

**LANA'I PLANNING COMMISSION
REGULAR MEETING
JUNE 19, 2019**

A. CALL TO ORDER

The regular meeting of the Lanai Planning Commission (Commission) was called to order by Ms. Shelly Preza, Chair, at approximately 5:03 p.m., Wednesday, June 19, 2019, in the Lanai Senior Center, Lanai City, Hawaii.

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

Ms. Shelly Preza: Good afternoon everyone. Welcome to the Lanai Planning Commission meeting on Wednesday, June 19th. It is 5:03 p.m. So...I see we have a few people signed up for public testimony. If you are testifying on Item C.2. -- or actually, not C.2. -- D.1. about the short-term rental home permit that is before us today, if you could hold off for a moment and let others share their testimony, and I might move that agenda item up and Jared has an update about it. So prior to that we can get started so Ron McOmber would you like to share now? Thank you.

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.

Mr. Ron McOmber: Thank you. Good afternoon. My name is Ron McOmber. I have been on Lanai for over 40 years, and all of you know me so I won't go into details. I come here tonight to express my concerns about of a couple of the bills, and I'm going to leave and let you guys decide what you're going to do about it. The unfinished business is a long time. This business should have been taken care of. Building setbacks on Lanai property is essential in Lanai City. And the reason that is is most of the lots are small. They're 6,000 square feet or smaller. And when people grow up and they grow their family they got more rooms, they got lawn mowers, they got all the equipment they need some place to put that stuff besides where their car sit. So I'm passionately asking you to do this. And the reason why I'm involved is I got sued by a neighbor on Ilima Street because he said my container was too far on his property. It wasn't. Besides that, I put the container on that property over 30 years ago to the owner that owned that property. And at that time, the County had no requirement. It's obvious because if you look on Jacaranda Street all of the garages are right out on the street. How the heck could you have any requirements at that time? Even my garage on that house is sitting out on the street.

What's happening in Lanai, people are growing up. As their families grow they have more need for personal stuff and there's no place. They can't build their houses any bigger because they're already too big for their lots. So as residences of Lanai, give them help that they need, this setback requirements, please do a positive thing on that.

The second thing I'm here to talk about is if you have a regulation that says you cannot have a vacation rental home within 500-feet of another vacation home, there's several incidents this is happening. And if you're going to have a rule to that, then you need to enforce that rule. And you have later on in this, you have somebody who's asking for a vacation rental, and I noticed in the notes that that person had been told that they have another -- that they're within the 500-feet of another vacation rental. So if you have the rule, follow the rule. Do what it says. Don't let them put another vacation rental within 500-feet of an existing vacation rental. And Lanai is -- Lanai has been taken over by outside entity's rental, and most of us don't even know most of the people walking up and down the street. And so maybe we can help with some of that.

But anyway that's what I'm asking you to do on this agenda. I'm not going to sit here and argue the agenda with you. I'll let you argue amongst yourself. And thank you for taking this on.

Ms. Preza: Thank you Ron. Just for clarification, having two short-term rental homes within a 500-foot radius, and having an additional person applying, it's not a set thing. It's kind of just a trigger to come before us. But would you prefer if it was just two within a 500-foot radius?

Mr. McOmber: I'd like to have it even smaller than --

Ms. Preza: One within a 500-foot radius.

Mr. McOmber: Yeah, one within 300 feet.

Ms. Preza: Okay.

Mr. McOmber: If it were up to me, if you want my opinion, yeah, 300-feet would be better than 500-feet.

Ms. Preza: Thanks for your testimony. I was just curious what you thought. Thank you.

Mr. McOmber: That's what I would say. I wasn't here to tell you what I really wanted, but right now in the books it's 500-feet. But if we could get it down to 300-feet it would be that much more advantageous for the community.

Ms. Preza: Okay, thank you. Or do you mean, like, a bigger radius than only instead of a smaller?

Mr. McOmber: Huh?

Ms. Preza: You meant a bigger radius, right, not a smaller?

Mr. McOmber: I don't even want them there if you wanted to know the truth. But that mean you can't stop that.

Ms. Preza: Right. But if you make a bigger radius then actually that means fewer can be within an area. That's okay. Sounds good. Thank you. Great. So next is Butch Gima. Okay, thank you. Joy? Oh, were you signing in? Okay. Thank you. I know it's confusing. Alberta, you'd like to speak now? Okay.

Ms. Alberta de Jetley: Thank you Commissioners. My name is Alberta de Jetley and I'm speaking on my own behalf. My lot is 3,300 square feet. If my neighbor can build a garage or shed right up on the property line, there's a very, very strong likelihood that their garage will be right next to my bedroom. Two of my bedrooms are right adjacent to the property line.

Lanai's housing situation is critical so what we are seeing and it's totally illegal and under the table is we are seeing more people building sheds that eventually will be turned into illegal rentals for other family members. Because another family member comes home and there's no place for them to live they build a little shed and then the next thing you know it's got lights, and windows and all of that. I can't have a neighbor right next to me, about that far away from my two bedrooms. I know personally of a house where this has happened where the people in the house adjacent to it are now looking at a wall, with an illegal rental with an occupant. We don't need to live like that. You need to enforce the setbacks because it's just not fair for suddenly for it to be changed and where I can now expect if the property next door to me is sold I can now expect to have another building right up against my bedroom windows. It's just not right. Thank you.

Ms. Preza: Thank you. Would anyone else like to share public testimony who didn't sign up? Sure.

Ms. Caron Green: Alberta, could I ask you a question and I guess this would be the same for Ron. We have the case with Ron where he has a shed that's already, I guess, more or less on the property line. Do you think that the existing one, especially if they've been there for a long period of time should be grandfathered in, and the rule go forward from here, would be that you would recommend or would you recommend that people who would be violation of this would have to move their structures?

Ms. de Jetley: I think can do a cutoff date like in his case his shed has been there for more than 30 years, but his case has already gone to court because he says his neighbor sued him. So where do you draw the line? You know, where do you draw the line? If somebody is over the property line or right on the property line, then I think the County inspector should be out there. Why should I be pitted against my neighbor where I have to be the person to report them because they're in violation? It's not right. I don't need to be the County's watch dog. We have inspectors there who it's their job to go out and see whether or not things are in compliance. But draw the line in sand and be done with it.

