

**MOLOKAI PLANNING COMMISSION
REGULAR MEETING
DECEMBER 10, 2015**

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

A. CALL TO ORDER

The regular meeting of the Molokai Planning Commission was called to order by Vice-Chairperson, Douglas Rogers, at 11:40 a.m., Thursday, December 10, 2015, at the Mitchell Pauole Center, Meeting Hall, Kaunakakai, Molokai.

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

Mr. Douglas Rogers: Alright, we have quorum. We can now officially call this meeting to order.

B. PUBLIC TESTIMONY

C. APPROVAL OF THE MINUTES OF THE SEPTEMBER 23, 2015 MEETING

Mr. Rogers: First thing is public testimony, if anybody have public testimony. Okay, the next thing is the approval of the minutes for the September 23rd meeting. Anybody have input on that?

Mr. Ron Davis: Move to approve.

Mr. Lawrence Lasua: Second.

Mr. Rogers: Okay, we have a motion, we have a second.

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

VOTED: to approve the minutes of the September 23, 2015 meeting.

Mr. Rogers: Okay, that's take of that. Next?

Mr. Clayton Yoshida: Good morning, Mr. Chair -- Mr. Vice-Chair and Members of the Molokai Planning Commission. My name is Clayton Yoshida, I'm the Administrator of the

Current Planning Division of the Planning Department, and with me from the department is our boss, Planning Director, William Spence; we have our Administrative Planning Officer, Joe Alueta; we the Molokai Planner, Sybil Lopez; we have your Secretary to Boards and Commissions, Suzie Esmeralda; and with us from the Department of the Corporation Counsel is Deputy Corporation, Gary Murai.

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

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

- 1. MR. WILLIAM SPENCE, Planning Director, transmitting Council Resolution No. 15-111 referring to the Molokai Planning Commission a proposed Bill to Change Zoning from Interim to Agricultural for approximately 14.59 acres (Weymouth Kamakana, Sr. et. al.) at TMK: 5-4-001: 029, Kawela, Island of Molokai. (CIZ 2015/0007) (S. Lopez)**

Ms. Sybil Lopez: Good morning, Commission, and good morning, community. I'm Sybil Lopez, the Molokai Planner, and the staff planner assigned to this project. As Clayton read earlier that Mr. William Spence, the Planning Director, transmitted the council resolution, no. 15-111, referring to Molokai Planning Commission a proposed will to change zoning from interim to agricultural for approximately 14.59 acres at TMK: 2-5-4-001:029, located in Kawela, on the island of Molokai. Right now, we do have the owners here present. We do have -- unfortunately, we don't have the Councilwoman, Stacy Crivello, but we do have Ms. Ella Alcon in the room today if you have any questions.

The report, so let me read you the report. So the resolution no. 15-111, which was adopted by the Maui County Council on September 4, 2015, and it was received by the Maui County Planning Department on September 14, 2015. The council is considering a change in zoning from interim to agricultural for property consisting of approximately 14.59 acres. The property is owned by Weymouth -- Mr. Weymouth Kamakana and his family, and the intent of the owner is to someday be able to do farming activities, such as orchards, mango patches, and kiawe. So the property is currently vacant. It's vacant land with natural vegetation, which they have no structures on the property.

So the property is located approximately five miles east of Kaunakakai Town. The parcel sits along the north and mauka side of Kamehameha V Highway. On the west side of the property is also vacant land. On the east side of the property is an easement occupied by the County of Maui, Department of Water Supply, for vehicular access to the water pump, which serves the Kawela Subdivision. And the adjacent parcel is owned by Molokai Properties, Limited. So visually speaking, the landscape around that, that parcel is actually right before the Kawela Bridge.

So the state land use district designation is urban, the Molokai Community Plan is single-family residential, and the county zoning is interim. Other designations include it is a part of the special management area.

So pursuant to Title 19, Chapter 19.510, and Section 19.510.020B, with change in zoning, so this is where we are looking at the Maui County Code to see how -- the reasons for the change in zoning.

So if you noticed in your report, we did send out agency review, other agency's review to see what they have commented, however, we've -- there was no response. If there was any response given, there was no comments to the project. However, we did receive one response from the Historic Preservations but it was only in consideration if development was proposed. In this case, no development is being proposed. We are looking at specifically just changing the zone from interim.

Do you have any questions? Well, in the exhibits, you'll notice that you do have the resolution in there from Exhibit 1; from Exhibit 3 to Exhibit 11; Exhibit 13 to 17 just shows you the picture of the property, which I did do a site visit with Mr. Kamakana, and we walked partly through some of the kiawe, and then we drove around in the back just to see how the area was landscaped. And Exhibit 18 shows the correspondence from the State Historic Preservations and their response. Any questions?

Mr. Rogers: Any public comment? Commissioners? Staff recommendation.

Ms. Lopez: Okay. So the staff recommendation include, so the proposed rezoning is being processed pursuant to Section 19.510.020, Section B, of the Maui County Code, as well as the General Plan conformance provision of Section 2.80.030B, of the Maui County Code. So the Maui County Planning Department actually recommends that the Molokai Planning Commission recommends to the Maui County Council approval of a change of zoning for the subject property from interim to R-3 residential subject to the following conditions, so just to clarify, we are -- our recommendation is from interim to R-3 residential. So that the condition of rezoning consist of that the minimum lot size of any future lots, which might be created by subdivision of the parcel at the TMK, parcel number -- parcel 29, shall be 2 acres and that this condition shall be set forth in a unilateral agreement by the owners of the parcel in favor of the county to meet the requirements of Chapter 19.510.050, of the Maui County Code. A change in zoning to residential zoning, with a condition that lots be a minimum of 2 acres, will meet code provisions.

So in consideration of the foregoing, the Planning Department recommends that the Molokai Planning Commission adopt the Planning Department's report and recommendations prepared for the December 10, 2015 meeting as a findings of fact,

conclusions of law, and decisions and order, and authorize the Director of Planning to transmit the said written decision and order on behalf of the Planning Commission.

Mr. Rogers: Anybody have questions? Motion?

Mr. Davis: Yes, I move that we adopt the recommendation of the County Planning Department to approve this.

Mr. Rogers: Second?

Mr. Lasua: Second.

Mr. Rogers: Okay. All in favor? Discussion? Yeah. Okay.

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

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

VOTED: to adopt the Planning Department's recommendation.

Mr. Rogers: Okay. All good.

Ms. Lopez: Thank you, Commissioners.

Mr. Yoshida: So we move on to the second public hearing item.

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

- 2. MR. AL EHRINGER requesting a State Land Use Commission Special Use Permit in order to operate the Hoomaka Hou Short-Term Rental Home, a three (3) bedroom short-term rental home located in the State Agricultural District at 85 Papapa Place, TMK: 5-1-007: 055, Kaluakoi, Island of Molokai. (SUP2 2015/0010) (S. Lopez)**

Ms. Lopez: Hi again, Commissioners. I'm Sybil Lopez, the staff planner on this project, and I do have the consultant, Mr. Luigi Manera, in the room here today if you have any questions for either of us.

