

**LANA'I PLANNING COMMISSION
REGULAR MEETING
DECEMBER 16, 2015**

APPROVED 01-20-2016

A. CALL TO ORDER

The regular meeting of the Lana'i Planning Commission (Commission) was called to order by Chair Kelli Gima approximately 5:31 p.m., Wednesday, December 16, 2015, in the Lana'i Senior Center, Lana'i City, Hawaii.

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

Ms. Kelli Gima: Let's go ahead and get started. Good evening everyone. It is Wednesday, December 16, 2015, and it is now 5:31 p.m. So I'm going to call the meeting to order, and just jump right into it. Item B on our agenda is public testimony. Is there anyone at this time wishing to give testimony? No? Okay, alright, public testimony is closed.

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

C. APPROVAL OF THE MINUTES OF OCTOBER 21, 2015 MEETING

Ms. Gima: Let's go to Item C, approval of the minutes of the October 21st, 2015 meeting. Any discussion?

Ms. Beverly Zigmond: Madame Chair, I move to accept the minutes.

Mr. Bradford Oshiro: . . . (inaudible) . . .

Ms. Gima: It's moved by Beverly, second by Brad, everyone in favor of approving the October 21st, 2015 minutes raise your hand. That's five votes...so that passes.

It was moved by Commissioner Beverly Zigmond, seconded by Commissioner Bradford Oshiro, then unanimously

VOTED: to approve the October 21, 2015 meeting minutes as presented.

(Assenting: S. Ferguson, K. Gima, S. Marlowe, B. Oshiro, B. Zigmond

Excused: J. Aoki, J. Barfield, S. Koanui Nefalar

Absent: M. Baltero)

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

- 1. MR. WILLIAM SPENCE, Planning Director transmitting Council Resolution No. 15-112 referring to the Lanai, Maui, and Molokai Planning Commissions a proposed bill to amend the comprehensive zoning ordinance to permit affordable accessory dwellings in Residential Districts. (RFC 2015/0153) (J. Alueta)**

The Council is considering a proposed bill to permit accessory dwellings in residential districts on properties of between 5,000 and 7,499 square feet, for the purpose of increasing the availability of affordable housing.

The proposed legislation is available at <http://co.maui.hi.us/index.aspx?nid=121>

- 2. MR. WILLIAM SPENCE, Planning Director, transmitting a proposed bill to the Lanai, Maui, and Molokai Planning Commissions to amend the comprehensive zoning ordinance to allow accessory dwellings on lots less than 7,500 sq. ft., and to allow an additional accessory dwelling on lots 12,000 sq. ft. or greater. Further, the bill proposes to clarify the restriction on covered and uncovered deck areas, measurement of floor area, and to restrict accessory dwellings to long-term residential use. (J. Alueta)**

The proposed legislation is available at <http://co.maui.hi.us/index.aspx?nid=121>

Ms. Gima: Alright, let's go into D, Public hearings, starting off with number one *(Ms. Kelli Gima, Chair, read the above project description into the record.)*

Mr. Clayton Yoshida: Good evening Madame Chair and members of the Lanai Planning Commission, Clayton Yoshida with the Planning Department. With me from the Planning Department is our planning director, William Spence; our Administrative Planning Officer, Joe Alueta; and your Secretary to Boards and Commissions, Leilani Ramoran-Quemado. I guess I would ask that maybe we could, if we could combine public hearing number one, and public hearing number two because they both relate to amendments regarding accessory dwellings. And, I think that's the way Joe has his reports structured.

Ms. Gima: Any objections Commissioners? No? Okay, go ahead.

Mr. Joseph Alueta: Good evening Commissioners. Again, my name is Joe Alueta. I'm the Administrative Planning Officer with the Planning Department. So, primarily there's two methods that which you can amend Title 19. One is via Resolution which is what you have today. The other method is by, initiated by the Department or the Administration, and you also have that happening today. So both of them is trying to deal with, I guess, a larger issue which

is more of an affordable housing but primarily affordable rentals. So there's a, primarily -- there's a task force out on Maui right now where we're all trying to brain storm how we can handle, how can we address some of these issues. A broad issue of both homelessness, affordable housing for purchase, as well as affordable housing for working class people, and there's been basically a shotgun approach of different methodologies. And so Council has taken an initiative on this one as well as the Mayor on trying to look at how you can get units built within the urban core as fast as possible, I guess you could say. So they're looking at 19.35 which is Accessory Dwelling Provisions. So that primarily is, you know, right now in the residential district, rural district, interim lands, as well as apartment areas, you are allowed to build an accessory dwelling on lots greater than 7,500 square feet, and there's a table on that.

Before I get going, you all should have an amendment. Or not an amendment, but a revised staff report. It has the same date, and it was passed out today. The only difference is that the exhibits -- is you weren't able to see the exhibit numbers. I noticed that when I had the staff report, some of the exhibit numbers didn't show up. The exhibit stamp didn't show up when they got photocopied so I just redid it. Also, and you'll also see Exhibit 11. So the main one you want to look at are Exhibit 11 and then the Council's resolution because those, those are basically the two bills. Exhibit 11 was the Mayor's one, and then the Council Reso pretty much starts on the third page of Exhibit 1, okay. So that, those are the two bills that we're dealing with today.

The Council's bill, and in the staff report I provided a quick cheat sheet for you on page 3 of the staff report. And that kind of gives you a summary of the Council's bill, or the Council's changes, 19.35, the Mayor's proposal as well as what's existing in law. As you know I'm famous for my tables. I like to keep things simple so we can see what's going on and make it a little easier to understand. But I'll try walk through a lot --. From the --. The primary --. The Council's Reso is very similar to the one they had, I believe, in 09, 06; and where they are creating a new definition called affordable accessory dwelling in which there's an affordability requirement. And there's a table on the back, you know, on income levels. And basically you would register it with the HUD and with the Housing Department. If you're not renting it, renting it as an affordable unit, you could also rent it to family members. Okay?

The problem that we had with that bill, right, and they're going down to 5,000 square feet lots to 7,499 square foot lots, is enforcement. Because -- because it's in Title 19 that means our zoning inspectors would have to determine if somebody is related to one another. That, that, and that's incredibly hard to do, okay? And so there's an opportunity for what they are saying is being restricted to an affordable rental unless, unless it's being registered to the HUD. They can just build it and say I'm renting it out to my family, and, and basically it's just a market rate. And the Planning is tasked with almost -- is tasked with something that's very difficult to do, if not, impossible, to enforce.

The Mayor's proposal gets away from that because it just -- all we're trying to do is increase the inventory. Just -- we're not worried about trying to . . . (inaudible) . . . or ear mark it for, quote, affordable. This market will, in some aspects, take care of it because one, the size of these accessory dwellings are relatively small. Okay. And also we're hoping that there will be an

increase in inventory would be. And also another provision that the Mayor has that's in here is to help keep these affordable is they would be not only existing ohanas and once it's built, it would also be prohibited from being used as a B&B or a short-term rental. So basically you have a bucket where you're putting housing inventory into that bucket, and there is a hole in that bucket as they say, and it's being leaked out through this, through both legal and illegal vacation rentals and B&B's, especially on the island of Maui. And so this a methodology in which we could plug that hole. The true intent of the accessory ohana homes will be back towards being used for families or for long term rental for the local community.

The other slight difference between the Mayor's proposal and the Council's difference is that the Mayor does not -- is saying any lot below 7,400 square feet -- 7,499 -- can have a second, or can have an accessory dwelling. The -- which basically is saying if you have a 2,000 square foot lot, and you have a house on it, if you have the room and the infrastructure is there, you could still build a small accessory dwelling of 500 square feet. This would allow, potentially, you could have two stories in some areas. And again, you'd still have to meet the building code, the set backs, and...and be able to meet the infrastructure requirements. But it wouldn't basically take it down to almost any size lot. The Council's proposal, the cap says it's down to 5,000 square foot, so that's one of the differences.

Council had a tier system in which they had, you know, on lots between 5,000 and 599, 400. And then between lots 5,000 and -- sorry, between 6,000 and 7,499, they would be 450. Again for simplistic sake the Mayor's proposal is just saying 500 square feet. That's the smallest one. Whereas the other one has a smaller size. Also the Mayor's proposal is looking at for larger lots. These are 12,000 square foot lots and that you would be able to basically built two --. So you could have a house and two accessory dwellings, okay. So that would be -- you'd primarily come into play in maybe the apartment district where people have built a lot on an apartment lot, or in the rural district, or in some cases the interim district where there is a lot. It does not apply to agricultural lot. I've been getting a lot of calls about that. This does not apply to the ag district. The agricultural district does not have any accessory dwellings because any dwelling in the ag district is an accessory to a farm. So it doesn't fall under the 19.35 provision. It's handled separately under 19.30A.

Again, the affordability, there is affordability requirement under the Council's proposal. The Mayor's proposal is basically let's just get inventory, we'll let the market deal with it. Currently under the current County Code there is no affordability requirement. Again, but the original intent back when accessory dwellings or what was called the ohana, the primary intent of it was for long-term rentals for family members, granny shacks, you know, in-law places, stuff like that.

Another interesting thing is that the Council's bill primarily restricts it to the residential district only. 19.35 actually calls out several districts including like as I mentioned apartment district, rural district, interim district. Again, the Mayor's proposal would just all it's doing is adding that tier below 7,500 square feet and another allowing -- another allowance for lots greater than 12,000 square feet.

I covered how the Department has concerns over trying to enforce the Council's bill in regards

the affordable accessory dwellings. That was pretty much one of our main concerns. We also in previous comments we had, we had concerns when you allow another dwelling on a, or an accessory dwelling on lots, small lots, there's a problem with infrastructure requirements. Both the Public Works and the Department of Water Supply state that they would be still reviewing it during the building permit process and they would either require system improvements for those areas that did not have adequacy or they would just deny the building permit which is what they do right now for people coming in for an accessory dwelling.

We took this bill also the Maui Planning Commission. They voted for the Department's recommendations at that time. Some of their discussions -- two members also had, two of the members had concerns over going down below 5,000 square feet lots so that was brought up during their discussion. They also felt that maybe the Council should look at the agricultural district and allowing more dwellings on the ag district. But again that's a separate issue with regards because of the -- ag, ag is suppose to be for agricultural not for development.

We did take this to Molokai also, and they're...they also recommended approval of it. They, they had some -- they brought up a good comment which was on recently the Council had passed a home based business ordinance and they felt that prohibition on accessory dwellings should also extend to that. Meaning not just B&B and STRH's, but they also had voted to recommend that home based businesses be prohibited from being used, being used solely in one of these in, in accessory dwellings. So if you lived in an accessory dwelling and you wanted to run a home based business that was one thing. But what the current home based business bill also indicates is that if you had an accessory dwelling on your property you could in theory use that entire dwelling, the square footage of that, to operate your home based business. So say you lived in the main dwelling, and then you can use, convert your accessory dwelling that you had to your home based business. And they had concerns with that also as taking away from the affordability or the inventory of housing.

That pretty much summarizes both the bills. The, the -- I guess because it is Christmas the Department would like to add a few things to the bill, or to Council's ordinance in that spirit of some ornaments. And one of those things that we want to add, and it's in our staff report, is the amendments to Title 19.08 and 19.09 which is the residential district. This Board, Commission, had recommended approval of that amendments to the residential district some time ago. All three Commissioners, all three Commissions voted for it. It was transmitted up to County Council. At the same time, the hot topic, one of the changes to that ordinance was home base businesses or home occupation. Council essentially stripped out the part about home occupation, put it into their own bill, and then moved forward and adopted a home based business, a home occupation, a home based business ordinance. But they forgot the main purpose that we were trying to amend 19.08 and 19.09 which was we're trying to consolidate the two residential districts into one residential district standards, as well as we wanted to get clarity on...or add new developmental standards which was lot coverage which was 40%. And so we feel that, you know, to preserve the character of the neighborhood as well as density, we wanted to have 40% lot coverage added to, to the residential district so that you don't get what we call, you know, people building lot line to lot line, or setback to setback. You know we call them Manila mansions or Filipino condominiums on Maui where people have just built them to

the max and there potentially are multiple dwelling units and enforcement can be an issue later on. We feel that they should be able to -- the lot coverage just requires that 40% on the, on the dwelling. So, it doesn't change -- it modifies or what currently happens but it primarily will allow for a little more open space on the lot so that people can accommodate a parking situation. It doesn't really change because as we, as indicated in the staff report and in the original residential bill, people are still able to build a large house on a relatively small lots, going two stories. It doesn't, it doesn't necessarily diminish the developmental potential of that. We feel that character wise we're seeing this across the country where as older homes get torn down people are building it to the maximum potential of, like I say, setback to setback.

We're seeing it in California, in Manhattan Beach which is a pretty established community. I mean, I'm seeing it down the road from where I live in Waihee Valley where you had an old plantation style house, typical three bedroom, maybe one and half bath, couldn't be more than 700, 800 square feet. It was torn down recently, and they basically built lot line to lot line, property setback to property setback, two stories. It's a very house but it just when you drive down the road it sticks out like a sore thumb. And then you don't know what the implications in some of the areas where if it's a, if it's multiple families or large family, they, the Code only requires you to provide two stalls per single family dwelling, and one stall for the accessory dwelling. And so in today's day and age when you have big houses and our definition of family includes up to five unrelated people, you could potentially have five cars, if not more, on some of these larger homes.

So again, we're trying to strike a balance. We're trying to increase density, but we're trying to do it in a smart way, and that's how we're trying to introduce it through the 40% lot coverage. Other amendments that we tried to incorporate included limitations on garage sales six times a year. There was just a lot of things that were in there. And basically what we want is Council to take a look at all the things you left behind when you adopted it, and to re, re-do that in Title, in this go around. And that's part of our recommendation.