Ms. Preza: Thank you. Any further questions for Alberta? Thank you.

Ms. de Jetley: Thank you.

Ms. Preza: Sure.

Mr. John Delacruz: Ron, your setback thing was resolved?

Mr. McOmber: We're still waiting. I'm waiting for --. The last number I had is \$200,000 fine from the County, and it was not a building inspector that caught it. It was a neighbor that called the County. The inspectors, they didn't go around and catch that because it was legal. That's the sad part about this that if you get somebody that's cranky that lives next door they can, they can do lots of things. Building inspectors, it's not their job to go around and look at each building and each setup. When I heard about it I got a letter from the County saying that my neighbor had filed a complaint and it's a \$1,000 a day fine if I didn't rectify it. Without even checking to see why the container was there, how long the container had been there. I think they dropped it now because that's stupid. That container has been there for over 30 years. It's older than some of you that are sitting in this room.

Mr. Delacruz: It is a container and not a structure.

Mr. McOmber: Yeah, there's a container sitting there. I put it in myself 30 years ago. More than that now.

Mr. Delacruz: Because months ago when this thing first came up and you told me about it, I think you told me that the container was six feet from the property line which is legal.

Mr. McOmber: Yes. It's actually, it's actually about five and a half feet once we checked it out. But wasn't -- that was not the set requirements when that container was put there. There was no County regulations about it. So why all at once we're going to come up to 2013's thing? This doesn't make any sense to me. I mean, look at my garage on, on Jacaranda. It's sitting right out on the driveway. It's sitting right on the road. All of the, all of the garages there, why don't they make us tear all those down? That doesn't make any sense. I mean, just because some guy doesn't like me, that's his problem.

Mr. Delacruz: But going back to the storage container, if you moved it six inches it would be legal?

Mr. McOmber: No. It's legal where it was when I put it there and it's going to stay there. I'm not going to move it. I can, I can put a rope on it and jerk it maybe two feet and it would probably more than enough, but I'm not going to do that because we had -- it was proper when we put it there. It's not on his property, it's on my property. Now, at that time it wasn't my property.

Mr. Delacruz: So here's where I'm confused. The County is trying to fine you a \$1,000 a day?

Mr. McOmber: Right. The last time I got a letter from the County it was \$200,000 that I owed them. They haven't pursued it since this bill came out. Since you folks are starting to talk about this, it's changed. I think they found it foolish to do what, what they were doing. And I haven't heard from them in six months.

Mr. Delacruz: Can our legal person talk about this?

Ms. Richelle Thomson: I think I would rather steer clear of ongoing disputes because I have no information to go on as far as Mr. McOmber's property. We can talk about setbacks in general, though, when we get to the item.

Mr. Delacruz: Thank you. And thank you Ron.

Mr. McOmber: Do what?

Mr. Delacruz: Say what? I said thank you because since our legal person couldn't address I'm still confused on why they're trying to fine you.

Mr. McOmber: Well, I could tell you why but it's childish if I tell you why. The idiot that filed the complaint is an idiot and he and I do not get along. And so that's why he get back to me was to do this. And then the County fell, fell into the trap. The County didn't even come and talk to me. They just sent me a letter and I owe them a \$1,000 a day for not responding to it. That's, that's what the County did. That's shameful. Had the County come over and talk to me, nobody did. They took this guy's word for it and there went the letter in. The County wrote me a letter says move that container or it's a \$1,000 a day fine. I called them and I said I'm not moving the container. It's not illegal, it's been there for 30 years. And that's where it is right now. I have no idea how much I owe them right now. I don't think I owe them anything. I think the County thought it was foolish to get into this little pissing contest we've got going on.

Ms. Preza: Thank you Ron. Does anyone else have questions for anyone who testified? Great. So I know there are people who would like testify about Item D.1., but there is some new information. So, Jordan are you sharing that or Jared? Yes, we're moving it up above, prior to our discussion about setbacks and short-term home, short-term regulations. So, Jared if you could. Sorry, we're discussing Item D.1. because there has been an update in the --. Well, Jared will explain.

Several members of the public provided testimony at the beginning of the meeting.

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

1. **PATRICK CARUSO requesting a Short-Term Rental Home Permit in order to operate Lanai Sunset Hale, a three-bedroom short-term rental located in the R-1 Residential District at 1276 Fraser Street, Lanai City, Island of Lanai. TMK: (2) 4-9-004:010 (STLA T2018/0009) (J. Burkett)**

REPORT AND RECOMMENDATIONS

The Commission is reviewing the application because there are at least two permitted short-term rental home operations located within 500 feet of the subject property.

Mr. Jared Burkett: I'm staff planner Jared Burkett. I am here to discuss Item D.1., regarding Patrick Caruso requesting a short-term rental home permit. There was evidence brought this morning that the...the one short-term rental home within 500-feet was sold, so there is no longer two short-term rental homes within the 500 feet and so there is technically no trigger now. However, we're continuing to, as we heard, taking testimony. But so I have the evidence with me if anyone would like to see it, the deed showing that the Hale Lokahi, STLA 2017/0010 sold and the deed was recorded on May 24th, 2019. So, we are or I guess it's up to you but it sounds like we're considering deferring right?

Ms. Preza: Thank you. So if there --. Commissioners, you can refer to the map that was provided to us. So, it's the one all the way to the right, STLA 2017/0010. That was sold. Does anyone have --? Oh, sorry, prior to us discussing, we are still going to have the public hearing so I'm opening public testimony for that so if anyone would like to testify about this agenda item. Butch, you said you would like to? Thank you.

Mr. Reynold "Butch Gima: Good evening. My name is Butch Gima. Number one, I'd like the Planning Commission, and now with the new information, the Planning Director, to oppose the application based on the prior testimony from the last couple months specifically the one I provided written testimony on January 16th, 2019. I recommend the Planning Commission and now the Planning Department deny the application based on current and prior testimony, and for the reasons you denied the last two or three applications.