As to reiterate what Mr. Yoshida said, it's for Mr. Al Ehringer. He is requesting a state land use commission special use permit in order to operate the Hoomaka Hou, a short-term

rental home in the state agricultural district. It's approximately 6.16 acres of land, located at 85 Papapa Place, TMK: 5-1-007:055, located in the Papohaku Ranch Lands.

So the matter arises from the application filed on July 1, by Mr. Luigi Manera, on behalf of the owner, Al Ehringer. The applicant is proposing to use the existing first farm dwelling on the property for the short-term rental home. The structure is of wood construction with a metal roof on a concrete and post and pier foundation. So it is located at the end of a cul-de-sac, Papapa Place, in the Kaluakoi Subdivision of West Molokai and the Papohaku Ranch Lands Subdivision.

The existing home lies outside of the SMA boundary. The state land use district is agricultural and conservation, the Molokai Community Plan is agriculture, the county zoning is ag, and the portion in the special management area.

So there are no permitted short-term rentals located within the 500 feet of the subject property. The only known close -- the only known short-term rental that is permitted on that end would be the Perell's ranch, which was -- which you approved previously in the May agenda. And as of November 20, there are a total of 14 permitted short-term home rentals operating here on the island of Molokai, where there is no cap for the island of Molokai, and there are no, currently, no permitted bed and breakfast homes here on the island of Molokai, and there are -- there is no cap for the bed and breakfast here on Molokai as well. And thank you. Do you have any questions?

Mr. Rogers: Any public testimony? Commissioners, questions? Staff recommendation?

Ms. Lopez: So the Maui County Planning Department recommends to the Molokai Planning Commission approval of the land use commission special permit subject to the following standard conditions. So the following standard conditions are the seven conditions, the first condition is the special use permit shall be valid until December 31, 2018, subject to extension by the Maui County Planning Director upon a timely request for extension filed prior to its expiration. So the Planning Director may forward the time extension request to the Planning Commission for review and approval, and may require a public hearing on the time extension by the Planning Commission. Condition no. 2 talks about transfer, so the use permit shall not be transferred without the prior written approval of the Molokai Planning Commission. No. 3, results in the insurance, having the county be part of the insurance policy, and the full compliance will all applicable governmental requirements shall be rendered. Five requires a compliance report to be submitted to the department. Standard no. 6 is the develop -- shall develop the property in substantial compliance with the representations made to the Planning Commission in obtaining the special use permit. And no. 7 reflects the farm plan. So the conditions of this state special use permit shall be enforced pursuant to 205-12 and 205-13 with Hawaii Revised Statutes.

In consideration of the foregoing, the Planning Department recommends that the Molokai Planning Commission adopt the Planning Department's report and recommendation prepared for the December 10, 2015 meeting as the findings of fact, conclusions of law, and decision and order, and authorize the Planning Director to transmit said written decision and order on behalf of the Molokai Planning Commission. Thank you.

Mr. Rogers: Questions?

Mr. Marshall Racine: I guess back in May, when we permitted or recommended that the first short-term rental down there be permitted, we made some little more stringent renewal and review conditions because it was the first. Our thoughts, from the other Commissioners, do we taper off, we just say, okay, that was the first one and we don't apply more stringent conditions to subsequent applications, what? I mean we were pretty specific about the first one. Again, your thoughts, do we apply the same? Or, say the first five? What? Just throwing it out there for your thoughts and discussion.

Ms. Lopez: So just to remember what we did back in May, correct me if I'm wrong, for standard -- for the conditions on no. 1, what was discussed and approved was that you were requesting that the Commission review instead of the Planning Director.

Mr. Racine: Yes, and I think -- did we, the review period, did we shorten it? That part I'm forgetting.

Ms. Lopez: You left the 90 days out.

Mr. Racine: Okay.

Mr. Rogers: Okay, any other questions? Ideas?

Mr. Racine: So what I'm hearing is we just -- we keep the more stringent? Our review rather than letting the department review just the first one, and then we go and remove our conditions on subsequent applications?

Mr. Rogers: It seems to me, that in all fairness, it should be the same for everybody.

Mr. Racine: And we set a cutoff maybe so that the people applying would know what to expect from us? Or are we just going to say for this year, or this year and the next that all applications come through that we want to see them? Again, we're breaking new ground here.

Ms. Lopez: Okay, so I'll read what's no. 1, and I'll read what was with that, the May, so that no. 1: That the land use commission special use permit shall be valid until December 31, 2018, subject to extension by Maui County Planning Director upon a timely request for extension filed prior to its expiration. The Planning Director may forward the time extension request to the Planning Commission for review and approval, and may require a public hearing on the time extension by the Planning Commission.

So the May, you had the first sentence, which states: The land use commission special use permit shall be valid until that date, subject to extension by the Maui County Planning Director upon a timely request for extension filed prior to its expiration, and the new one that was set forth was to erase "the Planning Director" and put "the Molokai Planning Commission" may forward -- the department may forward the time extension to the Planning Commission for review and approval, and may require a public hearing on the time extension. So what you did was just change "the Planning Director" to "the Molokai Planning Commission."

Mr. Racine: Do you think we should hang on to that for maybe the first couple years so that we -- and once we see that we have responsible operation of these short-term rentals, that we turn it back over to the department? Commissioners, do you concur?

Mr. Yoshida: Well, I guess if, you know, the Commission is the deciding -- the decision-making body of this, I think this was put in largely in the interest of streamlining, but you're the authority so if you want to change it so that it comes -- the time extension comes before you, then, the Commission, you know, that's up to the discretion of the Commission.

Mr. Racine: There was a lot of public scrutiny on this first one, and so we thought demonstrating our efforts to be responsible to the public that we would pay close attention to these, and that's all I'm saying, you know, we had the first, do we want to continue to do that for, you know, a handful or first year or two, because the applicants need to know what to expect for us and the public needs to know what to expect from us, so we did one, are we going to continue in that frame and take first-hand review of their renewal, and we set forth until like the end of 2016 or something?

Ms. Lopez: So we just changed the "may" word to "shall."

Mr. Racine: Yes, so that we --

Ms. Lopez: So the Planning Director shall forward, instead of may forward.

Mr. Racine: Okay.

Mr. William Spence: And like Clayton said, that certainly, you know, under the purview of this Commission. I'm thinking maybe, as an alternative, because the -- if the goal is to make sure that they're operating responsibly and there's no complaints, just a suggestion that if there's any complaints, they shall come to the Planning Commission. I'm just suggesting ...(inaudible)...

Mr. Racine: Well, I understand the mechanics of it, but I think what we were going for, back in May, was an assurance to the community that we were going to watch it closely, that we wanted to be the first step rather than if there's any problem, it gets referred to us; no, we wanted to watch it closely and have a little stronger hand with this new thing going on on the new effort to legalize what's going on the West End. So am I right and that's why we did what we did back in May? We were trying to demonstrate to our constituents, if you would, for a better word, that we're going to watch this one close, so we -- there was a lot of push back from the community and so let's keep that language in there.

