't really -- I'm not a keiki o ka `aina of Molokai, I was actually raised a lot in -- on Oahu, but, you know, this is my home, and I hope that little coughing guy over there will be the guy that'll take it over so, you know, you can only do the best you can do and hope that it all turns out.

Ms. Dudoit: And I don't -- I don't have a problem with them. I love them. They're like family to me too. But one example, just to keep in mind, is like the Austin's, yeah, so Kimo's -- I've known Kimo since I was a little girl too, and now that they're older and they're leaving, they're children have totally different morals and values, and totally different direction, so what we thought and the agreements that were made with this family, including like Kamalo Harbor, and things like that, are all up in arms in one totally different spectrum than we ever anticipated 10, 15 years ago. So 15 years is a long time. And I just bringing up the discussion so that we can kinda think about, you know, he's a good guy, he is, no doubt about it, but 15 years is a long time, and a lot of things change in 15 years.

Chair Jennings: Marshall.

Mr. Racine: So condition 3, standard conditions, it says that it shall not be transferred without prior written approval from us. We just want to be more specific, transferred by sale or inheritance? It's in the staff report, page 6, under standard conditions, item 3.

Ms. Thomson: I think that actually that would limit it rather than if --

Mr. Racine: So "transferred" covers everything?

Ms. Thomson: "Transferred" is more broad than transferred limited by certain ways.

Mr. Racine: Okay so -- so we are covered.

Chair Jennings: So do I hear a motion?

Ms. Dudoit: Motion to approve with the conditions and did we make any?

Chair Jennings: No, we did not.

Ms. Dudoit: Okay. With the conditions set forth by the Planning Department.

Mr. Ron Davis: Second.

Chair Jennings: Is there a second? Ron.

Mr. Davis: Second.

Chair Jennings: There's a second. Okay.

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

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

VOTED: to approve with the conditions set forth by the Planning Department.

Chair Jennings: Motion carried.

Mr. Yoshida: I guess, Mr. Chair, we're at 3:17, and the boat back to Maui leaves at 4:00, I don't want to break the law and speed, you know, get a speeding ticket.

Ms. Lopez: Okay, I have one of my project, she is from Oahu, so can we push her in the front and at least we can have her -- I mean her --

Mr. Yoshida: Okay, so --

Chair Jennings: Yeah.

Mr. Yoshida: We're on item --

Ms. Lopez: That would be the last item.

Mr. Yoshida: F.2.

Ms. Lopez: And I did ask the applicant beforehand and he's okay with that.

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

F. SPECIAL MANAGEMENT AREA MINOR PERMITS

- 2. MRS. LESLIE CUIFO on behalf of MRS. BEATRICE SPROAT-AUGUSTIRO requesting a Special Management Area Minor Permit for signage, remodeling including painting the exterior, adding a 600 sq. ft. awning, renovations including parking, interior alterations involving partitions, removal of partitions, plumbing and electrical conveyances,**

and solar installation in the B-CT Country Town Business District at 93-105 Ala Malama Street, TMK: 5-3-002: 042, Kaunakakai, Island of Molokai. (SMX 2014/0594) (Valuation: \$10,000) (S. Lopez)

The Commission may take action on this request.

Ms. Lopez: Thank you, and thank you, Commission. So the request is for concurrence with determination that this special management area is a minor permit for the awning and a handicap ramp addition, interior renovations, electrical and plumbing conveyances at 93-105 Ala Malama Street and 109 Ala Malama Street, so it's the whole property. I have a quick powerpoint presentation so I can go over it with you.