Ms. Zigmond: Joe, could I ask -- excuse me -- is there a list of all these, these holiday gifts that you referred to that you want us to approve? Because I'm not sure that they're in here, and we kind of have of PTSD about having things changed on us without our approval. So, is there some where?

Mr. Alueta: Yes. If you look on Exhibit...Exhibit 14 and as well as Exhibit 13. On Exhibit 13, that is the summary that is our transmittal letter to Council just a little over five years ago. Exhibit 13.

Ms. Zigmond: So what you're saying is that these bullet pointed items in Exhibit 13 you want to include in the proposal before us.

Mr. Alueta: Correct. Except for the, obviously, the home based business definition because they, they basically stripped that out. So in essence we, I mean, our recommendation is for Council to take a look at all the things they left behind and have a good clean discussion on the amendments that were previously recommended by the three Council, the three Commissions,

and to have a discussion and try to incorporate what they feel is appropriate. We highlighted the 40% because we think that is one of the areas that is critical if you move forward with an accessory dwelling provision because I think that's going to impact density as well as creating a more, a better design when people start to implement, I guess, the proposed changes that both the Council and Mayor has proposed which is adding accessory dwellings to smaller lots.

Ms. Zigmond: So the 40% that you're talking about that's what is referred to on page 5 of the staff report, the last paragraph, where it says having a limit on the accessory dwelling.

Mr. Alueta: On page 5.

Ms. Zigmond: The last paragraph. Because they're talking about not having a size limit on the accessory dwelling and, and that really bothers me so –

Mr. Alueta: Oh, okay. That is --. Sorry. What, what that came about is...that basically that whole paragraph is basically food for thought. As I talked about we are...had been throwing out ideas on how to address...providing more additional dwellings. This, this bill, or both the Mayor's bill and the Council's bill focus in on providing an additional accessory dwelling, of a limited size, meaning 500 square feet or 450 square feet. If you're going to allow for an accessory dwelling and you're going to have a provision of lot coverage, right, do you care that --. So if someone, if someone, they can meet the developmental standards of the setback as well as lot coverage of 40%, if someone decides to have --. So basically you can have two dwellings on the lot. If they choose to build a 4,000 square house, and a 500 square foot accessory dwelling, right? Okay, that's how it would play out under the current, both proposals, or under existing law and the proposals. But do we care if someone decides to build, well, I'm going to build a 2,000 square foot house and 1,900 square foot accessory dwelling. So, and, and that, and that again is something that we threw out. We didn't -- we're not making a recommendation of that. We're just saying, hey, these are some planning thoughts. These are some things that's going on across the country and we wanted to have that. Some, some -- under Maui, some Planning Commissioners wanted that and so, but the overall bill was basically to adopt what was proposed by the Mayor. And so again we brought, we bring it up because our job is to try to look at what's going on nationwide, what are the planning principals that could be applied. And so, again, if that's -- you have concerns over that, then again, that's not part of the proposal. The proposal right now is to have an accessory dwelling that would be limited to 500 square feet on lots smaller than 10,000 square feet. That's the Mayor's proposal. The Council's proposal is to have accessory dwellings of 400 and 450 on lots smaller than 7,500 square feet down to 5,000. So that last paragraph as I've indicated, you know, for suggestions on increasing on one idea. Again, it's just an idea that we brought up. Some of the Commissioners liked it, some didn't. But again, that's not in the proposal.

Ms. Zigmond: I'm happy to hear that. I think we have a horror story here, like you talked about the really huge house. So let me know when we can ask questions.

Mr. Alueta: The only other thing I, I would like to bring up is some of the changes that we are making, the Department recommended is being incorporated into the Mayor's bill is the concept

of having covered decks on the measurements. It's in the staff report. Hopefully, I know all of you read it very well, that is currently we measure or the law states that an accessory -- the square footage for an accessory dwelling is measured by covered area. So basically if you have a covered walkway or a covered deck, that counts towards the square footage. So it's not just the enclosed wall. We feel --. We normally will measure buildings by demising walls to demising -- the inside of the wall. So we would want to have that measurement incorporated and so that we can, so people can have their three foot overhanging and not count against their little 500 square foot. We also want to see that, you know, this is Hawaii, that there should be an allowance of some covered patio or porch area, for these people, in addition to their carport. I mean, and so we put in the standards and that's also in the Mayor's district. And that's on the tables that are on Exhibit 11 on the changes.

We also want to make it clear that it's implied, I guess, you could say in the way the 19.35 is currently written, that you can have an attached accessory dwelling. And we see -- we allow, the County currently allows it, and so, but we want to just make it explicitly clear that that is permissible. And the way it's written is that provided it has a separate entrance and no interior connections. That's how we do it now. So you can have an accessory dwelling above the garage, you know, or you can have, some people have in the back. Or if this bill is adopted, some people who have converted their garage and rent that out can be legal, essentially. You know, that, that's, I think, for many people you're going to see that where they've already done the conversion. Because their lot may be 7,200 square feet, and that you know, that's a good size lot. And so you're not allowed under the current law to do an accessory dwelling and so maybe they've illegally done some conversions, and some people may be qualified under this bill so...and that's pretty much all I have. If you have any questions I'll try to explain that.

Ms. Zigmond: Okay, I have a couple more questions. It looks like HUD guidelines would be used for the definition of affordable. I have to say I agree with the Kihei recommendations to use the 60% and not the 140% because that's not very affordable. And how -- is it determined yet where on that scale whether it's going to be the 60 or 140 or, or how is that going to be determined?

Mr. Alueta: I, I believe the...Council's provision would be basically just, you know up to that 140. And again that is the same thing -- the same, the same concerns that were brought up the first time this bill was brought before the Commissions especially in the Hana Advisory Committee had some concerns over that. How is that affordable if you're going up to 140%. I think the Kihei Association did bring up -- raised that point again, about the affordability. The Planning Department, again, is, sure we like the idea of having affordability. However, it's impossible for us to enforce because if the person is not building that building, building that structure, and renting it to someone that's one the HUD list, right? And they chose to come and build it, and they say, well, I'm going to rent it to my family. That's where we get the issues because the, the provision of the Council's bill is to -- it's either it has to be affordable or it can be, oh, but it can also be rented to a family member. So again once that happens, once you allow that vagueness or enforcability problem, everybody is just going to come and go, oh, yeah, I'm building an affordability dwelling and it's going to be for my cousin. And then you know, then of course, it's going to be on the open market, I mean at the, not a lower rental rate. It's going

to be at whatever the market will bear. And the Department and the, and the Mayor's -- supports the Mayor's proposal is let's not add another layer of regulation and where we have to go out and enforce something that's almost unenforceable. Let's just allow for it and let the market take care of it. Given the size of the units, they should be relatively affordable. And it's -- and then just try to increase the inventory out there with some of these units. Otherwise you're going to end up with --. Again, you're going -- I think a lot of those units are gonna end up just being market rate anyway because they're going to say that's the family member.

Ms. Zigmond: I see the quandary that you are in but I can't help but believe the people that need it most are going to be placed out of that especially on this island.

Mr. Alueta: No that I --. I understand that and that's the same comments we got and even from our staff planners was we'd like to see an affordability, but we are stuck between a rock and hard place because you put that provision in, it's going to be in Title 19, and Title 19 falls under the Planning Department. And our zoning inspectors are going to be the ones to try to determine is that a family member or not, you know. Given -- Hawaii's culture is, you know, with hanai families, it makes it very difficult. I mean, it's --. So it's just --. I mean, is that really something we want to use County resources trying to enforce. And whereas the Planning -- whereas -- what we're trying to do is let's try to get some inventory built. I mean, especially on Maui and Molokai is the same way is there are many, many lots that would qualify under this.

And again from a planning aspect, low hanging fruit. You have existing developed lots in an urban core where water, sewer, power is all readily available. And so building a small accessory dwelling will be affordable. Dave Taylor from the Water Department, he, he was also on this committee of trying to solve affordability problem because all of us could build a house relatively cheaply. I mean, it's when you start putting in that 12-inch water line for that subdivision; when you start putting in the curb, gutter, sidewalks for that subdivision; when you start putting in that new 36-inch sewer line for that subdivision, the cost starts to spiral out of control where that gets tacked on to that house and it no longer becomes an affordable unit. Where this is really targeting existing urban core, existing areas where infrastructure can support another dwelling unit. But I see that and if that's the comments about trying to maintain it as an affordability requirement, that's, that's what we'll take back to Council.

Ms. Gima: Yeah, I would definitely agree with Beverly. I mean it makes sense that the zoning can't go in and enforce who's related to who. But I mean this would be that affordability requirement would need to be enforced or else people are just going to be building, building, building, and then renting out for ridiculous prices which then doesn't solve the housing issues, and the homeless issues, and so forth and so on. So I think that needs to really be straightened out and clear what the guidelines are, who will enforce it, what the process will be to apply so forth and so on.

Mr. Alueta: Madame Chair, we can either -- I can -- if that's the consensus comments I can, from the Board, I can just write it down rather than having to go back through it and taking votes on it if that's -- if you want to proceed that way.

Ms. Gima: Is that all -- does everyone agree?

Mr. Alueta: And then I'd read back your comments –

Ms. Gima: Okay.

Mr. Alueta: -- to make sure you still want it.

Ms. Gima: Okay. Perfect. Thank you.

Mr. Alueta: Okay.

Ms. Zigmond: Joe, I have one other question please. On the Exhibits 13 and 14 where they restrict the home based stuff, that would remain in effect? Like in other words, it's not going to be a car repair shop or those kinds of things.

Mr. Alueta: That was passed. The home based business is basically stricken out from that whole, whole bill because they've already adopted that. And they did adopt some type of limitation on vehicle repairs.

Ms. Gima: And I think I've seen it some where in here about requirements for parking, correct? They have -- so they have the -- all accessory dwellings have to have an attached carport and off-street parking?

Mr. Alueta: The off-street parking -- yeah, the off-street parking would be on the property so that's off-street. So that would be the carport. So they require one stall for every dwelling unit, for the accessory dwelling unit. Two for the main dwelling. So there needs to be at least three stalls, three parking stalls on the property.

Ms. Gima: I know that -- I mean, I know everywhere that's an issue with, with parking and you go into these residential areas, and because there's five families living on the lot, I mean, the streets are just extremely crowded because those three parking areas are used. And nowadays people have two to three cars. I mean, that would be something, I think, need to take into consideration. Maybe upping that requirement to eliminate the crowding of, of the streets in residential areas.

Mr. Alueta: Good point because we are currently in the process, the Department is amending 19.36A which is the parking ordinance, and we are looking at increasing the parking requirement for single family dwelling based on the number of rooms. Or when using DOH standard of rooms, and rooms like rooms, or bedrooms or bedroom like rooms is their term. So we're trying to look at that and we'll see how that floats. I agree. You know, most people have a garage and most times they don't park. I've got a three car garage and I've got a golf cart in it, and the rest of it is junk so I see where that comes into play.

Ms. Zigmond: Downsize Joe.

Mr. Alueta: I like my arcade games and my Coke machines and my other junks but --.

Ms. Zigmond: So I would like to repeat the concern of that not having a size limit on the accessory dwelling is not a good idea.

Mr. Alueta: Correct. That, that is not one of the proposals, so we'll, we'll, we'll make a note of it. And then I'll make a note on concern over parking, in general, over that -- the requirement may be too low for dwelling units as a whole. We can keep that in also. Okay.

Ms. Gima: Anyone else, questions or comments, discussion? At this time we'll open it up for public testimony if anyone from the audience has any questions or comments...on this particular item. Alright, we'll close --. Okay Winnie. Can you --. Yeah, we have a time limit.

Ms. Winnifred Basques: Good evening. My name is Winnifred Basques. You talk about lots, okay. I was the one who brought . . . (inaudible) . . . homestead land on the island of Lanai. From 1994 we started. The lots are, three lots is 12,000, 11,000, and another 11,000. The other rest is all 10,000 square foot lots, okay. The thing is that when we did that we had to go through all the permits with the State. This is underneath DHHL now, not Company. DHHL, Department of Hawaiian Homelands. We did that. We had to get houses, the homes, up and running, built and everything, from 1999 - 2009. It was a 10 year condition that the houses had to be up and running, and people are in the houses. Okay. They did the ohana houses too as well. What they did was they when combine the -- instead of two houses, they make one house. Okay, and that's for a family. We had to go back to genealogy. We don't get anybody coming in and do whatever they want, okay. It had to be established that you was half Hawaiian, and the other half is up to you folks, whatever, on the birth certificate. But the thing is that when we did that, we had conditions. Two conditions. The first one was that you had to be established on the island, up and running and working. Don't go off island, and you go work and you come back. No. That's a no-no. We had a stipulation saying you have to be on that island to work in order to pay for your mortgage or your rental. The second one was you had to prove that had Hawaiian on your birth certificate. And this had to go because we had to do all the genealogy and we had to go back to the archives. We had to do everything. There were 50...50 --. Let's see, let's see -- 50 square foot lots. Out of the 50 you have, altogether, family tree family. Out of that was 25 people...Lanai people was working. You know, had two people when call me to say, I wanna come and stay on Lanai. Oh, excuse me, where do you come from? Waimanalo. You go stay back there. This is only for Lanai.

Ms. Gima: So auntie, are you making a recommendation in regards to what we're talking about? Because it sounds it's different with Hawaiian Homes, DHHL, they have their own process.

Ms. Basques: Yeah, the thing is that, how can you built a 2,000 square foot house on a 500 lot? How can you do that? Is it etiquette? And of course, the other thing is the roads. It's not 16 feet. It's 25 feet from shoulder, middle, shoulder. 25 feet because I use to work on the roads 25 years. Kaumalapau, Manele, Kaupili and Airport road is 25 feet, not 16.

Ms. Gima: Okay. Okay.

Ms. Basques: And furthermore, I hope it goes more into discussion. Because when I look at this papers over here, man, you folks gotta give more education there. I hope so you folks can do whatever you can...especially for Lanai. And the other thing was they wanted 200 affordable homes on Fifth Street connected to homestead land.