Your Planning Director is willing to consider a moratorium on all application especially as it relates to tonight's agenda item regarding modifying Chapter 19.34 and 35. I think your decisions should be biased towards residents, not non-residents. And that is similar to the position that the Hulopoe Beach Park Council has taken in terms of their actions and decisions. So a lot of the rules, the rule changes are biased towards Lanai residents, and I think that should be the case for the Planning Commission.

Now I want to make it crystal clear that instead of having the home used as a short-term rental, I would like to see the owners live here, be a part of our community, and contribute to

the character of the neighborhood and our community. And that's been the foundation of my opposition to all the short-term rentals in the last four or five months.

As I said in last month's testimony I was very disappointed and found it insulting in terms of the Planning Department's analysis on the application before you. I think it's flawed. For example on page five where they talk about County Wide Policy Plan, under Policies, where it says support home based businesses that are appropriate for and in character with the community. No, that's inconsistent with what not only I've been testifying to, but . . . (inaudible) . . . have been testifying too, that short-term rentals are not consistent with the character of our community.

Similarly on page six, under Policies, under (F) which says encourage resident ownership of visitor related businesses and facilities. No, it's not because they're not residents. Under, what's this (L) or (I), support the diversification, development, evolution, and integration of the visitor industry in a way that is compatible with the traditional, social, economic, spiritual, and environmental values of island residents. Well, I don't think the short-term rentals are consistent with it. Further down under the Goal, community, character, lifestyles, economies and natural assets will be preserved by managing growth and using land in a sustainable manner. Well, I don't think short-term rentals are consistent with that goal. Further down under Economic Development and Policy, number one, support diversification of Lanai's economy. Well, there's no evidence of this that's provided to you in your packet. Number five, supports growth of kamaaina, tourism, cultural tourism, eco-tourism, agri-tourism, sports tourism, hunting tourism, and other alternative tourism ventures. Well again the short-term rental is not consistent with this policy.

So like I said, I think the Planning Department's analysis is flawed based on what I just shared with you. Again I was disappointed especially since I brought this up the last time and it hasn't changed, so that's why I said it's kind of insulting. So in summary I'd like the Planning Commission and the Planning Department to deny the application. Thank you.

Ms. Preza: Thank you Butch. Any questions for him, Commissioners? Would anyone else would like to testify about this agenda item before we discuss? Okay, I'd like to close public testimony on this agenda item now. So Commissioners, do you have thoughts given the information that has been provided to us about what action we should take on this application? I personally think we should defer, defer it to the next meeting because I think we do have a lot to discuss tonight about short-term rental housing regulations and things we would like to make changes to. With that being said, now that there's not a two within 500 feet, if we defer it, it will come back to us, right? It's not just going to --? Okay.

Mr. Jordan Hart: Thank you Chair. Jordan Hart, Deputy Director of Planning. So just a point of clarification, you know, the Department's position is that this actually does not trigger a Planning Commission hearing. But because it was already on the agenda and we found out today that the trigger changed we wanted to make sure to go through the process, hear what anybody wanted to say, hear your thoughts to take that into consideration for the

Department's decision making. You can consult with your Counsel about, you know, the implications of making a decision, you know, for or against this specific application without an actual trigger for it to be before you. So from our position we believe now this is a Department decision but we do want to hear what's said so that we can consider that in our decision making. Thank you.

Ms. Preza: Thank you. So what you're saying we actually can't take any action on it, but we can share our thoughts with you.

Mr. Hart: I think you should consult your Counsel about whether or not you can take action. Our position is that this is a Department decision but we are here, people may have come, neighbors may have come, they didn't know this was canceled, they may have been sitting here and wanted to say I have a specific reason this thing affects me and I want to let you know about it. So we wanted to make sure to hear that, that testimony. And then we're also interested in any thoughts that the Commission has. But those thoughts might also be discussed in other agenda items tonight too so that's your decision to make. Thank you.

Ms. Preza: Thank you. Richelle, is this something that we can --

Ms. Richelle Thomson: So just to address the deferral. If you're inclined to, to move to defer it to the next, like next month's meeting, you could defer and then subject to if the Planning Department takes action one way or another on this permit application. If they take action on it, then it doesn't need to come back. So you could make a conditional deferral. Does that make sense? So you could perhaps move to defer the item. However it does not need to come back to the Planning Commission if between now and next month the Planning Department takes final action on the application.

Ms. Preza: Sorry, so what you're saying if they decide to approve it within the month it wouldn't come back to us.

Ms. Thomson: Approve or disapprove.

Ms. Preza: Either way. Okay, maybe Commissioners would you feel okay with --? I do want to share our thoughts about it because I think this application, it relates to our discussion that we're going to have about what we would like to see for our island specifically. So do you folks have thoughts about this application that you would like to share given that, you know, it doesn't seem like we have the right to say yes or no. But we can share our opinions with the Planning Department, right?

Mr. Delacruz: Anyway, I'll voice an opinion on this. Based on what Richelle said and what Jordan said we, we do have the opportunity to either approve or deny this application. But it would be based entirely on the criteria we create or agree upon tonight. If it goes back to the Planning Department this application meets all of the criteria for approval. My guess is if there was no trigger they would go ahead and approve it because we have not previously in the

last six months stated our, our own Lanai criteria. For one reason or another it's been deferred, deferred, deferred, deferred, deferred about five months. And if we leave it to the County to do it whatever happens it's on us. So I think we should consider this application. But while doing it consider what criteria the Lanai Planning Commission would apply to this application. Whether it be a total limit of 30, 35 homes for rent on Lanai, one or two rental homes on the same block, whether a house should be sandwiched between short-term rental homes, and maybe consider what Shelly discussed a month or two months ago -- last month I think -- about density. But we should come up with our own criteria and not leave it to the County. Thank you.

Ms. Thomson: I just wanted to elaborate a little bit more on it. So we have, we have an application on the agenda. So it's already scheduled, public hearing has been noticed, and in the intervening time -- so in the intervening time a trigger has expired. Basically what we're looking at if you want to take a look at your ordinance, it's Chapter 19.65. If you flip to -- it's 19.65.060, Permit Processing. The one that I passed out. It's titled --. Wait, I'll show you. Yeah, I don't have a page number. In the front of it, the top says, yeah, 19.65, Short-Term Rental Homes. So this is the existing short-term rental home ordinance. So go back to the fourth page. So the section number is 19.65.060 permitting processing. And when we go down to number two, I'm just going to read it so we're on the same, on the same page.