Mr. Rogers: It should be the same as the one that we've already approved.

Mr. Racine: Okay, so all we've done then is that "may," we'll turn that to "shall," so that we get review of the renewal application.

Mr. Spence: Okay. And thank you. I was just trying to accommodate your concerns along with the -- it's certainly up to you.

Ms. Lopez: So the only change would be to condition no. 1, so the condition 2 to condition 7 stays the same, but part of that time extension that will be in front of you for the condition would be the compliance of 2 through 7. Correct?

Mr. Rogers: Yes.

Ms. Lopez: Thank you.

Mr. Rogers: Any other input?

Mr. Racine: I move that we adopt this or recommend approval based on our -- with our amendment.

Mr. Rogers: We have a motion to --

Mr. Davis: I'll second.

Mr. Rogers: Okay, we have a second.

It has been moved by Commissioner Racine, seconded by Commission Davis, then unanimously

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

Mr. Rogers: It's unanimous.

Ms. Lopez: Thank you.

Mr. Yoshida: Thank you. I guess the department would request if we could combine public hearing items no. 3 and 4 because we're talking about accessory dwellings.

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

- 3. 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>

- 4. 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>

Mr. Yoshida: Presenting will be our Administrative Planning Officer, Mr. Joe Alueta.

Mr. Joseph Alueta: Good afternoon, Commissioners. Again, my name is Joe Alueta, I'm the Administrative Planning Officer for the Planning Department, I'm also a Supervisor with the Zoning Administration Division. Currently, my primary duties as APO is to bring forth bills both from the administration as well as the County Council, and to review them for you. There's, basically, two methodologies in which you can amend Title 19: one is either by a resolution, which is what you have, or amendments can be proposed by the director of the administration and, in that case, you have the Mayor's bill. Currently, we have 19.35 is the accessory dwelling provision within the Maui County Code, this allows for accessory dwellings to be built on certain lots. There's been an ongoing, I guess you could say, cycle of crisis with regards to housing, affordable house, but also affordable renters for our working class citizens. Both the County Council in the past have always tried to assert some type of bill. As I indicated in my staff report, this is a very similar bill that you reviewed by in 2009, 2010, by the County Council that was also introduced. Our concerns then were pretty much the same as today, and I guess you could say, not to be outdone, the Mayor has also proposed a similar bill that would address the chronic rental housing needs for local citizens. I've been sitting on other boards, I guess you could say, that where we're trying to brainstorm on trying to figure out how do we get more inventory, either build affordable housing, or dealing with the homeless or whatever, but, primarily, the goal is to try to increase inventory or these types of units as quickly as possible. Yeah, there's long-term bigger picture ideas where people are trying to develop raw land, however, this is kind of a low-hanging fruit where you're trying to increase the density slightly within our urban cores where potentially the infrastructure, such as water and sewer and whatnot are available to these citizens.

And so if you look on page 2 and 3 -- I'm sorry, on page 3 of the staff report that I presented, I kinda tried to give a summary of what was comparing the existing law as well as the council's proposal as well as the Mayor's proposal. In short, both of the proposed amendments to 19.35, again, the goal is to increase inventory. The council's provision would allow for an additional accessory dwelling where allowed in the residential district on lots that are 5,000 -- between 5,000 square feet and 7499. Again, the current threshold for an accessory dwelling in the districts is at 7500 and above. The Mayor's proposal would eliminate -- would allow for an accessory dwelling on any lot less than 7499 square feet. So essentially, if you had a 2,000 square-foot lot or a 3,000 square-foot lot, and you had a dwelling unit on it, and you had the room, if you had the room, you would be able to add an accessory dwelling. Accessory dwellings can also be attached dwelling units, that's currently allowed, and so someone could potentially either expand their current house or enclose maybe an existing patio area legally and get a permit for that and rent that out separately and have a separate distinct kitchen, so that's one option that the Mayor has proposed. The other provision that's slightly different from the council's proposal is that lots that are greater than 12,000 square feet would be allowed to have a second accessory dwelling, so if you had a large residential lot, or a large lot in the interim district, that was

more than 12,000 square feet, you could potentially have a house and two accessory dwellings based on the size of your lot.

The council's resolution would only impact single-family -- sorry, residential zoned properties, whereas the Mayor's proposal would impact -- would allow for an accessory dwelling in all of the districts that allow for accessory dwellings, so here on Molokai, it would be -- which you don't have much residential land actually, zoned residential land, it would be on lands -- so interim and rural lands would be the primary areas where Molokai would have the greatest impact. And I know there's a lot of confusion. I get calls all the time. I got another call yesterday. This does not impact the agricultural district. Accessory dwellings are not allowed in the agricultural district. You're allowed a farm dwelling, and a second farm dwelling limited to 1000 square feet. So again, the accessory, 19.35, does not have a bearing with regards to the agricultural district.

Affordability. Just like the previous bill in 2009 by the County Council, they basically are establishing a new definition or a new category called "affordable accessory dwelling," and that's the type of -- that is what you would be allowed to build on lots smaller than 7499 square feet in the residential district. And again, the primary I guess you could say "flaw" within that is that the broad base of what they're calling affordable, the range of affordability is such that it really is not limited -- it's not targeted towards your very low income or 60% of the median income, it's actually farther up the chain is allowed. Secondly, we would be allowed -- because it's in Title 19, the Planning Department would be in the business of enforcing that affordability because you can have the affordability if you like say have it registered with the housing -- HUD or -- but you could also rent it out to family members. So say someone came in, built their "affordable accessory dwelling" on a 5500 square-foot lot, they would rent it out. They could potentially rent it out to anybody, which is fine. But that would be a violation of the way the council's bill is written. They would have to rent it out to either family or be to someone who qualified under the affordable housing provision. If they rented it out at market rates to a non-family member, we would have to go there and try to prove are you a family member or not a family member, and in Hawaii, that can be very difficult, and I don't think that's a position that anybody would wanna be in much less put one of our zoning inspectors in the position. The Mayor's proposal is basically aimed at we need to gain inventory. I mean the free market will dictate what the price is, but if we increase the inventory, that would hopefully drive the demand -- the rental cost down as well as the pure fact that you have a house or a dwelling unit that's going to be 500 square feet or less in size on these smaller lots. So just the market forces will determine that that hopefully would be an affordable rental.

Another provision that I guess is differentiated between Mayor's and the council's proposal, the council's proposal, as I talked about, has this affordability requirement; the Mayor's proposal would prohibit the use of any accessory dwelling to be used for short-term rental or bed and breakfasts. Currently, we have issued permits for that. If this bill passes, we

would not issue -- we would not recommend approval for bed and breakfasts or short-term rentals that use an accessory dwelling as part of that. So in this prohibition that is currently proposed would apply not just to new accessory dwellings, which qualify under -- on smaller lots, but it would apply also to all accessory dwellings that are current built, either built or built in the future. I think that's a key component. It was mentioned several times, not only by commissioners on Maui, but also the Kihei Community Association that you kinda have that link where you're increasing the inventory, increasing the densities in some areas, which can be truly affordable, but if you have a hole in the bucket in which these units that are meant to be for long-term rental are being syphoned off as being vacation rentals, you're not really solving the problem. It dilutes the problem. So I mean it only exacerbates the problem and so I think that provision is a key differentiation in the proposals.