Ms. Gima: Okay auntie that is a little bit of a different subject because we're talking specifically about this resolution and, and the proposals from the Mayor. But thank you for your comments. We appreciate it.

Ms. Basques: You're welcome.

Ms. Gima: Thank you.

Mr. Alueta: I wanna pass this out to you. I didn't want to pass it out early because when I passed it out to the last commission all they did was look at this and they didn't pay much attention to me or the report. So this is just a map that we did that shows the lot sizes that would be, that's currently within Lanai town so that you can see where, if this ordinance is passed in some form or another, which lots would be eligible under this provision so hopefully that will --. Madame Chair, did you want to close public testimony?

Ms. Gima: Yeah, we'll go ahead and close public testimony.

Mr. Alueta: So again right now I have you want to maintain the affordability requirement. There's general concern over parking in the residential district or for having these community dwellings. And then note that no on the unlimited on the accessory dwellings.

The Department is recommending approval of the Mayor's proposal, and so we would --. And the Commission has the options of, as well as the comments that we had with regards to incorporating the residential district. So, and the Commission has the options of either recommending approval of either of the proposed bills to the Maui County Council; recommend approval of either of the proposed bills with amendments to the Maui County Council; recommend denial of either of the proposed bills to the Maui County Council; or vote to defer action on either of the proposed bills in order to gather more specific additional information.

Ms. Gima: So the comments that we -- that you just wrote down, that could be proposed amendments?

Mr. Alueta: That would be, yes.

Ms. Gima: Okay.

Mr. Alueta: That would be number two if you are -- if you're comfortable with the overall --. I mean, which bill you have to look at. Like, do you want to have the lot size be unlimited as the Mayor's proposal or do you like the idea of having a 5,000 square foot bottom basically, and then which is what the Council has. It sounds like you do want to have the Council's

affordability and then -- but you also would want to have that affordability to stay down. And I believe -- I heard 60% if you're supportive of that. I wasn't sure. Right now, again, it would be up to 140% and some of you may not want that. So you need to -- if you could give me some directions on that, I can be more specific when I draft a letter to the Council. And that's pretty much it. I mean, so you have to decide whether or not -- it sounds like you're leaning more towards the Council's proposal. You like that because of affordability. And then again, you have a concern over the lot size.

Ms. Gima: So we're looking at voting on the Council's proposal, and the Mayor's proposal. It's two separate things. Because I understand the difference obviously is that the Mayor's proposal doesn't have that limit on the size, and Council does. So are we voting on those two separate proposals? We're not lump -- it's not lumped together because it's very separate.

Mr. Alueta: You can. You can vote on them separately if you wish. The Planning Commissions, basically, the last two, Maui and Molokai basically accepted the Mayor's one and only made minor tweaks to it. They did not --. They understand --. But, again, those are those Commissions, so this Commission can choose to, like, say, hey we don't like the Mayor's one, we like the Council's one. So basically you're just voting on...a general vote to say this is the one we recommend approval of.

Mr. Ferguson: Question. Joe, on this, on this map you when give us.

Mr. Alueta: Uh-huh.

Mr. Ferguson: You get 'em color coded with lot size, yeah?

Mr. Alueta: Yeah.

Mr. Ferguson: You get the, the smallest color code, you get is lots under 6,000 square feet, but it doesn't give us one clear picture because on the proposal you going, your guys proposal -- the Council's proposal is lots to 5,000. So it doesn't show what lots would be under 6,000.

Mr. Alueta: Oh.

Mr. Ferguson: You know if it showed under 5,000 then I would see, we would be able to see what lots would not fall in that category.

Mr. Alueta: Okay.

Mr. Ferguson: Yeah, it's like 1,000 square foot off, and so we not seeing one clear picture.

Mr. Alueta: I apologize for that. I asked the GIS guy on the 5,000. He must have selected the wrong --

Mr. Ferguson: Unless it's color coded right and that's just one, one typo.

Mr. Alueta: Yeah, it could be. It could be, but I think he primarily --. The instructions were to get them to the 5,000, under 5,000 square foot lots.

Mr. Ferguson: Okay, okay. Because we trying to see which lots wouldn't, wouldn't fall in that proposal, but I not sure what we looking at now.

Mr. Alueta: But I think you guys all have, hopefully you have a general idea where the small lots are, and like ease your concern of going –

Mr. Ferguson: Because on Lanai we've got a lot lots smaller than 5,000. There's a bunch of lots, you know, in the 3,000 range and stuff so, so I not sure if that giving us one clear picture.

Mr. Alueta: Okay.

Mr. Oshiro: I know you already heard that...because the streets on Lanai is really small, yeah. I mean, the parking -- because I see where my dad's house falls under the seven to nine. And that street in front of his house, as it is, there's not enough parking. You know, cause it's like you telling the neighbor, why don't you park on Lanai Avenue instead of parking on Mahana, you know. And then that's why it all gets cluttered, you know. We cannot go in front and say, hey, you get parking space up front, park up front. But it's, it's not going to happen, yeah?

Mr. Alueta: I think that's, and that's where your -- that's why there's a Lanai Planning Commission. Your knowledge of what's on the ground here is going to be important, so the question is for you guys, like, does this bill benefit you or is it status quo? I mean, right now the status quo is 7,500 square feet lots and above. And so if that, that's what the current law is. So does it --. I mean, do you guys see a benefit to this overall or not? I mean, again, that's up to you guys. I mean, our recommendation as a whole is for the, again, for the Mayor's proposal because we feel it's the simplest to administer, for one. It opens up lots that are going to be smaller than 5,000 square feet. However, the catch all is going to be Public Works and Water Department have indicated that there's not -- if there's inadequate roadway, water, sewer, then they're not going to approve the, the building permit for it. And so...

Ms. Zigmond: So we could theoretically say we recommend Plan A or Plan B, except for on Lanai.

Mr. Alueta: Yes. Yes, you could do that. You could –

Mr. Stuart Marlowe: There's a question in my mind, there's nothing in any of these documents that talks about enforcement, and what are the problems or penalties regarding violations or inadequate space. And I know that it's impossible to find out if it's truly your cousin, etcetera, but when someone is applying for the permit, should there not also be something submitted to them that says if these items are violated, here's what it will cost you or your building could be torn down. Whatever it is. It's an enforcement issue that I'm asking about.

Mr. Alueta: That's a good point, and again that's the main -- that's the concern the Planning

Department has is that the, the idea of how this would be enforced is, is basically going to be through Title 19, which is 19.510 which is the enforcement provision of the County Code. And again, the only provision that we would enforce on is if someone is being, it's not being rented to, as indicated in the bill, a family member or HUD. So there's not requirement that, at least we're not seeing it in the Council proposal that, one, prior to the issuance of a building permit, you would have signed an agreement to rent this to a, to an affordable tenant, meaning through HUD, Section 8 or whatever. And that you're agreeing to that so that only people that would occupy this is going to be that. But Council didn't do that. If they did that, right, then it would eliminate a lot of the problems because then all of sudden it all becomes primarily section, or the housing, housing division would be responsible for insuring that the occupancy of that would be one of their clients, you could say, their customers. However, I mean, obviously, if I build a house, and I want to rent it to my cousin or, you know, my mother-in-law, then...they didn't want to go down that path. It makes no sense to do that. And that's why again, the Department fell on the side of the Mayor's proposal because we just felt we were going to be painted into a corner, essentially, in trying to enforce this.

Ms. Gima: You know, and I think a concern too in regards to enforcement is, especially here on Lanai and then on Molokai, I mean, we're out of sight, out of mind. To get any type of enforcement here is...pretty difficult. And so, which I'm sure it is on Maui too. So I'm thinking okay if this, if there's something to this degree here and, and it gets out of hand, how is it going -- I mean, how is it going to get enforced? I mean, don't get me wrong, I think the idea of having affordable accessory dwellings is a good idea. You know, it brings income to people, and more importantly it gives inventory for rentals. But, I mean, yeah, the, the issues that we shared with you and now the kind of lack of enforcement, how, how it will be done, all these little things which are not really little are kind of still unknown. So, yeah.

Mr. Ferguson: So let me get this. If we wanted to just leave it the way the law is set now, we could have Lanai be left alone. Because as far as like she said -- in my, my opinion, some of our streets and our lots are not quite, you know, we, it's cluttered already. I feel, I personally feel that, even the Mayor feels there not a demand for housing here. You know, that was his opinion. And to be honest I think, we, between the Company, there's units here that's actually probably not rented out. You know, houses that they working on and stuff. I no see the demand to, where we need all these other rental units. So I kind of think maybe leaning towards just saying we should just leave 'em at the 7,500 square foot lot ruling law that stands existing. I don't know, I guess, so we could go along those lines, right, instead of adopting any of this, right?

Mr. Alueta: That, that is true. You can make a recommendation that Lanai be excluded from the proposed changes and that your comments -- you know, and then you can just pass on your comments as noted, meaning you like the idea of an affordability even though you have concerns over the enforcement of that. Parking will always be a concern with regards to the standards. And then, the no limit. So you can still voice, voice your opinion, but if you want to be excluded, you want to be explicitly clear.

From a Planning aspect, we hate that. We don't, we don't really like except on Molokai, or

except on Lanai provision. However, however, Council has, has normally accepted that. So they have, they have normally been amenable to include that in the ordinances. I mean, even in the parking ordinance you guys have a separate parking waiver standard that it was added so that's entirely -- again, it's not unheard of. But I would like to get your comments regardless. I mean --.

Ms. Gima: I mean, I think there is a demand for affordable rentals here. Because right now, I mean, we may not visually see it, right, because you have five -- four to five families in just their main, in the main home, right. I think there's a demand, but I'm trying to kind to, kind of wrap my head around this and how realistic it will be. How many people could afford to add an accessory dwelling on their home?

Mr. Ferguson: Yeah, one that would be up and running. You know, how soon you can get something like that. And, I still think, you know, with what the Company planning on, all their renovations of the old, beat up plantation homes, get, get some inventory here that's not being utilized right now. That's my -- I think there's a bunch. You know, I'm not sure, but I think there's, you know, like, at least 30 something plantation houses lined up for renovations or --

Ms. Gima: But difference is it wouldn't be under the HUD.

Mr. Ferguson: Yeah.

Ms. Gima: I mean, that, that's where it could be very helpful, right, is if it's HUD. But then are we going according to Maui's numbers when it's different here. I mean, I'm, I'm going back and forth on this because I think it can be or having the accessory dwellings or ohana units can be really helpful. But there's just all these minor things that end up being kind of a really big things. I mean, I wouldn't want to exclude Lanai because if someone wanted to do that for their family to, you know, to have their son and daughter live in their ohana unit, I think -- and they have the money and space to do that, then why not?

Ms. Zigmond: Madame Chair, let me ask you, would you want, if there was no restriction on the lot size, everybody to be able to put an accessory dwelling. How many construction workers do you want on your street?

Ms. Gima: No, no, no. No, Bev, I agree. I agree with the restrictions on the lot size. I don't agree with what the Mayor is saying in terms of it just be whatever. No. Absolutely not. But I think if there are those set, very set restrictions that it could be a benefit to residents here. How realistic it may be and can people actually do it? Who knows? But to be able to have an option separate from renting from the Company or waiting forever for the County to do their affordable housing project, have that option there.

Any other comments, discussions, questions? I didn't expect it to go this but I'm glad that --. And thank you for all the information and writing down our, our comments and concerns.

Mr. Alueta: I think you guys are having a good discussion. I think everybody -- I think for the

other Commissions, it's just a little easier. I mean, the problem on Maui is very acute. It did take awhile for Maui, but they, they primarily needed -- we needed, I guess you can say, we needed it on Maui more than anywhere else. And so how acute it is here where you're having people live in their cars more than not, that have good jobs, but still can't find a rental. They have money, but it's just there's no units out there. That, that's the ultimate. That's what we're, that's what we're kind of dealing with on Maui. And, and Molokai is, is, not so much that same problem, but I think there's a lot of, like you say, doubling up of families in, in, extended families. And so they're seeing it as ability because a lot of them have land, and they have the ability to build it, meaning they can provide the labor themselves, except the law does not allow them to do it because they, because their lot is 7,300 square feet and they don't meet that provision. And so for them, on Molokai, it was more, we can build it, it's just that we don't have, the law doesn't allow for it.

Mr. Ferguson: Would we be able to get one, one clarification on this if, on that lot size? Because where Brad say, you know, where some of the streets are small, it's showing that, that it's under 6,000 square feet. But not, not knowing if it's under 5,000 square feet, I wouldn't be able to tell if that lot be able. The streets that I, the streets that I know are tight, if they're under 5,000 then I know, okay, then they would be excluded, so then that street wouldn't be one issue.

Mr. Alueta: And again, you can come up with your own number. So if you're comfortable with like, oh, I'm good with going down to 6,000 or 6,500. The would be the number you could use. You don't have to pick.

Mr. Ferguson: But I trying to stick with your 5,000 and up, but I not --. This doesn't show me the 5,000.

Mr. Alueta: Okay.

Mr. Ferguson: If I could see the 5,000 then that would clarify the streets that I looking at, and say, okay, well, right now it just say it's under six. But if it's under five, then I know, okay, those people going be excluding from, from building one unit anyway.

Mr. Oshiro: You know, the only thing, yeah Ferg, no matter, you know, if they build on the old side of the city, you going run into so much problems with parking. Cause look my dad's house, the backside road is private, so I cannot park back there. Okay. So I only get the front of the house. But the guy in front of me, you know, you going run into --

Mr. Ferguson: See, but how big is the lot?

Mr. Oshiro: It's almost 7,000 plus.

Mr. Ferguson: Okay because --

Mr. Oshiro: So you know what I'm saying?

Mr. Ferguson: So most of the, most of the lots they showing under six, but I not sure if it's 5,999 or under five.