“The Director shall approve or deny the application pursuant to the requirements of this Chapter provided that the applicable Planning Commission shall approve or deny the permit pursuant to the requirements of this Chapter when any of the following occur.”

So those, (a) through (f), those are the triggers that currently bring short-term rental home applications to this body for consideration versus being approved or denied administratively. And so what the Deputy Director is telling you is that in the time between publishing the public hearing notice and tonight, the trigger, that number (E) or letter (E), says two or more existing short-term rental homes are operating within a 500-foot radius of the proposed short-term rental home. So that trigger is no longer applicable. So what the Deputy Director and the Planning Department are suggesting that you do is provide your comments on the application so that the Director can consider them in approving and denying administratively.

However, my job is as your representative, I'm not advising the Planning Department, I'm advising this Commission, when you go down to (B) right below that:

“The Director may transmit applications for public hearing by the appropriate Planning Commission in accordance with complaints received” -- which doesn't apply here -- “or some other substantive reason.”

I have not been in a situation where we've had a trigger change in between like this. But if you feel, as this body, that you want to take action on it, I think that's within your purview, you

know. I can just let you know that it's an odd ball of a situation, but if that's what you all want to do, you know, you can analyze it the way that you would any other application.

Ms. Preza: Thank you. Caron?

Ms. Caron Green: Alright, I have a few thoughts on this. First of all, in regards to whatever we decide today assuming we make some decisions about rules going forward, I think it would be unfair to apply those rules retrospectively. In other words, for people who have made an application under the current rules to then say tonight we change all the rules and, and they affect you, I think, would be extremely unfair.

Having said that there are a couple of things. I don't know if there's anybody in the audience who was going to testify against this property. In other words, were there any, especially people who live in the immediate vicinity of the property. And I believe that goes to one of these criteria here is that if there were any complaints. Because there were no, I assume, no written complaints, right? Nobody, nothing was received. So unless there is any complaints here today or any testifiers, then I, I just don't know on what grounds we would deny this given the change of circumstances.

So I do though have two comments. One is I drove by the place several times here recently and one of the requirements was that the sign was to be put on the main thoroughfare. However, every time I go by it's on the adjacent, the side street, and it's removed quite far from the corner. So there's, I guess, two things here. One, I don't know why it wasn't kind of put on the corner so it could be seen both ways. And I just thought that was a little unfortunate, let me put it that way, that they had not gone with the rules and had not put the sign out front.

I might suggest to the County when you have a corner property like that, perhaps two signs, one on each street, would be appropriate where they have to put it right on the corner instead of giving the option. I mean, it was stated it's supposed to be on the main street, which would be Fraser, but it's not. And I would also say the same thing that that we all say every time if you do approve this, in the meantime, on number nine, your conditions where it says that each permitted dwelling unit on the property shall be rented to one group. And then take out, "with the exceptions being on the Island of Lanai or where the owner resides on the adjacent lot" because we don't want more than one person renting it. I mean, we've been very consistent and I think that this is something that we'll be talking about when we talk about our short-term rental rules.

So having said that, I mean, I don't know on what basis we could deny this permit given on the circumstances and I think you know why defer it, just let the County handle it as it would have been had we not have this hearing.

Ms. Chelsea Trevino: I feel the same in the line of the one party renter because that has been our exception that we've been asking for all of the rentals that we've done so far. And I think

that is something, even though it's irrelevant to this, that's something that we're going to address in the short-term rental issue that we're talking about.

The only other comment I want to make is about the parking. The parking does not need to be like a designated --. You can just say there's open grass and this is the two parking stalls. Because, yeah. That's the way the photo looks and it's not like here's a designated two parking area. It's just on the side of the house where the thing is. So...and then the car that they have there is a Jeep Cherokee parked that way. If you have anything longer, I don't know how much room there is. I've come up on the side of the house before, and the way the grass is it's not a lot of room there. That was my only question.

Mr. Burkett: Okay, staff planner Jared Burkett. So they have to have the designated space on the plans, and then are required to park in the area. It does not have to be paved. It can be grass. And whenever I did the site inspection we checked and it shows that there's enough room to park as shown on the plan. But we just did not have a picture, a current picture that had the parking visible so I found the picture that I had. Because of the logistics of being here, and the pictures I take when I do the site visit, we just didn't happen to grab the right one. But we did check it.

Ms. Preza: So you're saying there is enough space for two parking stalls on the side.

Mr. Burkett: Yes.

Ms. Preza: Could you elaborate in the picture? I think this is something that is a big issue because --. Sorry, I'm just going to make a comment. Even with the previous application that we had discussed on Lanai, or Lanai Avenue, it was explained, oh, there's enough parking and stuff like that, but I've heard people come up to me and say there's a lot of visitors who are staying at the house who, like park on the street. I think that's a big problem especially for like our main streets, Lanai Avenue, Fraser Avenue which this one is on. Because even if there's enough room on the property to park, sometimes people just don't. You know people who are staying there, they also use the street parking. Yeah, sorry, could you elaborate on the picture?

Mr. Burkett: So I can start answering your other question while I find a picture. So the -- a condition of approval is that the tenants stay in the designated parking stalls. So if they do not, then that is a violation of the conditions of approval, and they are required to post those in the house. So, they are very aware of where they're required to park, and how, like if they're pointed in or parallel or whatever.

So...so I believe you're referring to the first photo in exhibit four?

Ms. Trevino: The very first one, the first one is says parking area to the right of the house, exhibit four, yeah? So it shows the vehicle parking facing the house. Then on the next page, it's not in regards to parking, but it has number one, east view from house and so you see

that truck, it's parked sideways. And so that's why I'm questioning the parking in this situation because in most cases people come up on the sideway that way parking there. So as she mentioned earlier parking has been -- like we're making photos that create this idea of a parking area that is sufficient for the needs of the permit. But what's the reality of the parking in that area, so this east view from house, one, that's the same spot where you see that red Jeep Cherokee.