Another thing that I guess the department would support is we're trying -- we want to take this opportunity to try to simplify 19.35 with regards to how we measure dwelling -- the dwelling size as well as allowing for a covered deck. Currently, if you come in for a permit for an accessory dwelling based on the size, the way 19.35 reads it dictates how you measure that size area; that size area could be -- it, basically, says if it's a covered deck area, it counts towards the square footage, or even -- or covered walkways, such as eaves, so if you build a standard structure and you have three-foot eaves on that dwelling, we would count the area below the covered eaves as square footage toward that accessory dwelling, and we've had where people have designed their house, come in, oh, it's 600 square feet, yeah, for building code it's 600 square feet, but when you, because it's an accessory dwelling, when you measure it, it's bigger than 600 square feet, and maybe that the limit for their lot size, and they can't do it. They either have to make adjustments to their plans for that reasons. We would rather have the measurement of the size of that dwelling unit be consistent, not as far as what we measure for building code, but also what they measure for real property tax measurements, and also for this. So we would rather not count the covered deck toward dwelling area. So the standard three-foot eave would be allowed on a -- and we would only count the interior walls.

The other provision is covered deck, we do want to allow for some covered deck area that not count it toward living area, and so we have a table there where we've added provision for covered decks area as well as how it will be controlled so these covered deck areas do not become enclosed living spaces.

Some of you were on the Commission when we reviewed a residential bill, which would amend 19.08 and 19.09. Unfortunately, when that bill went up to council, a provision within that bill included the home-based business and home occupation. The council was very hot and heavy on trying to establish home occupations and home businesses throughout the County of Maui, and they pretty much focused in on that portion of our residential bill. They then stripped that portion out of our residential bill, put it into their own bill, and they

adopted that, and they said they would come back to our other portions of our Title 18 -- Title 19.08, the residential district. They thought they carried that portions over into the new fiscal years, they never did, and it got filed by accident, and so we're hoping that you will look at our residential bill and support the department in having the council relook at that bill as part of these amendments to 19.35. And the reason that we think they're interconnected, from a planning aspect, the principles that we put in the residential bill, one of them, on the development standard size, was lot coverage and having a -- right now, you have standard setbacks, 15-foot front yard, 6-foot side, and 6-foot rear on residential lots. What we're finding is that, in some neighborhoods, older houses are being torn down, small houses that may had been to scale within that neighborhood, and people are building these what some people call "Manila mansions" or "Filipino condominiums," and they're building lot line to lot line, okay. What this does is that it would have a 40% lot coverage requirement in addition to it, and that would keep -- we feel that -- and that's pretty much a planning standard across the nation for residential districts, and that would create buildings and building masses to scale to the residential -- within those residential districts especially if you're going to add another dwelling, such as another accessory dwelling onto smaller lots. You want to be able to keep that character of the neighborhood within reason, and so we feel the 40% is an appropriate standard to also be incorporated. So I think, hopefully, you'll support us on it, it is the Christmas season, so I'm hoping you'll be able to add that to the bill for us. It would be a nice gift.

And I pretty much -- that pretty much summarizes the bill. So, basically, going back, you have primary amendments to 19.35, one being proposed by the County Council, that's the main resolution, another amendment to 19.35, very similar with slight nuances that I talked about coming from the administration or the Mayor, and then the cherry on top is the residential district amendments that you previously had reviewed, your comments are actually incorporated, are in the packet, when you look at it, when you first saw them, and again, we'd like to see a lot of the changes and clarifications that we wanted in 19.08 and 19.09 to be resurrected, I guess you could say, in the Christmas spirit, to resurrect that bill and ordinance and have that adopted by the County Council as part of this overall amendments to Title 19. With that, I will take questions or can take public testimony. It's up to you. Do you any questions for me, Chair?

Mr. Racine: You mentioned not syphoning off these accessory dwellings for the purposes of businesses or bed and breakfast or short-term rentals, but am I reading this wrong? But in Exhibit 1, it's called out as permissible use or permitted uses, and then re-lettered from J, K, and L, to I, J, and K, but they're listed as permitted uses of the accessory dwellings. Am I reading that wrong?

Mr. Alueta: On which portion are you reading currently, sir?

Mr. Racine: It's the titled ordinance no. blank, but Section 1 for Section 19.04, and defining accessory dwelling, 19.08.020, permitted uses, go down to the new paragraphs I, J, and K, and it's listing bed and breakfast, home businesses, and short-term rentals.

Mr. Gary Murai: ...(inaudible)...

Okay, the underlined. Okay, but they're still there.

Mr. Alueta: Correct. That's in 19 -- that was the bill that we had, in 19.08, in 19.08, the original -- our original residential district bill current, and we're not changing that, that it would be an allowed use within the residential district. B&Bs and short-term rentals are allowed in the residential district by permit in 19.08 currently, and the current Mayor's proposal is to say that for accessory dwellings within the residential -- any accessory dwelling would not be allowed to use as part of a B&B or short-term rental. So we would make amendments or corrections to the overall code. Is that what you're referring to?

Mr. Racine: Again, it's bouncing back and forth from 19.35 to 19.08. It's asking us -- I mean it's asking to change the definition of "affordable accessory dwelling" in 19.35, but it's still in 19.08 calling as a permitted use. I guess I'm --

Mr. Alueta: Again, in the residential district right -- 19.08 is the residential district, okay. In standard residential district, you're allowed a single-family dwelling, okay, and then you're also allowed an accessory dwelling is also allowed as an accessory within 19 -- within the residential district limited by 19.35, which is the standards for accessory dwellings, okay. So what this -- if the Mayor's version of these amendments pass, you would still be allowed to do a bed and breakfast or short-term rental in the main dwelling on the residential district, but any accessory dwelling that's currently there or constructed within the residential district would not be allowed to seek permits for short-term rental or B&B, okay. So in the residential district, you're essentially -- where the lot size permits, you're allowed to have a main dwelling and an accessory dwelling. We are not -- I mean so -- I understand why you're slightly confused because, one, you have the existing code, you have amendments that are being proposed by council, and amendments being proposed by the Mayor.

Mr. Racine: Well, see that's why -- I don't see the restriction from those uses in the subsequent language, in the proposed -- the Mayor's --

Mr. Alueta: In the Mayor's one?

Mr. Racine: Call out a chapter or section for me. I'm having a hard time seeing it.

Mr. Alueta: It says --

Mr. Racine: It doesn't say specifically restrict the use, it defines the allowed use, which is the low term -- I mean the low cost rental. Okay, so it's by omission that it's restricted. Thank you for your patience. But is that enough to restrict the cottage industry, or it allows cottage industry to proceed within the main dwelling, but the accessory dwelling, it just says -- the only restriction I see is you can't use it for short-term rental or market-rate rental. So you mentioned a number of times, you know, a commercial endeavor, a cottage industry, but that's not critical?