Mr. Oshiro: I see what you mean, yeah. Yeah, but what I'm saying is –

Mr. Ferguson: Yeah, yeah.

Mr. Oshiro: -- the older section, we would run with so much problems. Even, you know, even somebody put up --. Like the Nogami house over there, we have by LSC, they put up that monstrosity. I mean, where they parking, you know. And how much inconvenience they putting the people around there. I mean, it's hard to come up and say, yeah, give it a number to, yeah, you can do this on your property, and then next thing you know there's seven cars parked over there. And no got room for one.

Ms. Gima: And even in the new areas too. Look at Olopua. That's a new area, and look how you can barely pass through the streets. So I think, for sure, I think you're hearing the consensus is that parking, the parking requirements and the concerns there. I mean, is every, does everyone agree that there should be this affordable accessory dwelling? Put aside the numbers and all of that for now. Does everyone agree that this concept is good of having affordable accessory dwelling. Because if that's what we all, if we all agree with just that concept then we can start working out what we feel is good in terms of lot size requirements and make those comments. But maybe that's the first step is to see if we're all on the same page with, with the affordable accessory dwellings.

Mr. Alueta: And Madame Chair, like, in the concept of like you're willing to put up with the inconvenience for somebody who use that affordable. And then I can provide you with a new map. That's not a problem. I just don't want to have, you know, you guys, you know, defer; I come back with the new map, and then, and then you guys still decide that we don't want this for Lanai regardless of what I show you on the lot size. So you guys -- I mean, that's, I just don't want to get to the point where if you guys are going to go, we don't want this for Lanai, period. Or, or we're willing to do it provided, you know, with restrictions.

Ms. Gima: Well, I think if, if the consensus is we don't want it period, that's what we'll tell you tonight. But, I mean -- go ahead Bev.

Ms. Zigmond: I agree with the concept, but I am going to stand fast by the restrictions. And so my vote would be predicated on whether or not those restrictions are going to apply to Lanai. It's not a comment that I want it passed on. This is it or not. And, and again, I don't think we could really make that decision without the proper map. But to make a decision today and have you bring back the map next month when there might not be a meeting next month, I mean, it doesn't make a whole lot of sense, but --.

Ms. Gima: So, I know you said, Planning Department doesn't like the Lanai only situation but that is again an option for us to vote and, and have Lanai only requirements.

Mr. Alueta: Yes.

Ms. Gima: Okay.

Mr. Alueta: Or exclusions.

Ms. Gima: Yeah. So that kind of answers your question right there Bev that, that is something that is not just a comment that we can have the exclusions or requirements. And I think it sounds like that is something we would definitely want. What that is, we have to figure out.

Ms. Zigmond: And it would be helpful to have more maps so everybody could be looking at it.

Mr. Alueta: I left them on the printer.

Ms. Gima: Okay, go ahead Stu. You have something to say?

Mr. Stuart Marlowe: I think we just simply should put forth a motion to defer until a completed map is provided. I would like also on that deferment to have clear written regulations as to what would occur if the violations are found out. Whether it's who they rented to or built something larger than what is allowed etcetera. So for that reason, I think our motion is to defer.

Mr. Alueta: Okay. Do you want anything else on the map? As far as enforcement, it's all in 19.510. There's nothing new that would happen. So, that, that's in the County Code already. So we're not going to create any new type of enforcement provision for this bill. And, yeah, I'll go back to my GIS guy and see whether or not that was just a typo or his query was actually for 6,000 square feet lots.

Ms. Gima: Okay. So there's been a motion to defer this to next month's meeting or actually whenever our next meeting is scheduled for.

Mr. Yoshida: So I believe for public hearing number one, it is a Council Resolution. According to the Charter, the Commissions have a 120 days after the Department receives the resolution to transmit the record, its recommendations, the transcripts and so forth to the Council. Or the Council can act without the recommendations of the particular board or commission. So, for number one, there is a time limit because this was received in mid-September, so the 120-days would be mid-January. On item number two since it was introduced by the Department there is not a time limit.

Ms. Zigmond: You know, I think it's really too bad that our meetings have been cancelled and we get this at the last minute, and we don't even get to exercise all the options that, that we should be allowed to vote on, including deferral. It's not our fault.

Mr. Yoshida: Well, I believe the resolution was transmitted to the Commission soon after it was received by the Department. It's the Department's -- the Department also transmitted as demonstrated in the report the resolution to various agencies for review and comments, and

those do take some time. But there is a 120-days limit by Charter.

Ms. Gima: . . . (inaudible) . . .

Mr. Yoshida: I believe we received the resolution in mid-September, so by mid-January. But, I guess the Director might have some comments.

Mr. Spence: And that was going to be my question is how long, much further do we have to go? You know, we -- it -- we can't help when the Council sends a resolution down. It's by Charter that we have to turn it around and get it back up to them. This was the soonest that we could get it to you, so --. Like the options have been laid out. You can make a recommendation on the Council's resolution. One way or another if you want to say it's fore or against or whatever, we're going to transmit those, those comments up to them. We'll also let them know you prefer to have some more time on this so. And then we're happy to bring it back. We're happy to bring back other maps and everything for the, for the Mayor's proposed ordinance.

Ms. Gima: But that has to be done in 120-days which is --

Mr. Spence: The Mayor's no, only Council.

Ms. Gima: No, okay, not the Mayor's. Okay. Okay. So can, so then -- well, there's a motion still on the floor to defer and maybe it can be specified which one we would be deferring to the next month's meeting.

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

Ms. Gima: Yeah, the Mayor's doesn't have the 120-day.

Mr. Spence: Right.

Ms. Gima: Do you want to amend your motion, Stu, to specify it more of which proposal you're asking to defer? You just said to defer, but you didn't --. It's kind of hard because we've been lumping these two together, but they're actually two separate agenda items.

Mr. Marlowe: So the motion should be to accept the Mayor's?

Ms. Gima: Well, you can make whatever motion you want Stu.

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

Ms. Gima: Correct. And the only one that doesn't have the time limit is the Mayor's proposal. The other, the County Council, it sounds like we have to make some form of decision and recommendation tonight. So I'm asking you, in terms of your motion to defer, are you referring to defer the Mayor's proposal until we get the maps for next month's meeting?

Ms. Zigmond: But Kelli the maps don't matter because under the Mayor's proposal –

Ms. Gima: That's right, there's no –

Ms. Zigmond: -- there's no limit.

Ms. Gima: Okay, so then we should –

Ms. Zigmond: And so let me ask you Mr. Spence, you said you, you could take back the suggestion that we have some more time, but there's no guarantee that anybody's going to approve that. And if we don't do something that we want then we're S.O.L.

Mr. Spence: Well, as Clayton points out the Charter says we have 120-days to get, for the Department to get the Council resolution back up to them. You can make any recommendation you want to with that. You can say we have no recommendation. You can say we like this part of it, but not the rest of it. You can say, you know, you, we, we will report to them that you wish you had more time. I don't think they're going to grant any more time, but they, you know, they would have to allow that as well, so.

Mr. Alueta: If I may the, the -- typically even if I make the deadline to transmit everything back to them, right, I would --. And if you didn't have any motion, then I would transmit whatever your comments were. Typically when I do transmit this up to them, it has to -- they don't schedule it right away. So it all depends on how fast they turn around their proposal. I mean, that's, that's one risk that you have, if you do defer with a motion that, that -- and we try to reschedule it, we could, we could still do the hearing with the hopes that we get your comments, and then transmit those as an addendum separately to the County Council before they take action.

Ms. Zigmond: I'm not a gambler.

Mr. Marlowe: Let's start with me withdrawing the motion.

Mr. Yoshida: And Madame Chair, I believe the deadlines are in the first paragraph of the December 1st memo from the Department, to the Commissions, that the resolution was received on September 14th. The 120-day deadline is January 12th.

Ms. Gima: I guess it's just kind of confusing why it wasn't brought to us sooner if it was –

Mr. Alueta: Once it gets transmitted down we have to then transmit it out to agency comments so there's at least a 45-day burnt off on that. And then it comes down to the matter of trying to find an appropriate time for this meeting, do the staff report, and get it all scheduled. And we have 30, a minimum of 30-day notice requirement. So you're looking at -- I get a 40 -- I get my agency comments back, I then have to crank out a staff report, and then I have to calculate backwards with Mr. Yoshida when I'm going to meet the notification deadline for that 30-day because I have to publish at least 30-days.

Ms. Zigmond: I think we should change our meeting date so -- because this has happened before and I get that you're overworked and underpaid, and there's just not enough time, but, you know, we don't always have our meetings either and that really puts another wrench in there.

Ms. Gima: Can we --? Joe, could we take these two separately? And maybe start off looking at the Mayor's proposal so there's no confusion. Because I think it's gotten a little confused. But maybe we can start and address the Mayor's proposal and vote on what our recommendation will be.

Mr. Ferguson: No, shouldn't we look at the one that going expire? The Council one?

Ms. Gima: No. Yeah. I mean, okay.

Mr. Ferguson: Because the Mayor one not going expire, right? I mean, that one no more deadline, the other one get. We should look at that and see what --. Oh, okay, okay.

Ms. Gima: We need to get both of these out of the way. I mean, is there any motion that you have in regards to the Mayor's proposal?

Ms. Zigmond: Yes. I, I make a motion that we reject it.

Ms. Gima: Anyone second that motion? I'll second the motion. Any discussion...before voting? Again, this is the proposal that doesn't have the lot size restriction. There's no affordability requirement. It can be in different zoning districts. The size of the accessory dwellings are different as well.

Mr. Oshiro: Again, the only thing I've got, you know, is that the more the people work on Lanai, the more they bring, they buy cars, you know. When I was growing up, everybody had one. Now everybody get three or four, okay. There's no parking. There's no parking on the street. The one that Kelli and I live on, you better park on your yard or else you ain't going find parking on the street because there's no street parking. So what I would like to see maybe a comment from us on, on the Mayor's is that look at Lanai before you, you put Lanai in this boat because we don't have the parking. Unless you going end up with people getting mad and they going start fighting with each other.

Mr. Alueta: Those are good comments. And again, we, we see the same issues, and again, that's why we tried to incorporate a lot coverage on any new development. So if a lot, if you have a house lot is already built out to the max, they wouldn't qualify under this because they wouldn't meet the requirements.

Ms. Gima: Any more discussions? Okay, so there's a motion made by Beverly to deny the Mayor's proposal, second by me. All in favor of denying this proposal raise their hand. One, two, three, four, five. It's unanimous.

Mr. Alueta: Okay.

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

VOTED: to recommend denial of the Mayor's proposed bill to the Maui County Council.

(Assenting: S. Ferguson, K. Gima, S. Marlowe, B. Oshiro, B. Zigmond

Excused: J. Aoki, J. Barfield, S. Koanui Nefalar

Absent: M. Baltero)

Ms. Gima: And so now it's looking at the County Council's proposal, again, that has the lot size from 5,000 square feet to 7,499 square feet. There is the affordability requirement. There's no allowance for a second accessory dwelling. So it's looking at that page 3 where they're comparing it. Any further discussions, questions, on this? And this is where we could vote with our comments. I mean, submit our comments or –

Mr. Oshiro: This resolution, it has to have an additional carport or garage, right?

Mr. Alueta: Currently, yes. So all accessory dwellings require an additional.

Mr. Oshiro: That would knock Lanai out because there's no room to put another garage or, on any lot.

Mr. Alueta: Again, I'm not sure how often you guys get accessory dwellings constructed. Public Works and -- yeah, Public Works and Water Department would --. I guess you're private water, so Water Department wouldn't really comment, but Public Works would comment on it as far as . . . (inaudible) . . .

Mr. Ferguson: That would all be based on approving the –

Mr. Alueta: Building permit.

Mr. Ferguson: -- the permit, right?

Mr. Alueta: Yeah.

Mr. Ferguson: Like, they would look at the accessory dwelling also having ample space for, for the additional parking –

Mr. Alueta: As well as current –

Mr. Ferguson: On, on, onsite, right?

Mr. Alueta: Yes. Onsite.

Mr. Ferguson: On, on, the property itself, yeah?

Mr. Alueta: Yeah, we use our spy satellites -- I mean, our, no just --. We actually do use . . . (inaudible) . . .

Mr. Ferguson: So if there were lots that you could probably, you could squeeze a 500, 400 foot square foot, but not have adequate space for the parking, that would be denied, right?

Mr. Alueta: Correct. And you would have to have the two stalls for the main dwelling.

Mr. Ferguson: Oh, two for the main, and one for the additional.

Mr. Alueta: Right. So if you don't even meet –

Mr. Ferguson: All on property.

Mr. Alueta: Right. So if you don't even have –

Mr. Ferguson: So that shouldn't, shouldn't affect street parking. Oh well, you know, depends how many people live in the dwelling, but, you know, you get three in the dwelling and one car space, but...okay, so it would be denied if never have, the lot itself never have enough for one parking.

Mr. Alueta: Correct. And they would have, they would have to meet the current code. Meaning like if they had the main dwelling, if the main dwelling didn't show parking for two stalls then we would not approve the, the accessory dwelling.

Mr. Spence: And just by way, maybe this would give a little context. The power point that I'm going to show, we did a little bit of research, there's like 41 ohanas on this island. That's all. That's not very many. Those are all the ones that have met the lot size requirement, that have met, you know, all the current requirements. They've got the parking, they've got all that stuff already, so it's not too many. So I don't know if that that helps, you know, in the discussions.

Ms. Zigmond: That doesn't necessarily address the future and with . . . (inaudible) . . .

Mr. Alueta: So again, your options are to approve as proposed, approve with amendments, reject the resolution, or recommend against the resolution as a whole. Or you can just, again, you can defer action if you feel that you need additional information that would aid in making some type of determination in the future.

Ms. Gima: Could you read back the comments, to us, that we gave you so everybody is kind of is clear on what we talked about this?