Mr. Burkett: Correct.

Ms. Trevino: So I'm just -- and so as I'm saying I'm feeling like even with the last one the parking situation was a little funky with the way that these pictures are being created and the ways are being parked to the actual reality of they're using and how people are parking there. And like she mentioned that's the concern is are these permitted houses actually using the parking properly, the way they're supposed to when they get the permit. So that's what I'm asking to be looked at.

Mr. Burkett: Okay, so I do know the day that we were did the first site visit on the property there was a truck parked in that manner, but there was a giant dumpster there because they were remodeling. So that was one reason. But there is actually a very large area for them, in the front and on the sides so they're required to park in the designated spaces. I mean, in . . . (inaudible) . . . based on if they do not then the -- people have to report it. Other than that, tenants, you know, it's civil law based on if they park properly. Just for the short-term rental, they have to meet this requirement.

Mr. Roxanne Catiel: Jared?

Mr. Burkett: Yes?

Ms. Catiel: I noticed that on the east side of the houses there is a water meter thing over there. No, it's not on the picture.

Mr. Burkett: Okay.

Ms. Catiel: If you do a drive-by, its where they're going to park the car. So won't it interfere with the Lanai Water meter thingy that they already installed on the property? It's now being installed. I mean cars are heavy, they're going to go back and forth on it so --

Mr. Burkett: We don't have any requirement for that so they're allowed to have a parking in that space.

Ms. Catiel: So is it okay with --? Do you folks need like Pulama Lanai or the Lanai Water Company review on that or some kind of written?

Mr. Burkett: I'm not sure how to answer that. I think --

Ms. Preza: Yeah, Joy is here so would you like to?

Mr. Hart: Can I? Sorry, Jordan Hart, Deputy Director. Is the position that there's water infrastructure in the parking stall itself?

Ms. Catiel: I know there's a water meter. Where are they going to park?

Ms. Preza: Perhaps Joy could speak to this. She's the Director of the Lanai Water Company if you wouldn't mind. Thank you.

Ms. Joy Gannon: Do you mind?

Mr. Hart: No, I don't mind at all.

Ms. Gannon: Thank you. My name is Joy Gannon. I am the Director of Utilities. So Lanai Water Company currently moving forward today, and moving forward, we use the Maui County water standards. So the Maui County water standards as you know does not allow of a water meter to be in the driveway. Because, yes, they're pretty solid, but it's never a good thing for you to be driving over and over. And so if you have a water meter, you obviously have a water line. So in that situation we would basically request for the homeowner to pay for relocating that water meter.

Ms. Preza: So Jared is saying there's room around the water meter for parking. Chelsea do you have a --?

Ms. Trevino: . . . (Inaudible) . . .

Ms. Preza: Commissioners, any other questions or thoughts? Would the Commission like to take action on this? Our Corporate Counsel is saying that we could.

Mr. Thomson: If the water meter is a concern you could recommend that the Planning Department ensure that there is adequate onsite parking even with the location of the water meter.

Ms. Preza: So about this agenda item in general, would the Commission like to take an action on it, or would you just like them to hear our thoughts about short-term rental homes? Because our Corporation Counsel is also saying we can, you know, defer -- that might, it might now come back to us -- deny or approve.

Ms. Green: It seems it's going to be approved by the County if we don't take any action. So my question would be does anybody have an objection to approving this item? However, I do think it's a very valid what's been said and I hope you've made note about where is this a

water meter as also a condition for approval, yeah. And I do have a question too. Is the owner a resident of Lanai or not a resident of Lanai?

Mr. Patrick Caruso: I am not a resident.

Ms. Green: Oka. So County, back to Butch's point where it says encourage resident ownership of the visitor related business and facilities, you might want to not just always put that in if it's not applicable.

Ms. Preza: So --

Mr. Hart: Deputy Director Jordan Hart. I just want to address that. So, so the Department adds things that are in the context of issues being discussed, and we're trying to do more of adding both for and against because it's not required that all permits comply with all language of all long range plans. So, you know, the Commission can have that information for decision making as well. Because in the past sometimes the analysis of long range plan has only been selecting items that are in favor the decision as opposed to not talking about both sides. So, recognize that short-term rental home permits don't require a resident, but you can expect to see analysis of items that don't directly support the proposed action in future staff reports. Thanks.

Ms. Preza: So, yes, would anyone like to --? I personally, I do --. It sounds like if since there's no trigger now, it seems like the County wants to approve, you know, if it didn't come before us. I don't think --. I would have recommended deferral of the, the item while we discussed. And I do think that we've all said this many times we need to have our criteria solidified soon so that it doesn't have to keep coming to this where we're, like, not sure about what we're, you know, we can't identify specific things in the, in the legal writing, you know, about what we think our community should look like in terms of short-term rental home regulations.

I understand what you're saying, Caron, about how, you know, they put in their application with these, following, you know, policies in mind. But, you know, when Butch has been talking about this for months also with recommending putting a moratorium on applications that are coming in before we make a decision. And I feel like that's, that's fair too, and we haven't done that. But, I mean, just looking at the past two months, the two that have come before us, we've, we've denied for different reasons, but also because we, we, you know, didn't want approval for the reasons that we discussed. So I wouldn't be in favor personally, but how do the rest of the Commission feel? Do you have thoughts?

Ms. Green: I guess I have a question for Counsel, and that is if we defer and then we have our discussion on short-term rentals, that will not become law or the rules under which we work, until it goes to Council, is that not correct? So it will not be immediate. So I just think that, you know, I think we ought to get our act together and get the rules going so that they will be there and going forward those would be the rules that we follow. But we are under a set of rules now, and I feel it would be very unfair to do anything different as I've said. And

so I think deferring is pointless because we defer, they're going to approve. They are not going to --. Our rules will not be in effect. Our rules will not be in effect until the Council rules on them, and that can take months.

Ms. Preza: Would the Planning Department given like our, you know, what we talked about and how we would like to have certain rules solidified before anyone approve, you know, we continue approving permits. Would you take that into account or are you recommending approval even if we're expressing concern about approving it?