Mr. Alueta: There isn't in -- yeah, currently, there isn't a restriction on that with either one, either of the Mayor's or the council's proposal, but that is a good point that accessory dwellings constructed under these provisions could potentially be used for a home-based business or a home -- I mean home-based business. So if that's a comment that you want to make that should they be limited so that they can't -- because there is a separate bill that allows for home-based businesses, and so if you want to restrict that from being done, then I would -- I would encourage you to make that comment.

Mr. Racine: Would that constitute a syphoning off of the necessary units for low-cost rentals or are we straining ...(inaudible)...

Mr. Alueta: I think you raise a -- I, personally, think you raised a valid point that you're, one, you're allowing people to do an accessory dwelling on smaller lots than currently permitted, and the main reason that both County Council and the Mayor is attempting to have -- or allow for these lots to allow for an accessory dwelling is for the purpose of long-term housing, long-term rental, and so I don't see that as being unreasonable and I think we'll point it out also that do you also want to restrict it to that home occupation or home-based business could not be conducted, I guess, within -- within an accessory dwelling like that.

Mr. Racine: We don't want to extend a special restriction to a low-cost housing tenant. The only thing that comes to mind is if the owner of the primary residence use the space for a cottage industry. If he rents to somebody, we're not going to restrict someone from doing, you know, their own home-based business, but it would have to be though under the name of and operated by the individual renting the property. I don't know. That's -- we're not going to have a special restriction for a tenant, but the owner can't build it and use it for that purpose. Does that make any sense?

Mr. Alueta: I'm sort of getting -- I mean so --

Mr. Racine: Currently, we allow property owners in their primary dwelling to have a home-based business. If we restrict the use of the accessory buildings for a home-based business, does the tenant -- does that restriction apply to the tenant? I'm trying to apply the restriction to the primary owner or, you know, so he can't just build a building to start another business under the auspices of making it a low-cost rental.

Mr. Alueta: Okay.

Mr. Racine: The tenant, if they want to do Christmas ornaments, you know, for sale, they should have that freedom because it's extended to everybody else. Just make it clear that the primary owner doesn't build this for the purpose of work space.

Mr. Alueta: Okay.

Mr. Rogers: The occupant. It's gotta be the occupant.

Mr. Racine: Yeah. It has to be tenant, not the primary owner. conducting business in that.

Mr. Alueta: Okay, so, essentially, you want to make sure that any accessory dwelling constructed under the provisions of this ordinance would be restricted to long-term rental and not be -- not be used as primarily for a home-based business.

Mr. Racine: Yes. That's the direction we're going. That's what I heard from you and it's valid, so I wanted to make sure that's -- we kept going down that track.

Mr. Alueta: Okay.

Mr. Racine: But not restrict a tenant from conducting business within their dwelling.

Mr. Alueta: Okay. What we can do is we can add that to the Mayor's provision, which would basically read, "No accessory dwelling shall be used for occupancy periods of less than six months and shall not be used as a bed and breakfast home, short-term rental home, or transient vacation rental unless such use has already been lawfully established." And then just add on, "Nor shall any new accessory dwellings built under this provision shall be used for the principal purpose of a home-based business." Okay. I can work with Corp. Counsel on the exact language, but I understand the gist. It's basically if we're allowing you to build an accessory dwelling on a smaller lot than currently allowed, that dwelling has gotta be used for long-term rental and it can't be used for the current homeowner, I guess, on the property to just build it and then use that whole building as their home-based business operation. Is that -- okay. Okay, I got you. I understand. Thank you. Is the -- just so I get -- is there a consensus on the Commission that that's comments that you would want, that you agree with that you would want to put forward to the council? Okay. Thank you.

Mr. Rogers: Chip, you got any comment? Public testimony? Not a whole lot of public left now. Sybil, staff recommendation. Joe, staff recommendation.

Mr. Alueta: Okay. I take it you closed public testimony?

Mr. Rogers: It appears to. Yeah.

Mr. Alueta: Okay. On page 6 is our recommendation. Essentially, the Planning Department is recommending approval of the Mayor's proposal to the Maui County Council with the, again, with the proviso of having the council look at the amendments to 19.08 and 19.09, the residential district, and to incorporate that bill within the changes as they're being reviewed. Although that's our recommendation, you don't have to go along with us. The Commission has the following options: They can recommend approval of either of the proposed bills to the Maui County Council; they can recommend approval to either of the bills with amendments to the Maui County Council; they can recommend denial of either of the proposed bills to the Maui County Council; or they can vote to defer action on either of the proposed bills in order to gather more specific additional information.

Mr. Rogers: Discussion? Motion?

Mr. Racine: I recommend approval of both with the recommendations that we've discussed about restrictive language about the primary owner -- you're going to work out the language?

Mr. Alueta: On the home -- yes. Okay.

Mr. Lasua: I'll second that.

Mr. Rogers: Okay, we have a motion, second.

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

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

VOTED: to recommend approval of the proposed bill with the amendments as discussed.

Mr. Rogers: It's unanimous.

Mr. Alueta: Thank you very much. I appreciate your time today.

Mr. Rogers: Thank you, Joe.

Mr. Yoshida: Okay, which brings us to Communications, Mr. Chair, unless you want to take a short break?

Mr. Rogers: Let's get it done.

Mr. Yoshida: You're just going to power -- or you want to power through?

Mr. Rogers: Yeah. I do. Anybody object? Keep on rolling.

Mr. Yoshida: Okay, seems like you want to power through.

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

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 Molokai 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>

Mr. Yoshida: And the department thought it would be a good time to discuss the role of the community plan in relation to zoning, or zoning in relation to the community plan as you embark, next month, on your decision making on the Molokai Community Plan update, so with that, I'll turn it over to Planning Director, William Spence.

Mr. Spence: Good afternoon, Commissioners. I'm Will Spence. I don't get over here as often as I would like, but I think as we pick up the community plan, I hope to see you more often.

This particular bill, this is before the County Council right now, it's not really a land use bill, but what it does is affects the way that the community plans are administered, and so the Planning Department voluntarily is taking this to the Commission for your input and just, you know, see if you have any comments, whatever. The -- on Maui, the first time this was introduced, it raised a lot of controversy and there was a lot of misunderstanding of what this bill was, so I thought -- and actually had a couple members of your community fly over to Maui to testify to that effect, so it's kind of surprising, you know, we have a couple members of the public here and maybe they'll testify on it, I'm not sure, but -- but I thought we'd come where people, you know, had some concerns about it.

So this is really related to, you know, in your community plan, all the properties in the community plan, there's a map, there's a land use map, every property is designated for something, whether it's single-family, or industrial, or business, or rural, or agriculture, conservation, those kinds of things, what this does -- and then all the properties on the island also have some kind of zoning. So you have -- you know, we heard about interim this morning with the Kamakanas, and I have a good example for that one, you know, you have agriculture, etcetera, everything has some kind of zoning, so what this bill is intended to do is to clarify the relationship between the community plan and the zoning, and which really, ultimately, regulates the land use; in some case, it's the community plan; in some cases, it's the underlying zoning. But I thought to put this text up first thing because this was the controversy. People were really concerned that somehow this bill was going to undermine the community plan, and that's not really the case.