Mr. Alueta: So, so far you have maintaining the affordability of that requirement. You have parking concerns, as a whole, meaning not just having the one, but just in general, there's a parking issue going on for the main dwelling as a whole. You definitely don't want to have no limit on the accessory size so you, you support the limitation that is currently being proposed by the Council which is 400 and 450. And, you do like the idea of limiting the lot size that would impacted, and right now the Council's proposal is down to 5,000. Those are your comments. Again, if you choose to defer, I just want to make sure, like, because some of your discussion is the lot could be 8,000 square feet and there may not be enough parking. And that's the, if that's the, you know, this island, the way it's structured right now, this bill may not work, I guess, for you guys on a lot of your lots. And so, you may, you may again -- some of your discussions was about trying to exclude Lanai. And, again, we normally don't support that, but the Council has allowed for it if you feel that is best for Lanai.

Ms. Zigmond: What if, what if we put a lot size upper limit on -- I mean, lower limit on our lots for Lanai instead of the...5,000, we could make that 6,000 or I don't know.

Mr. Alueta: Would you like to call for a five minute recess?

Ms. Gima: Let's go ahead and, and do that, and take a quick break.

Mr. Alueta: Thank you.

(The Lanai Planning Commission recessed at 7:00 p.m. and reconvened at 7:10 p.m.)

Ms. Gima: Okay, let's go ahead and call the meeting back to order. And, again, we're now looking at specifically the County Council's resolution. Yeah, it was to take a good idea to take a break, I think, for everyone, to really kind of think about all of this. For me, it's how do you make an informed decision when you're basically being rushed? That, that's a little frustrating especially since our last month's Planning Commission meeting was cancelled, and I mean, we're at this now for almost two hours. I mean, this is something we could have done last month. So I understand that there is a time limit here, but, I mean, yeah, how do -- I'm pretty sure everyone's feeling the same way here, how do you make an informed decision when you're rushed.

And then also, thinking about this, this is something that's really specific to Maui's presenting problem, which is -- and no way saying that it's not a problem on Lanai. We hear that for sure. But basically putting Lanai and Molokai into Maui's issues, it doesn't, it doesn't make sense. Your guys thoughts on, on this? Are you guys feeling the same way about making an informed decision and being rushed on it? So is there a way to request, from the County Council to have an extension here for us to make that informed decision? Cause I don't think anybody here is, through the really good discussions that we've had tonight, are saying "no way, we don't want this." It's really being able to look it at all angles, having the information, and have the time to process this as well. And, and, you know, we have other things on the agenda that we want to get to, and I don't think we should just rush it for the sake of getting an answer to the Council.

I'd rather us take the time and have all the information so that we could provide a really good recommendation to the Council.

Mr. Alueta: Yes. You can, you can make that recommendation to the County Council, and I can actually make a note of your comments and concerns that you've had so far, and then, you know, that you've requested additional time. And when I do my transmittal to the County Council, and that's, again, they may choose to just wait for you. And again, they have done that in the past. I know, you're not gamblers. But it has also to do with like, you talked about making an informed decision. We can schedule this as soon as we get it to you, and all I would do is make a presentation that here's the County Council's resolution, I have no --. Or here's agency comments, but I haven't analyzed them, and there's no staff report. So if you're comfortable with that, you would be stuck in the same position where we don't have adequate information for you. It's just that the Charter, the way it's set up, it's setting that there's a time limit on these Resolutions. And obviously they don't want to have it sat on per se. But I think that, you know, you have a reasonable request. I think this is an important bill. It has a significant impact, County wide, so I think they'd probably will, in all likelihood, defer.

Also, the Council has a lot of things on their agenda; the Planning Committee. Again, I'm not sure how soon they want to take this up. But again, that's the risk. They could just say, hey, look, we gotta move forward. They may choose to exclude Lanai right now and say we'll wait if they want to do it, we can amend the bill again. There's not a problem with that too. You know, like you say, hey, for now we're going to move forward because Maui needs this, Molokai needs this, Lanai can wait. And if Lanai wants to jump on this, then we will amend the bill again. That's up to them.

Ms. Gima: And it's really not like we're asking to sit on it for months. I mean, if it's January 12th that, you know, they need it by. I mean, we will probably be meeting the week later, so it's not like a huge extension request. I just don't want to risk, you know, not providing comments, but --. Sorry, I don't know where I going with that. But, yeah, I mean, I would like to make a motion to defer this and have that comment in there that we are requesting additional time. Not a significant amount of time, and to allow you to come back with a better, updated map from the GIS people. Yeah, that is my motion at this time.

Mr. Oshiro: I have one question. Does everybody on this Council see this Resolution when it goes by or it only goes to just like a very few people?

Mr. Alueta: Well, it came out of the Planning Committee, so members of the Planning Committee voted on it to send it out.

Mr. Oshiro: So it's not really the whole Council that looks at it. It goes to the whole Council?

Mr. Alueta: Yeah.

Ms. Zigmond: Madame Chair, I'll second.

Ms. Gima: So the motion been made to defer this to the next, which is the next month's meeting, with the request to have that extension. It's been seconded by Beverly. All in favor raise their hand. One, two, three, four, five. It's unanimous. It passes.

Mr. Alueta: Okay. Thank you.

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

VOTED: to defer the County Council's proposed bill.
(Assenting: S. Ferguson, K. Gima, S. Marlowe, B. Oshiro, B. Zigmond
Excused: J. Aoki, J. Barfield, S. Koanui Nefalar
Absent: M. Baltero)

Ms. Gima: Thank you Joe. I mean, I really appreciate you taking the time to go over this with all of us and, and write down our comments. I appreciate it.

Mr. Spence: Just a comment, Commissioners. I think, I appreciate the comments on parking, and your streets are narrower, and everybody loves the narrower streets. I mean, that's part of what makes this city so special. I mean, this maybe, it maybe a very legitimate case for except on Lanai. It, it could very well be.

E. COMMUNICATIONS

1. **MR. WILLIAM SPENCE, Planning Director, transmitting a bill to amend Chapter 2.80B Maui County Code relating to land use designations in the community plans. (W. Spence)**

The Planning Department will transmit the Lanai Planning Commission's comments on the proposed legislation to the Maui County Council.

The proposed legislation is available at <http://co.maui.hi.us/index.aspx?nid=121>

Ms. Gima: Thank you. Okay, let's go on to the next agenda item, and that is under Item E, Communications . . . (Ms. Kelli Gima, Chair, read the above project description into the record.)
. . .

Mr. Spence: So this will take a minute to come up. So, anyway, thank you Commissioners. We wanted to bring this to each one of the Planning Commissions, this proposed bill. It, technically it's not a land use bill so it doesn't have to go to the Planning Commissions, but there's been enough discussion in all the communities and we thought that this was important. The...last

time this came up, there was a lot of discussion, a lot of, I think, misinformation. And so we're going out, we're reaching out, so there is some, hopefully some better understanding on what this bill is proposing.

The bottom line of this -- this is, this is the actual text of the bill. There's, as you know, because this Commission just recently looked at your own draft community plan, you looked at, there's a map in there with all the, the community plan designations. You are kind of unique. You have mixed use, you have a couple of other things, you have . . . (inaudible) . . . I'll pull up a copy of that map in a second. Basically what this bill says is when you go to get zoning, the only zoning you can get is what is shown in the community plan. That's what the first one says. A land use designation -- this is in the community plan -- determines the zoning that may be established for a property undergoing a change in zoning pursuant to Title 19.

The second part of it is basically until that zoning is established what can a property owner do with his property, or her, or for abrasion of whatever. And what this is saying is you currently have some kind of zoning under it, under that community plan, they should be allowed to do the things that are permitted by that zoning. It doesn't mean they can subdivide. It doesn't mean they can get SMA permits. But it means that zoning, that's, you know, the zoning that they have is what goes forward right now. This is 35 years of practice. The only reason this comes up -- I'll get to more detail why it comes up -- but the reason this comes up, is a puka in the law. This is the way we've always done it, but it's never been codified. This is the way that planning around the country is done. But in our particular case we never codified it so we're making an attempt to do that here.

Everybody --. And I'll kind of go through this quickly because it's, it's getting a little bit later. You know that you have all these different layers of -- you have your State district; ag, rural, urban, conservation. You have your community plan and your general plan. Then you have zoning and then you have overlays like SMA or things like that. So this is, this is what is being proposed for your community plan outside of Lanai City. The big area to the west of Lanai City, that's your mixed use designation. To the far left is the public quasi/public where there's proposed to be a UH campus and all that. So you would know all that stuff.

The County's zoning layer is very different. You have interim and you have agriculture on the left. That's very different; you have inconsistencies there. And then the State district, the green is the ag district; kind of the white is urban -- it really shows up as grey in the slide; and then the, the kind of orangish piece up at the top, that's rural. You put them together in the different layers and --. So you have the State, the zoning, and community plans. You have inconsistencies with this. The community plan is saying one thing, the zoning is saying something else, and the State is...the State is even different. So to make those things consistent, there's a huge legislative process that has to be undertaken. You have to go to the State Land Use Commission to get urban or whatever that is appropriate for a proposed development. You have to come -- you have to go to the County Council to get the zoning. That comes here to this body for review and public hearing. It comes to the community. But ultimately it has to go and it has to match up with the community plan. So in a nutshell, really

briefly, that 14A that I showed you before, what zoning could be applied. The language of that says, of the bill says, a land use designation determines the zoning that may be established. So in, so where the big public quasi/public is, what kind of zoning can they get? They can't get hotel, they can't get industrial, they have to follow the community plan. The only zoning that they could get would be public quasi/public.

For the mixed use, we don't even have a mixed use ordinance yet. That still has to be developed. But the only zoning they could get would be a mixed use zoning. They can't get single family. They can't get industrial. They can't do public quasi/public there. This is the -- is this generally understood? I mean, to me, this has been understood. This is the way we've always done it. And it goes through the public process, it comes to the community, there's lots of public input about conditions and traffic concerns and all those things. That, that's the way that it's currently done. And so, again, this is --. Let me --. Okay, so you have to follow the community plan to get zoning.

The second part of it, it says, a land use designation shall not limit any use established by the person's, by a property zoning. So until such time as the mixed use zoning or the public quasi/public is established, what can they do? What can a company do with their property? The underlining zoning is either interim or it's agriculture. So let's just pretend for a second Kurt wanted to go out and farm pineapple. Could he do that? They could because the zoning allows it. The community plan does not control that they can or cannot do farming under that. The zoning allows that.

And let me bring up too, they can't go do...there's other laws that affect where the community plan kicks in. Just because right now the, the zoning is agriculture, the Company can't go subdivide into ag lots. Subdivisions are required to be consistent with the community plan and that would not be. They can't -- if it were in the SMA, the SMA is required to be consistent with the community plan, so they couldn't just -- if this were in the SMA, they couldn't just go do something, you know, in accordance with the zoning. It would only, it could only match what happens with the community plan. Okay. I'm emphasizing this a lot because the rumors that are going around is this bill guts the strength of the community plans, and that's not the case at all. It actually spells out what zoning, you know, you can get, and what consistency with the plan means.

So the reason this comes up at this time is there's a growing argument with a community group on Maui that says, okay, and as you reviewed your community plan, you noticed that with each one of those designations there was a little brief description in the plan. Okay. The argument is the descriptions, because you're suppose to zone in accordance with the community plan, it's the descriptions that regulate land use, not the zoning. So in other words, following your community plan means, literally, means following those descriptions.

The...this comes out of Piilani Promenade. It's a project on Maui that probably everybody's heard of, and it's related to Honoula Luxury Housing Project that a lot of people don't want. The developer is required to build his affordable housing on this light industrial piece. The light

industrial zoning allows for apartments to be built in commercial and, of course, light industrial. Their strict readings, the community group that doesn't --. And I'm not saying good or bad about Honoula, I'm not saying good or bad about this light industrial project, I'm just explaining this is what is. The community group is saying that you have follow the description in the community plan. This is for warehousing, light assembly, service and craft type industrial operations. They're saying that's all they can do. Those four uses listed in the community plan versus the more than 75 uses that are allowed by the zoning. I hope -- that to me, that should be dramatic enough to show a great disparity between what the community plan is intended to. It's intended to give direction towards zoning versus it's not suppose to be the regulatory document all by itself.

If, and I want to take this down the road of what are the consequences if we just went by those descriptions. What are the consequences of just of those descriptions being a regulatory law instead of the zoning. First off you would prohibit a whole lot of uses that you might find desirable. The second thing, thousand of currently legal uses would be made illegal. And then the final thing is this is an unintended consequence of, of the group who's proposing is the community plan, the language of those community plan designations is so broad that you might permit some things that you don't want to have permitted.

Okay, this is just an example. This community plan description for single family; it says, this includes single family and duplex dwellings. That's all it says. The zoning on the right says single family dwellings. Okay, that's the only place where the two things match up. Also permitted by the zoning, accessory dwellings which we've been talking about tonight; greenhouses, community gardens, truck farms, parks and playgrounds, schools of all different levels, government buildings, daycare centers, kindergartens. We have a whole procedure for bed and breakfast homes, and short-term rental homes. None of those things would be permitted if you just go by the description in the community plan.

An example of what would be prohibited also -- I guess everybody's aware of the County purchased seven lots over in Kahului for a new service center, where Real Property Tax is suppose to go, where, you know, DMV is suppose to go. So they spent \$7 million to buy seven lots. Just by going through the community plan description, we would not be able to build anything on those lots. Right now, it's perfectly permitted. Community plan would say, no, you can't do that at all. That to me is a problem. Okay. It would also make going strictly by those little descriptions, it would make lots of uses nonconforming, and, which is also referred to as grandfathering. People think grandfathering is just fine. You know, oh, I can just continue on and on. Really what grandfathering is is you're saying that a current legal use is now illegal. The only difference is we're not going to shut you down. It can just be phased out over time. It's still an illegal use though, and...this presents a whole bunch of problems. On Maui we were just talking about ohanas. All of the ohanas would be rendered nonconforming. On Lanai, we did the research, we have 41. Molokai, there's 135. Maui, there's 3,600. That's a significant portion of our rental. You know, really, we can argue whether they're affordable right now or not, but that's a significant portion of our housing stock. To say that all of those are now unlawful, that's a big deal.