Mr. Hart: We're taking it into consideration. That's why we wanted to make sure to open the public hearing and have the discussion. I do think it's important if you want the Department to take your concerns seriously that you flesh them out and make it relevant to the criteria at hand. I think that if you just, you know, the position is that we're just not really happy with short-term rental homes right now, you know, the Department has to be responsible as far as how we make our decision. And that, and that actually speaks to why the Department is trying to do a better job of providing subject matter for and against applications so that the Commission can use that information for their decision making in this scenario where they're going against us. But...we'll take into consideration, I think that there should be some recognition of the laws that are in hand and the effort by the applicant. I think that is relevant especially, you know, if they've done a good faith attempt of trying to go through the process, you know, they had a public hearing, all these kinds of things. You know, there's also a description in the rules of a situation where the Planning Director can call for a public hearing for additional concerns. I don't think there are additional concerns with this project, but we have had a public hearing to, to make sure to hear. We didn't receive any written notice from immediate neighbors or any complaints prior to this meeting. We did hear two testifiers make negative comments so, I think that as far as a really compelling reason to deny it, I'm not seeing that, you know, here tonight.

Ms. Preza: Would the Planning Department consider deferring a decision for a few months or at least hearing what we discuss in Item C.2. I believe?

Ms. Thomson: So both the Commission and the Planning Department are bound by the rules as they exist right now. So when we get into the other items as far as modifying or changing the rules, those would require Council action and so they wouldn't be law until Council make their final, takes final action on it.

Ms. Preza: Okay. Well, Commissioners, any thoughts? Sorry, thank you for all for bearing with us. I know that this is a very, you know, controversial, we have a lot of thoughts on it, but I do understand what you're saying about --. Sorry, we, we closed public testimony, but is it --? Would Commissioners like to hear what Alberta has to say? Okay, I'll reopen public testimony at this time for Alberta.

Ms. Alberta de Jetley: My name is Alberta de Jetley, I'm testifying on my own behalf. I think it's grossly unfair that this applicant has been put through the mill, has followed all of our

steps, and now is no longer sitting in -- he's going to be sitting in limbo until this thing comes through.

I'm a business person on Lanai. I run a transportation company. We have dozens of people. Not only from tourists, but from local families who are desperately looking for short-term rental so that they can come of Lanai to visit their families. We don't have any available short-term rentals really because a lot of the people with short-term rentals now are renting long-term because of the amount of construction workers we have. So if you look at properties like Alicia Brandt on Lanai Avenue, and if you look at 405 Lanai Avenue, those houses are always filled with island people, local people, Hawaii people who are visiting our island. And every single family that comes to visit us to Lanai, they're spending money at the stores, they're spending money at the activities, they're enjoying our beautiful island. So why are just shoving them all away and saying, no, no, you can't come and visit Lanai. I really want to have my families and my friends have a safe, clean place to stay when they visit Lanai. So I, I really like what Caron Green had said, that we should move forward. We should get this application approved, and we should welcome people like that. I don't care that he is not a Lanai resident. He's still providing a service to our community that will bring dollars into our local businesses. So please consider that before just shutting the door and saying, no more. Thank you.

Ms. Preza: Anyone else would like to --? Oh, any questions for Alberta? Would anyone else like to provide public testimony? Myles and then Butch.

Mr. Myles Surawatari: Thank you Commissioners. Myles Surawatari. My only comment is I feel that you're taking action on this can't be done. The trigger has been removed, and there are conditions for you to be able to review an application. If the trigger is no longer there, you cannot review it. It's like having, well let's say Shelly there was a warrant for your arrest, okay, cops. All of sudden you die. The trigger for the arrest is gone. So what is the point of the warrant? So all I'm saying is I don't think you guys have any authority to review it anyway. Thank you.

Ms. Preza: Thank you. Butch?

Mr. Gima: My name is Butch Gima. Again, please remember why and when the Lanai Planning Commission was formed. It was to insure that we have home rule as opposed to having Maui based individuals making decisions for our community. As I've testified before you have a responsibility for the entire community, not just making a decision based on one applicant whether it's the current applicant, or Pulama, or whatever. I think it's important that you guys look at the big picture. And as we move into agenda item C.2., please keep in mind that the decision you make will have an impact on C.2. and avoiding what Kailua and the rest of Oahu are dealing with right now. That being said, I would suggest that you take action tonight. Now that may be counter-manned by the Planning Department's Director, but at least you are giving her a message about what is important to you and for our community. You also have the option, maybe you can ask Corporation Counsel, if the Planning Director has

the option of sending it back to the Planning Commission even though the trigger is no longer there. I believe she does have that option to do that. But even if she doesn't, I would strongly recommend that you guys take some type of action so that you have on record what's important to you and our community. And as I said earlier in my testimony, I'm opposed to the application and I recommend that you guys disapprove based on your prior decisions on the applications that have come before you, and most importantly what's important for our community. Again, please make your decision based on what's best for our residents, not for our non-residents. Our residents. Thank you.

Ms. Preza: Thank you. I actually have a question. If you recommend that we take action and deny, what --? So given the application in front of us -- I understand, you know, all of our discussions we've had but it's all very, you know, we haven't vetted it to a rule yet. So based on the rules that are set forth what would you say would be the grounds that we would deny upon? For the last one it was because -- sorry. What was that? Density, but there was like a reference that we made to a specific. Pardon me? It would be the third. Yes. So, that was --. But we referenced specific items in the ordinance that why we would deny. So what would you say for this application?

Mr. Gima: Right off the top of my head I couldn't specify a specific chapter on why to deny it. It's basically based on the testimony I've provided regarding fire access, traffic, density, quality of life, character of the community, and again...making a decision based on what's best for the residents of our community. And like I said earlier, don't get me wrong, I would love the owners of the house to be a part of our community. I want them to live here and be a part of this community. If they're here just to make money then, well, I don't think that's beneficial for our community. But I understand your question Shelly and that you have to make decisions based on what's in the chapter.

Ms. Preza: Thank you.

Mr. Gima: But whatever, whatever decision you guys make, please take some kind of action so you're giving the Director a message about what you feel is important to our residents in our community.