The very first thing that this bill says, "A land use designation determines the zoning that may be established." So like, in other words, if you're going to get zoning, you have to follow the community plan. Like the Kamakanas this morning, they were designated single-family in the community plan, you know, the council proposed to zone them agriculture, so there was, you know, so they could subdivide, you know, and settle estate matters, but the community plan said single-family, so that's why a recommendation to zone to single-family. So that's the first thing. It says follow the community plan.

The second one says, "A land use designation shall not limit any use established by a property zoning unless the community plan prohibits or restricts a particular use." So the Kamakanas, even though they're zoning and the community plan didn't match, they still have to be able to use their property for something, and it's that interim zoning that would allow for -- they could build some homes, they could do farming; actually, with interim zoning, they could have built church, schools, all kinds of stuff. But they couldn't subdivide, and that's the primary reason they wanted to -- interim zoning, you cannot subdivide, so they wanted to come in and get their zoning changed so they could, you know, they could get on with their lives and provide for their kids, etcetera.

So again, the first one, community plan says this is what you will zone this property, and the second one says until you do that, the zoning is what allows the uses. And I may have made my powerpoint longer than what's necessary, but just bear with me a little bit, I'll go through it kinda quickly, and then if you want to ask questions, I'm really happy to do so.

Okay, I kinda mentioned this already. In Hawaii and Maui, you have four basic -- you have these layers piled on top of each other. You have the state district, which is, you know, ag, rural, urban, or conservation; you have your community plan that has all different kinds of designations; you have your zoning, which is actually what regulates the use of land; and then you have overlays on top of that, like the SMA. The reason this bill comes forward now is the way I explained it to you is the way that we've been doing it for like 35 years

already, since the first community plans were adopted. You have these community plan designations, you follow those for zoning. Until that time, whatever the underlying zoning is -- there's a growing argument from some groups on Maui that say, no, that's not the case. It's the designations that dictate all the different uses, not the zoning. They're saying those little descriptions in your community plan, you have the land use map, but each one of those designations has a little description, and they're saying those descriptions dictate. We think that's such a bad argument. We thought to float this bill. We think it's -- there's very well possibly a lawsuit brewing, and so how would we fix it if there was a lawsuit, we would change the law, so that's why we're preemptively changing the law to explain it.

Okay, it comes from -- you may have seen the Pi'ilani Promenade. This is a map of Kihei, outlined in red is a light industrial area where a developer wants to build. It says "light industrial," but the underlying is also light industrial, and that zoning district allows all the light industrial uses, plus business uses, plus apartments, so the developer wants to do some light industrial, he also wants to build affordable housing, which the zoning allows, but the community -- I shouldn't say "the community," I should say some members of the community say that this description is what says he can do. So in the community plan, it says this is this, being light industrial, it says it's for warehousing, light assembly, service and crafts type industrial operations. So not very broad. The zoning is very broad. This description is really narrow. And if you follow this, if this is applied for community plans, it means big problems.

Okay, I took the liberty, since we were discussing Kamakanas this morning, here you have the basic property. Here's a map of the state district. This is from the state map you can download. So it's where they're already in the urban district. Here's a community plan. It says "single-family." That guides you where the zoning should take place or what kind of zoning you should get. And then this isn't showing up, their zoning is interim. Well, that doesn't show either. It is in the SMA, but there's a layer that should be showing there. There's an image not showing. There we go. So these layers pile up on top of each other. For the Kamakanas to be able to subdivide, all those layers have to line up. They all have to match from one, down to the other, and that incorporates all your entitlements. Right now, the zoning and the community plan don't match, so your recommendation, this morning, says make those things match so they can go through.

So the first one, again, from the proposed bill, it says that the land use designation determines the zoning, so all -- the only zoning the Kamakanas could get would be like R-1, R-2, R-3, nothing else. People are all concerned that, oh, with this bill, well, they could get industrial, or they could get hotel, and that's just not the case. This bill says you have to zone it according to the community plan. It also says, this bill also says, that second part, they're still allowed the uses by the zoning. So under interim, they could still do farming, they could build some homes, etcetera.

But if we take the argument by these members of the community that only these one-liner descriptions dictate all the land uses, there's three major impacts to this. First off, your community plan designations are so short and brief, they would prohibit a lot of the permitted uses. The second thing it could do, it would make thousands of permitted uses illegal. You have businesses on this island, you have businesses on Maui, you have apartments on Maui that would be, all of a sudden, they'd be nonconforming. That's a big deal. The community plan -- you also have community plan designations that are more permissive than your zoning. That's also a problem. There's things that if you went strictly by this brief language in the plan, it would -- you would have uses appearing that you don't want, either you don't want or that have not come to this Commission for review.

Okay, just as an example, you're single-family designation in your community plan. On the left, that's all it says. This includes single-family and duplex dwellings. On the right, the only thing that matches up is single-family dwellings. It's hard to see but the other ones, the other uses under there are accessory dwellings, ohanas that you just made a recommendation to be able to increase. If you just take that language on the left, you couldn't build ohanas because they're not single-family dwellings, they're accessory. You couldn't have parks, playgrounds. You couldn't have schools. You couldn't have special uses. You couldn't have home occupations. All the things that the zoning allows, the community plan does not. Okay, we just covered that in your previous vote. You wouldn't be able to have special uses or conditional permits because the community plan doesn't allow for that, of course Mana'e Goods and Grinds, which operates under a special use and a conditional permit.

So the second thing, and I tried to pull some examples from Molokai real quick, but I'm sure there's more, the second thing that taking, literally, the community plan descriptions, it would make a whole lot of legal uses nonconforming. What it means, and everybody thinks, and this is what's referred to as grandfathering, everybody thinks grandfather, oh, it's okay, it's been there forever. It's not really okay. What it's saying, to be grandfathered, is you have a perfectly legal use right now. If you were to say it's nonconforming, you're saying it's no longer a legal use. We want it to go away. It can just go away over time. That's -- think about that a little bit.

Just with an example of ohana units, on Maui right now, we have 3600 ohanas, legally permitted; we don't know how many unpermitted ones are out there yet. Lanai, there's 41. You have 135 on Molokai. That's a big chunk of your affordable housing. Those would be rendered nonconforming. They would be made unlawful uses, and we don't want to see that happen. And again, it doesn't go to farm dwellings.