I tried, when I've gone around to the different Commissions I've tried to pull examples. So here we have the Company's baseyard and big facility. It's zoned light industrial, it's community plan light industrial. You have the laundry facilities and you have other stuffs that goes on in the various buildings, but the office building in the back, I would just question. It raises a question. Do you guys need a building permit or something like that? We would have to question if it's a legal use or not, and all the nonconformity laws would come into play. And I'm sorry I couldn't pull up other examples. I'm sure that given a little more time I could.

On Molokai, everybody's aware the, the lawsuits and all the frustrations with the veteran's center down there by the harbor. That's community plan light industrial. It's actually zoned interim. We found a way to make it consistent so they could build it. But that wouldn't render the, the veteran center nonconforming. I don't really want to be the one to go back to that families and say, hey, you know, we have problems now with your veteran's center that you so lawfully, you know, went to court for. Coffees of Hawaii, the actual coffee processing, that could continue, but the retail portion, where you go get your sandwiches and get your gift store next door, that would be unlawful. And over on Maui, light industrial is Zippy's. It's Akaku. People watch, over here watch Akaku all the time, to find out what the Council's up to. They have a multi-tenant building. So each one of those businesses that are currently occupying, unless they're manufacturing or warehousing, those would be nonconforming. The Akaku, itself, would be nonconforming. Big Veteran's Clinic. The Carpenter's and the UPW union halls. I'm not going to be the one to go tell the Carpenter's Union you have a nonconforming building. Kihei Charter School. We have lots of apartments that are designated for light industrial. We also -- I clicked that too fast -- we also have a number of churches that are designated light industrial. Permitted by the zoning, but would not, by the community plan language.

And then as you get out into the rural areas of Haiku and Puelo, the old canneries are their commercial center. That's where the grocery stores are, that's where the pharmacies are. Basically...that would, what would really hurt those communities to not to be able to do retail out of their canneries.

Okay so I covered what it would prohibit. I covered rendering a whole bunch of uses nonconforming but then also in some cases it would permit things that you don't, that would broaden out from what County Code currently provides. So if you go by the definition of agricultural, this use -- basically it say follow Chapter 205, not our County Code. State ag is very permissive. There's no restrictions on the number or sizes of farm dwellings. The whole idea of you don't have a whole lot, I don't think in the ag zoning, but on Molokai, there's like three or four things that say, except on Molokai. That would wipe us out. It would just be whatever is allowed by State law. Restaurants, with almost no relation to ag. Retail stores, almost no relation to ag. State law allows those things our County zoning currently does not, except within restrictions.

It draws a question back to your community plan. If the community plan dictates land use and allows land use, what would it be with the, with the mixed use and the public quasi/public? If you say the community plan dictates the land use, would that just allow, you know, the company

to go out and start doing mixed residential or start building a university campus? I don't think so. There's a whole public process to go through with the Land Use Commission, and this body, and the Council.

Okay, and the very last slide, again, this bill requires that re-zoning a property has to follow the community plan. Until such time, as it's re-zoned in accordance to the community plan, the existing zoning is what permits the uses. And then it just, it codifies 35 years of County practice. And that's pretty much it, and I'm happy to --

Mr. Marlowe: Is, is there an instance where Code and Rules that are in place are trumped by a community plan, or do the, do the Codes always exist and trumps anything that is put forth in a community plan? Zoning codes.

Mr. Spence: Okay, it's not a matter of trumping or not. It's a matter of where -- how are we applying our community plans, okay. Re-zoning is one. I don't know has there been a re-zoning on Lanai recently? I mean, I know you've looked at a number of bills like tonight, but actually re-zoning a property. Because it -- otherwise you would know that it's a very long, public process. And in some cases...you know, they may have to even change the community plan so everything lines up.

Mr. Marlowe: Yeah, there are the three homes on Lanai Avenue that --

Mr. Spence: Okay.

Mr. Marlowe: Because it was zoned one way, and in order to rebuild those homes, it had to be re-zoned, so that, that process which took a long time, has finally come into play.

Mr. Spence: Right. And so what we're saying is...this is the normal process to get zoning, and so all those layers line up. The only time zoning...I don't want to say trump. It's such a -- that's a...it's sort of an inflammatory word. Okay, well, it's not even take precedence. It's -- you're saying what can somebody do with their land? So that area that's currently, the community plan, mixed use, what can they do on that property? They have to, by the U.S. Constitution, they have to be able to use that property for something. In this case, it's still zoned agriculture, and they could do agriculture on it. And as a different --. The community, if you want to know where the community plan would trump that zoning, they could not subdivide it. That's, that's one place where the community plan definitely would overtake the zoning.

Mr. Marlowe: But in that scenario it would stay ag.

Mr. Spence: Yeah.

Mr. Marlowe: Okay.

Ms. Gima: Commissioners, before we start asking questions, I'm going to open up public

testimony again. I know we only have two audience members, but is there anyone that would like to come up? Okay.

Mr. Kurt Matsumoto: Kurt Matsumoto, from Pulama Lanai. Thank you for the presentation. So that was helpful. And for, for...my consideration, you know, it would be easier for us if we had less of a process to go through. It would cut down a lot of time and expense, but I support the, the work that they're doing, to codify the process. I think the process is important. Hawaii actually kind of lead the nation in, in developing this kind of a process, and I think it's important for it to be remain in tack the way it is. Thank you.

Mr. Reynold "Butch" Gima: Butch Gima. I'm confused why this is coming before us now. What, what's the specific presenting problem? And I'm also wondering how does this impact the current community plan process. And...I remember when the CPAC was discussing this, I thought it was...well, I thought it was clear that once we came up --. I mean, the community plan designations were the macro, over-arching designations, and I understood the different zoning options that fit in each category. So, why, why are we talking about this now if that was the understanding during the community plan process?

Mr. Spence: And that's an excellent question, and I'm glad you're here because when...the Planning Committee was over here last time talking about the community plan, you were --. Butch's comment to me in private was about, you know, they understood that these certain designations matched up with -- I don't want to put words in your mouth -- matched up with certain zoning categories. That's what this says. The reason -- so I'm agreeing with you. If the community plan should dictate what zoning could be, what a property could be zoned. The reason it comes up now is pretty simple and I should have just said it before, we're probably going to get sued and -- I'm mean what's going to be -- like I said, the group on Maui is going to say, no, for that Piilani Promenade Project, you must follow the community plan, and it's those four uses only that you can do. And you can't do your apartments, and you can't do any commercial. So...but so much of Maui has been built exactly that way. You have company offices that was built under what's allowed under the zoning. The -- and so what would be the fix? If somebody chooses and said, no, you must follow this community plan, we would change the law. We would change the law to, so all of these uses aren't nonconforming so --. I mean, to make our current process exactly what it is today. The process that everybody pretty much understands. So that's what we're doing. We're pretty much heading off a lawsuit. No, they've already said they're gonna to, so --. And, again, I don't have any opinion about Piilani Promenade one way or another. I'll just tell you what, oh, you know, the things they're proposing are allowed under their zoning, so --. I see questions forming.

Ms. Gima: Yeah, public testimony is still open.

Mr. Gima: So as I testified before Council, my understanding is zoning follows community plan designations, not the other way around. And if that's the case, why are you afraid of the litigation? Is it because of like you said earlier, it's not codified that zoning follows community plan designation?

Mr. Spence: I know this is still testimony. Zoning follows community plan designations. You have community plan designations -- but you have current. Until that zoning follows, until they get mixed use zoning, until they get public quasi/public zoning following the community plan, the land owner still has to be able to do something with their property. What's allowed currently is the existing zoning, which is agriculture. They can still grow things, they can still irrigate, they can still plant trees, they could still do all that stuff. They could still get special uses for waste water treatment plant. That's what the current zoning allows. I'm not, we're -- and for clarity we're not...we're not afraid of a lawsuit, it's just a huge waste of time, and finances, and energy.

Mr. Gima: Thank you.

Ms. Gima: Alright, we'll go ahead and close public testimony. Commissioners, any comments, questions?

Ms. Zigmond: Madame Chair? Okay, I'm seeing this as a kind of like a one two punch. So our community plan has had some changes made to it that were not approved by either CPAC or the Planning Commission, and in this bill, it says "the Planning Department believes that the zoning regulates land use and that community plans are intended to be a vision." Now that doesn't sound like it's, it's regulating anything. It's fru-fru. So here's what we want pie in the sky. And...I will...put on the record that Gathery be . . . (inaudible) . . . said that the community plans are the rule of law even though that was an SMA application. But they said community plan is rule of law, so I just want to put that out there. And I also want to say that your presentation sounded like it was deaf to so many things that were mismatches. But can you not get variances and, and conditional use permits and things like that when there's mismatches?

Mr. Spence: Community plan amendments absolutely. We see a number of those every year. We're talking about just...what's currently -- you know, we're trying to make this a lot simpler without getting into the gillions of variables that could be there. Yes, you could get variances. I don't know if you can get variances from the community plan. I don't think you can. I'd have to research that. Normally variances are for how wide you have widen the roadway, do I have to improve the entire 500 feet of road, I built my house too close to the setback, those kind of things. They're not so much for...for this kind of thing.

Gathery is specifically about SMA. I, I understand the people's comment about that. I was a staff planner when Gathery went down. I was in that office when David Blaine was the, the Planning Director so we understood that, that court case very well. The question that I have to bring up then is with the consequences that I brought up, and brought those up specifically because the claim is the community plans are the force and effective law. What about, what happens to Zippy's? What happens to King's Cathedral? What happens to the thousands of small businesses that would be rendered nonconforming if it really were the case that you could only do those four uses in light industrial. The consequences of that would phenomenal.

Ms. Zigmond: So it would be retroactive then. You're going to take everything that's

nonconforming and make it all illegal.

Mr. Spence: It's all conforming right now. This is exactly -- what, what's proposed in this bill is exactly the way we do it now. It's exactly the way we have done it for 35 years.

Ms. Zigmond: I, I see it as a way to try to undermine our only, one of our few areas of self governance. Again, having the Planning Committee make changes in our community plan without our knowledge, without our consent, I find despicable and I think this is just all part of the process. I'm sorry, I can't agree with you.

Mr. Spence: Okay, let me, let me separate out, what's happening with your community plan is different than --. Your community plan is currently undergoing the process. It starts with the Planning Director and staff. They write a draft revision to the existing community plan. They take that to a community plan advisory committee. That committee makes recommendations to that draft. That goes to the Planning Commission. The Planning Commission makes recommendations to the County Council, and the County Council does their own thing. Every community plan I've been involved with, even in the 90's, there's always changes at the Council's level. I understand the frustration. That's the process and that's the way that that's laid out. By law, that process is to separate it out.

Okay, this is different. I'm not sure how...it weakens the community plan. Saying the way we've always done it, I don't think weakens the community plans at all. I think it really specifies you, when zoning follows the community plan, I don't know how making it specific weakens the community plan at all. I think it makes it stronger.

And I, I do appreciate the frustrations of community members with what happens at Council. It's, it is, fortunately or unfortunately, it is just a part of the process.

Ms. Zigmond: But the change to our community plan which we worked so long and hard on wasn't done by County Council. It was done by you folks, without our knowledge and consent.

Mr. Spence: Okay, I would have to get specifics. We -- even if, even if between the Planning Commission and the Council, we can make some recommendations and if we think that something would really needs to be changed, we'll make that recommendation. But we don't make the change, Council makes the change. And they can -- in many, many cases, they ignore the Planning Department, and in many cases, they agree with us.

Ms. Zigmond: And Madame Chair, I would like to put on the agenda for the next meeting the community plan and what the heck happened to it, and why, and how, and who.

Ms. Gima: So just like a, a update, status on the community plan for the next, for January's meeting?

Ms. Zigmond: More, in addition to the status. I'd, I'd like some, some answers on who made those changes, and what was the thinking. Because according to my understanding of Maui County Code, where it talks about the community plans, the Planning Director does do these things but then submits it to the appropriate community plan advisory committee, and consequently later on to the Commission. And those things didn't happen.

Mr. Spence: Okay. Once we transmit it, we transmit --. And we're still talking about two different things. So, I know the question has come up. Once we transmit to Council, it's in Council's hands. They look to the Planning Department for advice, but that's all we do is make -- if they ask us a question, we'll make a recommendation on it, or we may think that something should be changed, and we'll make a recommendation on that. But, it's in their hands. Madame Chair, I submit that if, if the members are upset about what happened to the community plan, that's in Council's hands now. It's not in ours.

Mr. Oshiro: If I'm not mistaken, next, next month, the Council's coming to Lanai on the 16th, I think, it was. I think it was the 16th. And they suppose to hold a full council plus go over this planning. So, I mean, that's what I got from the last time they was here. And I got a question. If Zippy's and King Chapel is not suppose to be permitted, who gave them the permits, the bills? They gotta get permits from somebody.

Mr. Spence: Right. Right now... right -- and, and the we gave them, the County gave them permits because right now they're legal. What the community group on Maui is saying it's not legal. That's what their lawsuit is going to be. It's that they're going to say that -- they mostly want to say the developer can't built the apartments in the commercial. But that would make, if that is true, that would make Zippy's and King Cathedral now illegal. They're perfectly legal right now.

Ms. Gima: So it's based on the outcome of this lawsuit, what it would become. So it's all on this lawsuit.

Mr. Spence: Well it's not -- there hasn't been a suit file. They've just threatened.

Ms. Gima: Okay...so, okay, there's just a threat of a lawsuit.