So it's Kaunakakai Village Center. Going through this SMA process, we do have the owner, the actual owner here today if you guys have any questions, but it's -- the state land use is in urban, the community plan is Molokai business/commercial, and the county zoning is business country town, so it's that whole area, so if you know town, that's from Pascua, all the way to the end of the surf shop, and it goes all the way back to Eye Candy, to the judicial office, so it's that whole property we looking at. I know that the, historically, it was owned by the owner's father, the father deceased, she put it into probate, so now it's actually inherited. She's taken up ownership and with that ownership comes the burden of compliance. So going through the SMA, which I kinda commend the applicant and the owner to come forward to try and do it -- this on her own, and as we know town, and where it stands, there's a lot of can of worms that you open, but because the owner wanted to come into compliance, this is where we're at.

So we're looking at the front. So what I'll present to you is a lot of country town business district and the design guidelines for Kaunakakai Town. So 3.3 talks about the facade and the store fronts and how it should incorporate traditional elements of western plantation architecture to the extent practicable. So this is the front view, and the thing that they want to do is conceal -- so they want to be in compliance with the country town business district as well as SMA, they want to do a lot of alterations internally, they want to do the outside, they want to put gutters, so they just want to make it look as how Kaunakakai Town would look with the enhancement of painting the outside buildings, putting the awning there, in compliance to the CTB, which are located right down there, 3.4, with purchase pop outs, 3.5, with the roof and canopy, being encouraged to do simple shapes and lightweight form utilizing gutters and down spouts with conductor heads. The canopies would be permanent but it won't be an fabricated canopy; it would be the exact materials that is with the existig structure. Just looking at some areas that they want to -- like the handicap would be right there, they would change that, put a ramp over there, like the plumbing, so take that out 'cause that doesn't comply with the CTB regulations, it'll actually conceal all of that and put it more inside instead of external because it's right, you know, you're looking at our town, yeah, and our facade. This is the back side looking at more of a gutter system that they

would put in, looking at the rooftops, and looking at what they will be painting. So the ornamentation, the 3.6 wall finish, what they need to be using, 3.9 their ornamentation, how -- how should the recommended features be included, and the color, so using soft and muted colors, some eggshell finish, nothing glossy, nothing glary, and also looking at the parking.

The reason why it's as a minor permit coming before you guys is because of the conditions that I'll be setting before you that they still need to be in compliant with the parking, and, yet, it's taking more of the process -- more processing time, but the Zoning and Enforcement Division did say it was okay for them to go ahead with the SMA but as long as it's as a minor permit that the condition is to finish and acquire the permit and follow in full compliance with other agency regulations. Thank you.

Chair Jennings: Thank you, Sybil. Because of the time limit, I'm going to ask if there is any public testimony, that we limit that to a minute. Is there any questions from the Commissioners? Okay, Sybil, would you give us your recommendation, please?

Ms. Lopez: Sorry, it's 3:30 -- 3:23. Sorry. So our recommendation, the project shall be in accordance with the description submitted on December 25, 2014 to the department and representations made to the department. No. 2 talks about best management practices that the applicant will ensure. No. 3 is that a professional archaeological monitor shall be present during all or any ground disturbance activities. The awning is -- there's no ground disturbing activity because it's going straight up to the concrete. That the project shall be initiated by May 31, 2017, and shall be completed within two of the said initiation. That the full compliance with all other applicable governmental requirements shall be rendered. Thank you.

Chair Jennings: Thank you. Any -- any questions for Ms. Lopez? Okay, then seeing none, I ask for a motion.

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

Chair Jennings: Is there a second?

Mr. Lasua: Second.

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

VOTED: to approve the SMA minor permit for this project.

Chair Jennings: Motion carried.

Ms. Lopez: Thank you.

Chair Jennings: Thank you.

Ms. Lopez: And thank you to the owner.

Mr. Yoshida: So we're at 3:24 and we'll defer the Crumpley item till the next meeting, which probably will be on June 10th, and we'll put it the first item on the agenda so we're sure that it's handled.

Ms. Lopez: Would we have time to hear from the applicant 'cause he is in here and he's been waiting for two months.

Mr. Yoshida: The boat leaves at 4:00. Okay, so we're on item --

Mr. Lopez: Should be five minutes.

Mr. Yoshida: Item F.1.