Another example where things would be made nonconforming is in light industrial. Again, a very brief description that doesn't include the full range of uses that the zoning would say. We think of light industrial as warehousing. On Molokai, we have the Veterans Center. We

would be making the Veterans Center that went through years of litigation, major controversy within the community, following strictly that one-liner description would make this nonconforming, and I'll bet the veterans would have something to say about that. Island Petroleum. There's a question: Are those tanks warehousing? I'm not sure. It's one of those arguments that we would get into. The retail portion of Coffees of Hawaii, that would not be allowed, so if they want to do modifications, if they wanted -- well, they could do some modifications, but if they wanted to expand, that would be a problem. On Maui, we have light industrial zoning. We have Zippy's. Perfectly legal now. We have Akaku. I'm assuming you guys get -- some of you watch public access TV, that's -- they're located in light industrial. They wouldn't be permitted. The Veterans Clinic in Kahului. You know, the county just bought seven lots kinda closer to the airport, behind Walmart and the other industrial areas. We paid seven million dollars for it. If you just follow the community plan language, we could not build a service center. That wouldn't be allowed. Queen Liliuokalani Trust that's in Wailuku, actually two facilities there. You have a bunch of dentists that have opened shop. You have the carpenters, the UPW union halls. I don't want to be the one to go tell the Carpenters Union, you know, you're a nonconforming use. I don't think they would smile at me too much. Kihei Charter School. So it's not just limited to a couple places. It's -- Kihei Charter School, obviously, in Kihei, Opukea have 114 units in Lahaina. You have Latter Day Saints Church. Then you get down into the rural areas. The Haiku and Pauela Canneries. They have light industrial uses in them, but they're also -- these are the commercial centers where their grocery stores are at, the laundromats, pharmacies, stuff like that. None of those things would be allowed just with that particular language in the plan.

Okay, the third and the last one, if you just follow the community plan language, in some cases, you would have -- you would be allowing uses that you don't want to use. For instance, the agriculture. Out of your community plans says this -- this indicates areas for agricultural activities, which would be keeping -- which is fine, which would be keeping with the economic base of the county. That's fine. And the requirements and procedures of Chapter 205. The requirements and procedures in 205, they're very, very lax compared to our county zoning. In Maui County, your ag zoning allows two dwellings per lot. There's no such provision in the state district. I know in the ag zoning district, there's a lot of cases where it says "except on Molokai," you know, it goes to the recreational uses, and equestrian uses, and all kinds of stuff, those provisions that specifically came out of this community would disappear because the zoning would no longer be applicable, just that brief description. Restaurant, state law allows restaurants, commercial food vendors, I forget exactly what it says, but basically you would open up a full-blown restaurant, you could do Kualapuu Cookhouse anywhere and they could say, well, there's my herb garden next door, there's my ag use, and state law would allow that. That's also without any review of this Commission or this community. Also, retail stores. It's problematic. Here's another example of specific to your community plan. Up in Maunaloa, you have this area called a "project district," and they don't have project district zoning, that's something that comes

over time and a lot of discussion with the community, and council, and this body, this body actually quite a lot, so the description in the plan says, "The objective of this project is to provide a mixture of single-family and multi-family and park for low and moderate income residents." That's the primary thing. It goes on a little bit, but that's the primary. If you followed this alone, they would be able to build right now so long as they meet those criteria, but that's not what we think should happen. We think this is a description of what the zoning should say, and they don't have the proper zoning. Currently now, they're interim zoned and they run some cattle, you know, as part of a larger lot where they graze cattle. The interim zoning allows that right now and that should continue. If they want to do housing there, they gotta come back to this body and to the County Council. One more, up above Ranch Camp. Single-family and a park designation. It roughly doubles the size of Ranch Camp. Right now, it's state ag, it's community plan single-family, but that designation does not, alone, does not allow them to build housing, but what it does say is when you go to the council, you have to get single-family zoning so -- but we don't think that the community plan alone would just let them go and subdivide and everything, and there's also the park space there that they would have to get park zoning. Anyway, I know that it's kinda scarce up there, but they do run cattle.

So does all that make sense. I'm pretty much at the end. Basically, this bill says to follow the community plan when you do go in for zoning. In the meantime, the underlying zoning is what the owner can do with his property, which doesn't mean they can subdivide, which doesn't mean they can do a whole lot of stuff, and even if they're in the SMA, that's even more issues for consistency. But, basically, this codifies 35 years of the way we've done it and the things that have been before this Commission many times.

So anyway, Commissioners, that concludes what I have to say and I'm here for any questions.

Mr. Lasua: Will, I have a question. In the previous meeting, we had some people who came up and was talking about interim zoning and changing and keeping it as a business now, so what you're saying is that, for zoning, being interim zoning, you can use it for all this?

Mr. Spence: Yes.

Mr. Lasua: And not worry about the other part of it?

Mr. Spence: Yeah. You don't have to worry about the -- when you worry about the community plan is when you, like I'm saying, when you come for zoning, to change the zoning. When you come in for special use permits. When you want to subdivide, interim zoning doesn't let you subdivide. It's explicit in the district. It's supposed to be a temporary district, I don't want to get so much off on interim zoning because -- but you happen to have

a lot of this here, it's supposed to be temporary since 1958, and your community plans are, you know, largely formed through the community and the Commission and the council, they're supposed to be implemented at some point, and you're supposed to go zone all those things. We haven't done that yet. Does that answer or?

Mr. Lasua: Yeah, I just want to, you know, for lay people who don't know about the zoning, like you were saying, under interim zoning, you can do this, you can do that, where do you go for that? Where do you go for that information, the county?

Mr. Spence: Yeah. And you can go to the county code, that's online. At some point, probably during the community plan process, I know this will be a topic, we'll bring to you copies of the interim zoning code. It's super broad, and it's something you -- I'm sure you'll make some kind of information.

Mr. Rogers: Essentially, it just hasn't gotten around to being zoned yet.

Mr. Spence: Exactly.

Mr. Rogers: And temporary is subjective.

Mr. Spence: Yeah, it's -- you'll -- some people, you're just -- some of the communities are just used to it. It's always been there. It wasn't until somebody put a cell tower right smack in the middle of a residential subdivision that they went, oh, you gotta change our zoning so they can't do this. It's when the bad things happen, the demand to change the zoning to follow the community plan take place. So there will be that sometime.

So, Commissioners, I'm just looking for some comments, recommendations. If you think this is a good thing. If you think it's a bad thing. And we'll pass, or anything in between, and we will pass your comments along to the County Council.

Mr. Rogers: Clarity is a good thing. It's more objective.

Mr. Spence: Okay. Sure.

Mr. Rogers: Any questions? Public testimony?

Ms. Lopez: I just wanted to clarify his question, Commissioner Lasua, if I'm not mistaken, you're talking about one of the areas that the woman came up last agenda regarding the change in zoning and the community plan located right in town, yeah, the town one, so I think the question was more how would they deal with that when it comes to the community plan, and the information that you're asking, I think you're referring to the land zone confirmation form, where do they get their information regarding their parcel. It's a simple

form that you fill out to the zoning administration and each owner can find out where -- what's on their TMK, like they can get their designations under that land and confirmation. I think that's what ...(inaudible)...

Mr. Spence: Oh, okay. I mean we can -- any property on the island, if you want to know the specific zoning and community plan of that property, we can get that for you too. Is that --

Mr. Lasua: Yeah, I think that's what I was asking about.

Mr. Spence: Okay. Okay. That's great. Any other comments, Commissioners?

Mr. Rogers: Any other questions, comments?