Mr. Spence; Yeah.

Ms. Gima: That these changes are going to be made.

Mr. Spence: Right.

Ms. Gima: So if Zippy's and all these various entities are all legal now, what ultimately would make it illegal?

Mr. Spence: If, if you followed just the strict language in the community plan, that little one

sentence description, that would make it illegal.

Ms. Gima: And so someone would have to call that out and bring that to an attention of someone right? And if it's not, then it's just, it just remains the way it is.

Mr. Spence: Yeah.

Ms. Gima: Legal.

Mr. Spence: The way it is now, light industrial zoning allows all the light industrial uses, it allows all the business uses, and it allows apartments. So all of these light industrial uses were legally built. If you go by what this one sentence says, none of those were legally built.

Ms. Gima: So it really comes down of the issue of the description of these land use designations in the community plan.

Mr. Spence: That's what they're saying.

Ms. Gima: So I guess my question is then we, when CPAC started their process, when we reviewed, why wasn't this brought to our attention that, okay, maybe you guys need to consider using the zoning description so that it's consistent with each other. I mean, why was that -- I don't know if it was brought up in CPAC. I don't think it was brought up at Planning Commission that there were these inconsistencies, and this is what it could lead to. I guess it's just kind of figuring out why, again, it's just being -- well . . .(inaudible) . . . brought up now.

Mr. Spence: Okay, we don't think there's an inconsistency issue. It's this other group that's saying it's inconsistent. So, okay, if the law isn't clear on it, let's make the law clear.

Ms. Gima: So it's basically changing something that you've even stated has worked well for the past 30 years because of a threat of a group.

Mr. Spence: Yeah. We're just, we're -- all this is just codifying the way that we've always done it.

Mr. Marlowe: But if there's no ambiguity then the threat of a lawsuit shouldn't deter or make these other things illegal. In other words, if the law was clear, when the permits were granted, the threat of a lawsuit is absurd because there was no ambiguity when the permits were issued.

Mr. Spence: And we think it's clear, but to, just to...it's not specific enough in our law. So we'd make it specific. Zoning follows the community plan. Until that zoning, where there are inconsistencies, until that zoning follows, then the underlying zoning is what's okay.

Mr. Ferguson: I have a question. You, you just said zoning going follow community plan, right? So how would that affect that project you talked about with the apartments? Because that's the

conflict, right? The conflict is what was permitted based on zoning, you permitted something that never follow the community plan, what you saying, right?

Mr. Spence: It did follow the community plan.

Mr. Ferguson: So then, what they suing for? You said the -- you mentioned something about that one sentence said warehouse and, and, but you putting apartments. So their lawsuit is based on the fact that because they never state apartments, that's what they're basing their lawsuit, right?

Mr. Spence: Because it doesn't have that 75 plus different uses listed. In the description of the community plan they're saying you can't do all those things.

Mr. Ferguson: So how did the, how did the zoning follow their community plan?

Mr. Spence: Community plan said light industrial. They went through the public process. The County zoned it light industrial, and we brought up to them that, okay, maybe you want to put some limitations on this. And they chose specifically chose not to. So the Council zoned it light industrial with all of the permitted uses. And so we're saying they -- we're saying they, because the Council zoned it and they can do all those, that they can do all those uses. The other group is saying, no, you can't, because of these four things.

Mr. Ferguson: So basically you saying when you develop your community plan, you gotta make sure you cover all you basis by being specific on what you like word in your, in your community plan, then.

Mr. Spence: Yeah.

Ms. Gima: But it was --. Oh see, you weren't here when we did the --. But that wasn't even brought up when we reviewed that portion. It wasn't never stated that --.

Mr. Ferguson: It was after the fact.

Ms. Gima: Yeah, it's after the fact, after CPAC and LPC has, has reviewed this. I mean, that should've been something discussed at that time, that, hey, you see this description under the land use, well, you know, there's 75 others under the zoning, you may want to consider looking, and that was never brought up and --

Mr. Spence: Okay. I know, I know that they saw that chart that listed the different community plan designations, and then the different zoning codes that would follow. So there was, there was -- yeah, I know it has been a while. But I think everybody understands that like single-family is more than just a house and that's all you can do. We talked, tonight, about ohana. We talked about greenhouses; people you know, I'm sure have greenhouses. And all those kinds of things that, you know. I know on Maui, I don't know here, on Maui there's kindergartens and

preschools, and all that stuff permitted by single-family zoning, and they're allowed to do that. Community plan doesn't talk about that at all. It's always been understood that with this designation and with that zoning you can do all of these things.

Ms. Zigmond: Madame Chair? I'm still stuck on the part, your words, the community plan is visionary and zoning regulates. So that does not give a warm fuzzy. I'm sorry.

Mr. Spence: This -- there --

Ms. Gima: No, I was going to say I agree. I mean, that, that statement basically -- I mean, I think we hear what you're saying and where these inconsistencies are for sure, but I mean, that statement in the proposed amendments is really saying that the community plan is really nothing, but it's just something to look at after months and months and months, and the County's money and resources to come and work on this community plan. I think it's just kind of, you know, feels like a little bit of a low blow when you've worked really hard on it, starting from the CPAC, and then to us, and then some issues now that's been coming up with, with that, with the Planning Committee. I definitely hear you in terms of this, the struggle here, and hearing that you agree with how it has been going this whole time. I just -- yeah, that statement just is like, oh, it's just something for you guys to look at, that it has no pull or no strength there.

Mr. Spence: Okay, and thank you for that, and if I can clarify a little bit. Your community plan map up there, that's a vision. That's not, that's not zoning. That's a vision. Some day there's going to be a bunch of mixed use housing, and parks, and neighborhood commercial. Some day there's going to be a university campus. That's not -- the community plan doesn't grant the zoning to enable that. So in that sense, it is visionary. But the community plan is much more than just -- this part of where the misunderstanding comes from -- it's not just a nice vision. When the company goes to get zoning that's all that they can follow. They can't follow anything else, unless they go through and try to amend it and stuff.

Ms. Gima: Well, that's where I think that needs to be stated in here.

Mr. Spence: Yeah.

Ms. Gima: Because, again, as it reads right now, it's like, what? Like, really? There's --. So maybe it was just that miscommunication. I don't know. But I would like to see that verbiage that you just spoke about in there.

Mr. Spence: This is the verbiage of the text. This is, comes in a long list of things in 2.80B. A land use designation determines -- that's not, that's not saying okay this is all flowery and you can ignore it. The land use designation determines the zoning that may be established for a property undergoing a change in zoning. That tells me you must follow this community plan. And again the second one just says, until you change that zoning, you have, you can do all those uses that are allowed by the current zoning.

I mean, let me ask the question. Okay, you have those designations on -- I don't know how much hundreds of acres of company land -- what do you think, given the community plan with the mixed use and the public quasi/public currently, and they don't have zoning for that right now. But currently what can they do with their property? Nothing? Okay. So, and that's what's allowed by the zoning. If, if you say they can't do anything with it because it doesn't follow the community plan, that's -- then we start getting into takings issues.

Ms. Gima: So what are needing from us, just comments, just feedback?

Mr. Spence: Just a comment.

Ms. Gima: Okay.

Mr. Spence: You don't like -- well, I already hear you don't like what's happening with your current community plan.

Ms. Gima: Well, no, not at all.

Mr. Spence: Yeah.

Ms. Gima: But I know that's separate from -- not totally separate, but separate topic from what you're bringing forth to us tonight.

Mr. Spence: Right.

Mr. Oshiro: You know on the community plan, I went to the first, you know, when the Council came on the first one. It seemed that the wording, the verbiage that the community used was not in there. It was replaced by what the Planning Department was suggesting. I think, you know, if maybe the next time it should be left, the community, the verbiage should be in there, and what you guys suggest should be in another, like in red or yellow or something. Instead of taking the verbiage completely out because that's when the community feel like, you know, what did we, why did we even go to the meeting for, and you know, put our input in here. That's what I, you know, I got out of the whole thing because we, we put a lot of time, and the planning, the planning guys, they put more time. And then we also have a tragedy that happened. So, you know, there was a whole lot of things that went into it. A whole lot of hard work and, and dedication from people. But I just couldn't, I don't see, you know, when, when they want to just change it like that without, you know, putting what was said in the community plan and what was suggested.

Mr. Spence: Okay.

Ms. Gima: So what is your next steps when it comes to this proposal?

Mr. Spence: Okay. What we're going to do is we're going to -- we've been to Maui Planning

Commission, we've been to Molokai. If you have recommendations then -- or thoughts on a comments, I'm going to write all of this up into a letter to the County Council for when they take up PC-21.

Mr. Oshiro: Is Molokai doing their planning now?

Mr. Spence: They're, they're in the Planning Commission stage.

Mr. Oshiro: Well, I would suggest to you that whenever they put in whatever they put in their verbiage into what the land use should be, you should let them know that these items also fall under there, and that, that they will be put in there.

Mr. Spence: Yeah.

Mr. Oshiro: They have no choice.

Mr. Spence: Okay. We'll definitely do that. I guess, I guess the question, and you can disagree with whether this does or does not follow the, the current practice. But I guess I would ask the commission, do you agree with the current practice or...or if you don't then that's fine too. I'd be open to whatever comments you have.

Ms. Zigmond: It isn't perfect, but it is...our community plan. It's our one area which we have very few of, of self governance, of local control. And if I have any comments about the proposed legislation that wording on visionary has to go out.

Mr. Spence: Okay.

Ms. Gima: Yeah, I would definitely agree with Bev in making that, that verbiage change a little. Because how it's reading is not how you were explaining it to us, and so I think that needs to be a little bit more clear.

Mr. Spence: And that's fine.

Ms. Gima: So I see my dad waving his hand in the back, and I don't know if he wants to talk from a CPAC point of view, and so if there's no objections I, I would allow it. Okay. There's only two people in the audience anyway, so --. And it's not just because he's my dad.

Mr. Gima: The question came up about whether the CPAC addressed this. Early on we did. We wanted real clear clarification between State land use designations, community plan designations, and then zoning. And the Planning Department did agree that they had to clean up a lot of stuff within their department and, and the laws. I felt comfortable after my testimony because I wanted clear that zoning follows the community plan designation. I think the issue in Kihei is they're ignoring the, the zoning follows that light industrial designation. So if there wasn't the potential for the lawsuit this probably wouldn't come across the planning

commissions. But eventually it would have because our CPAC said that it needs to be cleaned up so that there, there is clarity. I see what you're saying about visionary. I think it's a poor choice of words, but I'm comfortable with the community plan designation being the macro, the zoning being the micro; and micro following, you know, the macro. Yeah...thank you.

Mr. Ferguson: So based on working with CPAC and going through that, I reading one section here saying the land use designation shall not limit any use established by a property zoning unless the community plan prohibits or restricts. Were you working with CPAC, were you specific enough to where you're satisfied with the community plan? You understand my question?

Mr. Gima: I think a lot of us in the CPAC got confused when we looked at the different maps. Because sometimes we're looking at the zoning maps, sometimes we're looking at a community plan maps, and sometimes we're looking at the State land use designation maps. And it took a lot of -- it took several meetings for many to understand the differences. But specific to your question about whether we prohibited it, no, there, there wasn't any discussion about --

Mr. Ferguson: It basically says that the zoning kind of trumps the community plan if you weren't specific enough to prohibit certain things basically is --. That's my interpretation is it's saying that zoning because a zoning is permitted. And because it wasn't prohibited by the...the community plan that it would be allowed. So basically, I guess, if you like...prevent certain things, you would basically have to spell out what you don't want that is permitted in the zoning that you don't want to see happen so --

Mr. Gima: Well, my understanding is the different zoning categories fit in a specific community plan designation. So you couldn't take a zoning, one specific zoning from, let's say, residential, and use it in a different community plan designation. So you have to play within those parameters.

Mr. Ferguson: Yeah, yeah, I understand.

Mr. Gima: You couldn't, you couldn't --

Mr. Ferguson: I guess my overall question is you okay with what the community plan spelled out.

Mr. Gima: Yes. Yes. I mean, I mean --. Yeah. Yes. And I agree these are two separate discussions. This thing before you guys tonight, and a totally separate discussion is what we're discussing before Council right now about all the different areas in the community plan.

Mr. Ferguson: Under zoning --. Okay.

Mr. Spence: With that, with that section about unless...prohibited by the community plan or whatever the exact language is, like...the Makawao-Pukalani-Kula community plan, if you're

familiar with Hui Noeau Visual Arts Center, it's an art school. It says when you go zone it, it shall be for the arts. It's designated public quasi/public which you could do churches, schools, high schools, universities, hospitals. That says when you go zone it, it shall be for the arts. So it wants to perpetuate. So that's the kind of limitation it's talking about. We have, like in the Maui Island Plan, there's descriptions of some of these big projects. Like Waialae, it talks about mixed use, it talks about how many units, it talks about all that stuff. When they go get zoning, we're going to be following. We look at that description and we follow that. It's not just a designation where a project's just going to go. So we look at those details, and then the zoning is going to follow those details. I wish our land use system were less complex. I wish there weren't so many layers.

Ms. Gima: Is there anything else that you need from us? I think you heard a pretty good variety of, of comments from all of us here, including those in the audience.

Mr. Spence: Yeah. And, if Butch is okay with it, in my letter to Council I'd like to use the community plan is a macro, and the zoning is a micro.

Ms. Gima: Yeah, I like that analogy.

Mr. Spence: That perfectly describes it, at least in my thinking.

F. DIRECTOR'S REPORT

1. Planning Department transmitting a status report memo on the Planning Department's study to amend the Lanai Special Management Area (SMA) boundaries (deferred at the October 21, 2015 meeting.)

Ms. Gima: Thank you. Okay, we'll speed along through the next couple of items, and this is the Director's Report. Starting off with . . . *(Ms. Kelli Gima, Chair, read the above project description into the record.)* And this was deferred at the October 21st, 2015 meeting.