Ms. Preza: Thank you Butch. Any other questions for Butch? Any other public testifiers? Winnie, real quick, please. This is the second time we've had public testimony so I'd like to close it soon.

Ms. Winifred Basques: Good afternoon. Talk about short-term rentals, okay. The thing is that how would you like somebody live next to you move in? Hanaeno. Take over. Would you like that idea? I wouldn't. Because why? I'll tell you why. You are paying for your mortgage, you paying for your live, you paying for your land. You can do whatever you want on your land as long as it is in your . . . (inaudible) . . . But the thing is that why are these people coming? Think about it for one moment. I cannot sleep night time. Okay what happened? Now Mister, you know, la-di-da, the big man, the big honcho, okay. Is he manipulating these

people to come over here, buy house so he can give money underneath the table? Think about that. Where are these people coming from? He wants 6,000 people on this island. Where are you folks are going to put them?

Ms. Preza: Sorry, I think we're getting a little on tangent, off on tangent. So for this agenda item, would you recommend disapproval? Approval?

Ms. Basques: One more thing is that --. Veto.

Ms. Preza: Okay.

Ms. Basques: V, E, T, O. Veto. Thank you.

Ms. Preza: Thank you.

Ms. Basques: You're welcome.

Ms. Preza: Have a good evening. Great, so I would like to close public testimony at this time. Commissioners, I think we do have a lot to think about. I will point out that -- sorry, I don't mean . . . (inaudible) . . . but the, (N), for an --. I'm sorry, what was the number? Item --. Sorry. The third page of the ordinance, this is what we keep going back to. It's the -- let's see --. I think especially the section about, you know, community input, potential adverse impacts, you know, existing or past. I'm sorry, not that. Number and substantive protest to the short-term rental home application and protest related to cumulative short-term rental homes in the neighborhood or area. Lanai is really small. You know, I feel like where you talk about the character of the neighborhood, we're talking about the whole town, you know, because it does affect, you know, the quality of life here I think. So Commissioners, do you have thoughts about whether we should take action? We've had three people recommend that we disapprove, one say approve, and one say that we should just let the Planning Department decide because there's no trigger anymore. John?

Mr. Delacruz: I would recommend that unless there is compelling reasoning to deny this application that we approve it. All the testimonies has been on general comments: preserving our way of life, our religion, our community. Let me remind you that our community has changed. A lot of people would not have moved back if the pineapple plantation was not going to close. We are a visitor economy now. A lot of people would not have moved back to Lanai if they could not work in the hotels. Nobody was going to come back to Lanai to work in the pineapple fields, so Lanai has changed. So unless there's a whole lot of denial stuff, I move that the Lanai Planning Commission approve this application for short-term rental home. If anyone wants to put conditions, go ahead.

Ms. Green: I'm going to second John's motion with two conditions. The one that I mentioned about the only one family. What was it number nine. And also the second being Roxanne's

observation about the water meter that that be checked out and corrected if necessary. So those would be my two conditions.

Ms. Preza: So we have a motion and a second. So we can discuss now, right. So Commissioners, do you have thoughts? This permit is until 2022 so a three year permit, correct? Does anyone have thoughts? I personally don't feel comfortable approving, but I would rather just not make any recommendation. But what do other Commissioners think? Or would you prefer just to vote?

Ms. Shirley Samonte: I personally feel that, like, with John and Caron that I personally feel that we should approve unless there's compelling information that, you know, we shouldn't. Or, I would feel comfortable leaving it up to, like, the Planning Department because now there's really no trigger to bring it in front of us.

Ms. Preza: Mili, thoughts, or Chelsea?

Ms. Mililani Martin: I've taken into consideration of what our residents here say. Our residents. I'll say that again. With Butch coming here and Myles, also what Alberta said, and I understand that, yeah, our island is changing. It's never going to be pineapple. We know that. Change is inevitable. It's going to happen. I do feel really reasonable for not having things in place for us that needs to be taken care of. I think we really do need to take care of this. I am, I am personally embarrassed because we haven't done anything about it. But honestly, I don't, I don't put the blame all on us. I think other boards before us that came before us that didn't get things started. And I think we're here in this jam today because of what has been happening.

I would like to see things changed in some of the rulings. Some of it being I would love for them to be residents here. I think it's really important for them to integrate themselves into this community. Lanai is really -- and I'm sure you guys get tired of hearing this -- but it's a really special place. It's different. It has --. It's diverse, it's people, it's different. You get people coming on and off the island a lot. It would be wonderful to have our own people come here and be able to do a short-term rental. I cannot afford anything over \$150 a night. I can't. I'm speaking for myself as a resident and a local person. So people that come on island are going to have to pay over anything over \$350 a night. And that's what I've seen in some of the rentals, these short-term rentals that people have rented out. And I've heard people come here and say, well we want to give back to the community. We want to open our house and be able for non-profits to come in and help that way. I think we're stuck in a rock and a hard place. We need to make a decision on this. I think with the Planning Commissioner being here, listening to what we have to say that they could take it back to the board and ask them, you know, maybe we should give it back to them. We have that opportunity. What's your name again? I'm sorry.

Mr. Hart: Jordan Hart.

Ms. Martin: Jordan said we have that opportunity that he's here to listen. And Jared said that they're here to listen to us. That maybe they could take it back, not only hearing from what the other people say here in the community but all the other goodness too that people can bring here to the community. I believe Lanai is changing. I'm okay with the changes, but I think that they need to be changes that are not only good for the people that are coming in, but people that are here and that have invested here, yeah. I mean we could be residents that have family here for 100 years, and then we've been here maybe only 30 years, or 10 years, or five years and we call this our home. So it's just a matter of, you know, what are we going to do? What are we going to do as agents for our people, for our residents that live here today? Okay, thank you.

Ms. Preza: Thank you. Chelsea, would you like --?