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

- 1. MR. RICHARD YOUNG on behalf of T&C CRUMPLEY requesting an after-the-fact Special Management Area Minor Permit for the main dwelling addition which included converting the garage into a bedroom and bath and the addition of a new roof over the existing deck located at 2376 Kamehameha V Highwayt at TMK: 5-4-017: 015, Kaunakakai, Island of Molokai. (SMX 2015/0075) (Valuation: \$10,000) (S. Lopez)**

The Commission may take action on this request.

Chair Jennings: We'll take it up at the next meeting. What --

Mr. Richard Young: Commissioners?

Chair Jennings: Yes?

Mr. Young: Well, I've tried to -- I've tried to accommodate. This is the second deferral for me, so this has -- goes on two months. This won't take --

Chair Jennings: Use the microphone, please, and state your name.

Mr. Young: My name is Rich Young. I'm the applicant for Mr. Crumpley. This really won't take that long, I don't think. It's a very short presentation. This is the second deferral and because of the length of the deferrals, this is like two months of deferrals. I mean --

Mr. Yoshida: I think this is the first deferral.

Mr. Young: No. I had -- no, I've been ...(inaudible)...

Mr. Yoshida: Oh, where the planner deferred it.

Mr. Young: No.

Mr. Yoshida: Okay, we must move quickly along because the boat sails at 4:00.

Mr. Young: We got time. Let's boogey.

Chair Jennings: Sybil, make your -- quick.

Ms. Lopez: So we request for concurrence with the after-the-fact special management -- special management area minor permit for the Crumpley's residence, and I do have Richard Young here to speak on behalf of the Crumpleys.

Mr. Young: So this -- this project home was built in 1992. My client purchased the home in 2005. He didn't know there was an existing -- there was roof that was built over the existing deck. All the permits were granted in the early -- in the '90s, but when my client bought it in 2005, there was a deck roof, there was a deck, but a roof was added over it that was not in the original permit. He didn't know that. He inherited it. His aging mother came with him and he infilled an existing garage into a bedroom, so, you know, at this point, we're trying to make this home totally compliant, and all up to code, and all, you know, fines from, you know, this original inadvertent, you know, non-permitting -- we're trying to get it all squared away, and with this action, we've gotten now -- we've applied for permit, we've got all the flood zone permits, everything is, you know, being brought up to standards so that the house will be totally 100% permitted and compliant.

Chair Jennings: Okay.

Mr. Young: So, with your blessings and the conditions that Sybil has written into the application, we're totally good with it so --

Chair Jennings: Okay, thank you, sir. Sybil, could you please make your recommendations?

Ms. Lopez: Sure. So the only reason why it's an after-the-fact permit is because the flood development permit needed to be required, which they already met and agreed, and part of the recommendation is that the project shall be in accordance with the description submitted on February 17, 201 and representations made to the department. We have a total of 4 recommendation -- 4 conditions: BMP practices, the flood development permit shall be acquired, and they have to 2017, for 2 years to complete the project.

Chair Jennings: Thank you. And, for the record, I see no one here for public testimony, so I will call for a -- first of all, anyone of the Commissioners have any questions? Seeing none, I will call for a motion. Second? Ron made the motion, Doug made the second.

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

VOTED: to approve the SMA minor permit for this project.

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

(Dissenting: Z. Dudoit)

(Excused: D. Swenson; S. Tancayo)

Chair Jennings: Motion carried.

Ms. Lopez: Thank you so much. Thank you, Commission. Thank you everybody who gotta go to the ferry.

I. ADJOURNMENT

Chair Jennings: Meeting adjourned.

There being no further business brought before the Commission, the meeting was adjourned at 3:30 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
Marchall Racine

Excused:

Diane Swenson
Sherry Tancayo

Others:

Clayton Yoshida, Planning Program Administrator
Sybil Lopez, Staff Planner, Molokai
Richelle Thomson, Deputy Corporation Counsel