Mr. Spence: Okay. Thank you very much. I'm glad to have been able to bring this to you.

Mr. Rogers: Thank you.

Mr. Yoshida: Okay, with that ...(inaudible)...

Ms. Lopez: Sorry, one more, Clayton. Sorry, I just wanted to kinda inform the Commission that I do have a few projects that are going to come in front of you regarding change in zoning and community plan update, so you kinda get the gist of what was explained today and what will be coming forward in front of you in the future. So I, on the top of my head, I think I have four projects in regards to this. I just kinda wanna keep you aware.

Mr. Yoshida: Okay, we're going to power through the Director's Report.

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

F. DIRECTOR'S REPORT

- 1. MR. WILLIAM SPENCE, Planning Director notifying the Commission, pursuant to the provisions of Section 12-302-13.1(a) of the Molokai Planning Commission's Special Management Area Rules, that the following proposed actions located within the special management area are not "developments" and therefore exempt from the requirements of the Molokai Planning Commission's Special Management Area Rules:**
 - a. MRS. ROBERT MATSON JR. submitting a Special Management Area Assessment (SMX) for a carport enclosure, interior renovations, and electrical conveyances located at 215 Kolapa**

Place, TMK: 5-3--8: 014, Kaunakakai, Island of Molokai. (SMX 2015/0473) (Valuation: \$6,543) (S. Lopez)

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

Ms. Lopez: Good afternoon, Commissioners. I'm Sybil Lopez, the assigned planner to this project. I do have the owners here in the room today and I would wanna thank them for their patience in going through our whole agenda, and they probably got educated on affordable accessory dwellings and our community plan, so I thank them for being here throughout the whole meeting, and they are here if you have any questions, Commissioners, to the owners, they're present to answer any questions.

This is in regards to requesting a waive of review and the decision is based upon Chapter 343 and the review -- that we undergo the review and their basically just doing some interior renovations. There's no ground-disturbing activities. They're not on the shoreline. They're actually located right here behind Mitchell Pauole. And the need to renovate their current dwelling is because she takes care of her father, and her father was hospitalized, and that is the only area that they can see within their house, 'cause they do have a big family with children, that this place would be her father's place of residence, and so that's why they're enclosing the garage in order to make room for the father that's just been hospitalized, and he just came home, so that's the reason for the interior renovations, so we do ask for your waive to review. Thank you. If you have any questions?

Mr. Rogers: Questions? Motion?

Ms. Lopez: And it is you know where the old ambulance was? That's the dwelling, right behind here.

Mr. Rogers: Motion?

Mr. Lasua: I move to waive the review.

Mr. Davis: Second.

Mr. Rogers: Motion, moved, seconded.

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

VOTED: to waive the review of this application.

Mr. Rogers: It's unanimous.

Ms. Lopez: Thank you.

Mr. Rogers: Thank you.

Mr. Yoshida: The second assessment --

Mr. Rogers: Thanks for your patience.

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

- b. MR. KAHIWA MCVAY submitting a Special Management Area Assessment (SMX) for a 180 sq. ft. carport addition located at 0 Uala Pue Place Unit 2A, TMK: 5-6-002: 007-0003, Kaluaaha, Island of Molokai. (SMX 2015/0474) (Valuation: \$9,500) (S. Lopez)**

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

Ms. Lopez: Good afternoon, Commissioners. Thank you for having me. I'm Sybil Lopez, the assigned planner to this project, and it's basically located up on the east side, right -- it's the Kilohana Kai Subdivision, right after Kilohana School, and basically he's just enclosing -- he's adding his carport. The majority of those housing did not come with any carport, so this is a new owner --

Mr. Rogers: Some of them did.

Ms. Lopez: Some of them did, but this -- majority of them did not, so this is actually a new homeowner who just bought this, a family, a young family, so they want to add a carport to their home, existing home. So if you have any questions.

Mr. Rogers: Any questions? Motion?

Mr. Racine: I move we waive review.

Mr. Lasua: Second.

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

VOTED: *to waive review of this application.*

Mr. Rogers: It's unanimous.

Mr. Yoshida: Okay --

Ms. Lopez: Thank you.

2. Agenda items for the future meetings

a. January 14, 2016 meeting

**3. Pending Molokai Applications Report generated by the Planning
Department (Appendix A)**

**4. Closed Molokai Applications Report generated by the Planning
Department (Appendix B)**

Mr. Yoshida: Under item 2, your next meeting is scheduled for January 14, 2016. I believe we possibly would have some SMA assessment for that meeting. Remember that we're going to start with the community plan update so there's going to be a regular meeting and a special meeting at 3:00 on the community plan update, so that was decided at the November meeting that they would start the community plan update at 3.

We do run into a problem, since we moved the meeting date from Wednesday to Thursday to accommodate alternate transportation modes, besides flying on a nine-passenger plan, in that the facility, this facility is reserved by the senior, the Kaunoa Senior Center, so we have to find an alternate meeting place, so maybe if you have any suggestions. I guess, previously, when they were doing renovations to this building, we met at the DAGS conference room, we met at the Kualapuu Community Center, we met at the DHHL OHA conference room. When school wasn't in session, we met at the school. So that's, you know, we're trying to look for a place if we have meetings on Thursdays unless the alternate transportation situation improves, and maybe the ferry might operate on Wednesdays, but right now, they don't operate on Wednesdays, so that's what we have. And then so any questions, comments on that?

Okay, if not, we submitted our pending and closed Molokai application reports. Any questions on those? If not, I'd like to personally thank the members for attending today's meeting. We had several council resolutions, which are time sensitive. Any delay would have meant we would have -- if we had to renote, it would have meant a month-and-a-half delay on some of these applications, so again, we thank each member for attending today's meeting, and we wish you a happy holidays, happy and safe holiday season, and I'll turn it over to the director because although he's been on Molokai a lot this year, it's been more

with the CPAC and the community plan update, but now since it's been shifted to the Planning Commission, then he might want to say a few things.

Mr. Spence: Thanks, Clayton. I don't have anything to add just Merry Christmas to everybody. Have a safe wonderful holidays.

Mr. Yoshida: With that, that concludes the Director's Report.

G. NEXT REGULAR SCHEDULED MEETING DATE: January 14, 2016

H. ADJOURNMENT

Mr. Rogers: Alrighty. I guess then we can adjourn this meeting. Thank you everybody and have a Merry Christmas.

There being no further business brought before the Commission, the meeting was adjourned at 1:20 p.m.

Respectfully submitted by,

SUZETTE L. ESMERALDA
Secretary to Boards & Commissions

RECORD OF ATTENDANCE

Present

Douglas Rogers, Vice-Chairperson
Billy Buchanan
Ron Davis
Lawrence Lasua
Marshall Racine

Excused

Michael Jennings, Chairperson
Zhantell Dudoit
Diane Swenson

Others

William Spence, Planning Director

Clayton Yoshida, Planning Program Administrator, Current Planning Division

Joseph Alueta, Administrative Planning Officer

Sybil Lopez, Staff Planner, Molokai

Gary Murai, Deputy Corporation Counsel