Mr. Spence: We are still working on that. I have some -- I didn't bring it with me. There's like --. I don't know all that was said at the last one. We are working on this, and I am personally very sorry that we haven't brought something to you sooner. We're going through some changes with the division that's doing this, and we hope to have something to you shortly. Basically what I want them to do is turn on all of the layers that would apply to 205A, that shows the hazards, shows at least with cultural resources we're aware of, you know, tsunami inundation, where development is going to be, etcetera, etcetera; and turn all those on and that should draw something, the ideas, that will draw something that should show where the special management area line should be.

Ms. Gima: So I don't know if there's been like a level of confusion or a misunderstanding but I think -- well, when this was first brought up, this was brought up about two, I want to say two

years ago, from our previous chair. And then we had kind of brought it up again. It's really --. I mean, it's great that you guys are working on things and using these different techniques and technology, and that's awesome. But I think it was really wanting to have a discussion, here, hearing from the community if they had any concerns, any recommendations, hearing from the commissioners, and then maybe kind of prioritizing from there what we should look at. So although it's great that it's being worked on, I think what we really wanted was to have this on the agenda and have discussions and hearing from the community at our, one of our regular meetings. Not waiting necessarily for you folks to come up with something. Just, I think just starting that conversation and then being able to say, okay, it sounds like this is what everyone's thinking let's bring that to the Planning Department and then go from there. Am I making, am I making sense?

Mr. Spence: Yeah. Okay. My, my thought on this, and I'm, I'm hearing something different. My thought on this was we wanted to actually bring GIS here so we could get something for everybody to respond to. So what I'm hearing from the chair is that you want to start discussion first and then come with a map.

Ms. Gima: Yeah, I don't know. Yeah, that's exactly what we wanted. I don't think we've ever requested to have GIS do A, B, C, and D, and bring it to us. If you guys want to do that, that's fine. But we really want to start having a community discussion on this. Again, because this was brought up a while back and --. So...I mean, at this time, I'm just going to request that that go on next month's agenda, is starting that, I guess, community discussion.

Mr. Spence: And the --. Okay. We'll have --. We can talk about that. We'll have to talk about that internally. I don't see why we couldn't.

Ms. Gima: And we can be more specific. Like it doesn't need to just be this open ended discussion, I mean, about --. Bev, and correct me, what was John's specific request that he made two years ago? Was it about specifically the SMA boundaries and extending it? I forget. I forget because it's been so long.

Ms. Zigmond: I'm just going to say changing the boundaries.

Ms. Gima: Changing the boundaries.

Mr. Spence: Okay. And what I look at, and, and we heard that, we haven't had the dedicated resources in order to bring anything to you.

Ms. Gima: Sure.

Mr. Spence: So we started this new division, Plan Implementation Division, where they are tasked with doing these very specific kinds of things. So now that they're in place, and we just hired a division chief for them, we're hopefully -- hopefully we'll get these things going a little more. Just changing the boundaries because you want to change the boundaries, and I

understand that there --. What I want is to know is why you feel the need to change the boundaries. Just because they haven't been changed in a long time or they're not covering some things, those are all important. What I look at it as, as an administrator, is I look at Hawaii Revised Statutes 205A, at the objectives and policies, and somehow those changes, I'm not adverse to changing them, but the changes have to match up with the law.

Ms. Gima: Sure.

Mr. Spence: And that's why we're looking at GIS and -- because that graphically shows where the issues are.

Ms. Gima: So what would you propose? Because I think, yes, like you're saying, it's important that you guys are doing that part of it. At the same we're sitting here, like, there are things that we want to discuss. And really, it was our previous chair. I mean, it went overlooked for two years, and was never put on the agenda. So, I mean, I can't even speak for him right now. I wish he was here, he could elaborate more. But I think, what would you propose that we do collaboratively? Because I don't want to just sit around and wait for you guys to, to get something together because I know that takes time, and there's resources and expenses involved with, but at least starting the discussion. What do you think?

Mr. Spence: If we have, if we have the Mayor's bill -- not the Mayor's bill, the Council's bill next month, and we have -- we could do this, then I don't see why we couldn't come over. Because there has to be some --. I know we've had this discussion. It's really hard for us to come over to, if there's no actionable items.

Ms. Gima: Well, we will have with the County Council accessory dwelling one.

Mr. Spence: Okay.

Ms. Gima: Possibly.

Mr. Spence: Possibly. So I don't like canceling meetings either, but it's the time and everything that takes out of everybody's life to, to do it, so we want to make sure it's worth while.

Ms. Gima: Well, I think in this sense it may be worth while. And, and given that this has been a request for quite some time. And maybe when our agenda isn't so full is a good time to start having that discussion. So we're not feeling like we need to squeeze it in at the end, and then again, feel rushed on things.

Mr. Spence: Okay. If we did have a map, would you want to see a map?

Ms. Gima: Oh, sure, absolutely. I think we're -- I think we would be open to getting any resources from you guys. I think we want to just feel, as well as the community, part of this process.

Mr. Spence: Absolutely. I don't --. The, the --. I can tell you from a technical standpoint, you know, all these things the way that I view it, but the special management area lines are set by the Planning Commission. And then, of course, it's has to be signed by the Mayor, so I'm just going to tell you if you want to put the whole island in the SMA it's probably not going to go. But, but if there's something reasonable, you know. It, it comes through the Planning Commission. It doesn't, you know --. We're, we provide the technical expertise for you.

Ms. Zigmond: Madame Chair, I think it might be helpful too because there are some new commissioners too just have a -- and we use to do this in the old days -- we use to do workshops. And I know there's nothing, anymore, old days are old days, but it would be helpful even if it was a brief summary of the SMA of our, an explanation, of those rules. I know that one time, and I think we actually amended our jurisdiction over the SMA at one point. So, just a little synopsis for the new members as well so they understand that.

2. Consider holding the regular Lanai Planning Commission meetings from 4:00 p.m. to 5:30 p.m. to allow staff to return on the 6:45 p.m. ferry. (Deferred at the October 21, 2015 meeting.)

Ms. Gima: I think that's a really, I think that's a good idea. Okay. Alright. Okay, so, let's move along, number two, consider holding the regular Lanai Planning Commission meeting from 4:00 p.m. to 5:30 p.m. to allow staff to return on the 6:45 ferry, and this was deferred at the October 21st meeting.

Mr. Spence: Okay...when we come to Lanai Planning Commission meetings...I started getting ready for my meeting this morning, I briefly stopped in to the --. Bottom line it takes a huge amount of time away from staff and all the people who are involved. It takes a Corporation Counsel away if there's some legal matter that needs to be dealt with. It would be... it would be a lot easier on staff and a lot easier on budget to be able to come over, have a meeting, and then be able to leave and get home the, the same day. Like tomorrow the flight leaves at whatever, 11-something. I'll get back to Maui -- I've basically taken almost 48 hours of my time for, well, we've gone a long time tonight, but normally they're, you know, one or two hours. And so -- and that goes for not just me, but for Clayton, for Leilani, whoever else is coming over. In this case it's Joe. It's, it's...it's a hardship. It gets into a hardship on staff. Not only that, but budgetarily. I think at one point we estimated that night meetings costs -- it costs about \$4,000 to do every night meeting and stay over.

Ms. Gima: I just had a quick question. Have you guys considered, I think at one point we talked about the Saturday meetings where it would, you know, come for a few hours, versus the overnight expenses. Because I know we've done Saturday meetings like when we did the CPAC reviews and you guys would come over like the second boat and go back on the, like, the afternoon boat.

Mr. Spence: I know we've discussed it. We can look that again. I'm not recalling what the

discussion is, right now.

Ms. Gima: Well –

Mr. Spence: I know what you're saying.

Ms. Gima: Yeah.

Ms. Zigmond: Madame Chair? You know, Mr. Spence, we totally get it. We want the County to save money. We don't --. We, who live here and work here and have to go to Maui for a one or two hour training have to spend a day or two. We understand that. However, what it seems like you all are not understanding is that that four o'clock suggestion is going to eliminate us. It's hard enough as it is to have Commissioners volunteer their time. It will eliminate us who work for a living, and most of us do that. The Saturday option was -- it was discussed, it was said this could be a viable option, and we know it was done in the past. If you're trying to weed out all of who work for a living, then that is the way to do it.

Mr. Spence: I'm not saying --. I've --. Please do not even suggest that we're trying to weed anybody out. That's just an unfair comment in my opinion.

Mr. Stephen Ferguson: Question. What about looking into chartering the ferry boat, like, late at night?

Mr. Spence: That still goes into expenses.

Mr. Ferguson: Would be more than the \$4,000 you spending over night?

Mr. Spence: I don't know. However...we have an entire Planning Department staff who has lost co-workers. The -- and lived with the two people who survived and there are real still very serious concerns about flying unusual travel. The ferry is okay. Ferry at night, people have already –

Mr. Ferguson: I mean, we do, we do our Fifth Friday's. We offer one 9:30 p.m. for Fifth Friday's.

Mr. Spence: Yeah.

Mr. Ferguson: You know that works fine. I mean, we've -- Lanai people, we ride the ferry boat at night. I mean I understand, you know, about what happened and stuff, but the ferry might be one decent option, I think. I mean, the Mayor pays for the ferry, for the Fifth Friday, you know. County does.

Mr. Spence: Yeah.

Ms. Gima: I honestly think a Saturday meeting would be a good way to go, and not just based

off of our schedules, but also the community's schedule. I mean, a lot of people don't finish work till like 4:30 p.m., 5:00 p.m., you know, between 5:30 p.m., and sure, it would be starting a little bit earlier, but, yeah, I mean, I understand that there's sensitivity to, to ways of traveling. I think we all understand that. And our very understanding of this situation, I think, if you guys have to do what you have to do, but there may be times there's not going to be quorum. And that would be honestly a waste of a trip. I'll speak for myself, personally, I could not vote for, for a four o'clock is because as a State worker I have to stay on till 4:30 in order to go on-call. I'm on-call at night. If I take vacation to leave work early to attend this meeting, no one is on-call on the island of Lanai. And so that's why I, I personally couldn't. But if there wasn't that on-call thing, and I had to take off a half an hour at the end of the day, I would do it. But I lose a huge amount of income when I'm not on-call. But, I mean, it's not --. I appreciate 4:00 p.m. versus 2:00 p.m., starting a meeting, you know, or 9:00 in morning but...it's a hard one because I definitely hear the needs and, and you guys wanting to get back home as soon as possible and whatnot. And I'm sure there will be times where you guys have to stay overnight when it's long meetings like this, or when we have a lot of applications for sure.

Mr. Spence: Yes, there will be. There will be.

Ms. Gima: But there may just be that risk of not having quorum, and that's the risk, you know, you guys may have to weigh.

Mr. Spence: Well, that happens sometimes.

Ms. Gima: Yeah, yeah.

Ms. Zigmond: And Madame Chair, there's one other consideration that -- and thank you for bringing up the community members that your dad brought up at the last meeting, with some commissioners are employees who get paid to come to the meeting. And they can come if it's 10 o'clock in the morning, two o'clock in the afternoon and four o'clock in the afternoon. I just want to put that on record.

Mr. Spence: Okay, I'm not aware of that at all.

Ms. Zigmond: Okay, well, it's --. We can talk later.

Ms. Gima: Okay, but I basically think it's whatever you guys need to do, you need to do. And I think it could be worse. I would really urge you guys to look at a Saturday meeting instead because I also think there will be more community turn out. But yeah, if there's -- just prepare that there will be times that there may not be quorum, or commissioners will be coming in late.

Mr. Spence: Okay.

3. Open Lana'i Applications Report as distributed by the Planning Department

with the December 16, 2015 agenda

Ms. Gima: Okay, (3), open Lanai applications report. Everybody saw that, had time to look at it? Okay, any questions or discussion on that?

Mr. Oshiro: I saw one, a short-term rental.

Ms. Gima: Well, there's two short-term rentals. Here's a Hale Ohana and Mauka Hale.

Mr. Oshiro: Anybody know where these are located? Clayton, any idea? No, no this one is open.

Mr. Yoshida: Well, I believe the Hale Ohana is an open short-term rental home application and that's, I think, over here, across from the baseyard.

Mr. Oshiro: Mauka Hale is open too.

Mr. Yoshida: Yeah, that's the --

4. Agenda Items for the January 20, 2016 Lanai Planning Commission meeting

Ms. Gima: Any other questions, comments, regarding the open project reports? No? Okay, so last on the agenda is number (4), agenda items for January 20th, 2016 meeting. So like we talked about earlier, having the SMA brought up again on the agenda, as well as the accessory dwelling. The -- I can't even think -- the County Council's proposal for the accessory dwelling. Any other requests?

Mr. Yoshida: You also have scheduled the Final Environmental Assessment for the Lanai, Pulama Lanai, three houses project. Because the Commission reviewed and comment on the Draft in October. This is the final.

G. NEXT REGULAR MEETING DATE: JANUARY 20, 2016

H. ADJOURNMENT

Ms. Gima: Alright, anything else Commissioners? Okay, thank you everyone. Our next meeting, January 20th, 2016. And it is now 8:40 p.m.

There being no further discussion brought forward to the Commission, the meeting was adjourned at approximately 8:40 p.m.

APPROVED 01-20-2016

Respectfully submitted by,

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

RECORD OF ATTENDANCE

PRESENT:

Stephen Ferguson
Kelli Gima, Chair
Stuart Marlowe
Bradford Oshiro
Beverly Zigmond

EXCUSED:

Joelle Aoki
Jarrod Barfield
Stacie Lee Koanui Nefalar, Vice-Chair

ABSENT:

Marlene Baltero

OTHERS:

Will Spence, Planning Director
Clayton Yoshida, Planning Program Administrator, Current Planning Division
Joe Alueta, Administrative Planning Officer, ZAED