Ms. Trevino: So right now we're commenting on this move to approve, right? So I want to say no because the issues I have right now are even if this didn't come to us, and these might be County issues, the last one we had there was question as to some little garage being built and them saying it was approved by an architect and so it's okay and it can be there. That makes me not feel comfortable with any permit that goes directly to that department because everybody else is stating that garage is too close to that house, it's not even legal, whatever. So I don't feel comfortable with the way the County is taking on these short-term rentals, and actually looking at legalities of things, and just, you know. That's why I bring up the parking because it's like, it's very nonchalant. It's very, if you look at the map for this thing, it shows the driveway is actually coming out the front, the front of the house onto Lanai Avenue. It's not showing that they're coming off of, what is that, Twelfth Street I think, you know. And that's naturally actually how people come to that parking area. So what that map is telling me is that the driveway comes over the sidewalk, right? Because there's a sidewalk. Oh, no, there's no sidewalk on that side. I'm so sorry. But anyways, it comes out that way. So what I'm leery about is the way the leniency or the way that these permits can be almost like manipulated to make it look like you don't --. These people don't even live on Lanai, and so we see how things happen here as far as how actual uses are. And okay, so they have the space. So, so that is one of them.

And my other concern is it has nothing to do with, oh, are they a resident or not. It's do they actual care for the community and care for the people. Because when, as Butch mentioned earlier when we were looking at the economic development and the goals, yeah, for the sustainability and the policies, and the support of growth for kamaaina tourism so forth, it goes into sports tourism, hunting tourism, and other alternatives. Our local sports people, our families, how Alberta is talking about, oh you know, families don't have places to stay. These families aren't getting these short-term rentals. These short-term rentals are being rent to tourists. They're not being rented to us. They're not being rented to the sports people because they're not affordable for us. So, yes, I understand that is an issue, but that's where when we're looking at how we talked about are we empowering the community. That's what we have to look at. It's not, oh, you're not from Lanai. It's do you value the Lanai community

and are you supporting the community like we said, not just your endeavors. That house right now, I believe, is a long-term rental. It's construction workers in there. So again, my thing that I voiced earlier was all these people applying for short-term rentals, they rent long-term and then everybody's grumbling that there's no short-term rentals. So those are the things that I cannot, that the system doesn't allow for those kinds of things to be addressed. So that's all I have to say.

Ms. Preza: Thank you. Sorry, I'm just going to steer us back to Item D.1. because I feel like everyone is sharing valid points, and I think we should get through our agenda item so that we can get to talking about what we want to change about it. Because I think, you know, it is one application, but, you know, we're talking about quality, you know, general. I mean, yes. So back to, there was a motion to approve, second. I think we should vote, since there's a motion.

Mr. Hart: Chair, could I say something?

Ms. Preza: Sure.

Mr. Hart: You know, I don't know if it's appropriate for you to consult with your Counsel, maybe executive session, but I just feel that, you know, making a decision either way, you know, potentially is creating a situation later on. Whether it's somebody doesn't like your decision, whichever way you go. I would prefer you make a recommendation to the Department. The Department will take your recommendations very seriously especially in the context of the conversation that's coming next. But, anyway, the question of whether or not these people should be here for the decision from you is kind of relevant, in my opinion.

Ms. Preza: Do you have thoughts?

Ms. Thomson: And so what the Department is asking you to do is potentially withdraw the motion and perhaps move forward all of the comments that you have made, and ask them to consider them in their decision making.

Mr. Hart: If I can clarify. Let me back up too. I respect what Mr. Gima is trying to do. I respect home rule. I just think that the way this situation unfolded is not as clean as it could have been. And so what I'm suggesting is you make a direct vote for a recommendation for a decision to the Director, but not actually make the decision on the application.

Ms. Preza: I would agree with that. I think we can still share our opinions without having to create --

Mr. Delacruz: I would like to comment on that. Let's go back to last month when we, we voted on the house on Fraser Avenue. A motion was made to deny. It was seconded. And there was discussion on whether or not it should be denied. And I asked for the motion to be

withdrawn, but legal Counsel said that the motion could not be withdrawn. What's the difference in this situation?

Ms. Preza: Well, in this situation is that now that the trigger has been removed, it shouldn't have even come before us so it's not --.

Mr. Delacruz: The trigger has nothing to do with it. I'm talking about the motion on the floor. Why can you move --? Why can you pull back this motion, and not have been able to pull back the motion for denial last month? I would like Counsel to explain it please.

Ms. Thomson: I understand what you're saying. So there is a motion on the floor. It's the property of the body. So if it's the body's decision to go ahead with the motion to approve as a Planning Commission action. What I just want to make clear or clarify is if you're adopting all of the staff report's recommended condition because I wasn't sure if that was clearly stated.

Mr. Delacruz: So what you're saying, legal, is that we cannot pull back the motion. We have to move on.

Ms. Thomson: So the way that they do it at Council is occasionally they'll get themselves into -- they'll get ahead of themselves, you know, with motions. So usually the maker and the second will agree to withdraw. However, Robert's Rules of Order says that once there's a motion and a second it's the property of the body as a whole. So you could vote on it either by consensus or, you know, hands raising or voice.

Mr. Delacruz: Now can you explain the consequences if the motion does not pass what happens?

Ms. Thomson: Then there's just no action on that motion. You could make a different motion.

Mr. Delacruz: Thank you. I just wanted the members to understand that we can take action on it and we can approve it and the application will be approved. If we deny the motion, from there we can do two things. We can do nothing and let the County take care of it. Or we take another motion to deny. It's, it's up to this body. Or is there another option?

Ms. Preza: I think in this situation we could withdraw the motion because the situation is different, right? No. Okay, so we do have to go forward with it. Okay.

Mr. Delacruz: Does everyone understand what can be done tonight? We can approve it, the application is approved. We can deny the motion and from there there's two option. Someone can make a motion to deny the application or just give it back to the County. So consider that when you consider on how you want to vote on this particular motion.

Ms. Preza: Understood. So we're just asking. Okay, we'll vote on the motion. We can later

move, if it does not pass, then we'll later move to, to just for them to take our recommendations. Jordan has a comment.

Mr. Delacruz: But we almost know for sure they're going to approve it if it goes back to Council.

Mr. Hart: Point of clarification. So it would go back to the Department. But point of clarification I would like you to make a specific recommendation. What I'm just trying to say is if you take action, you know, whether or not you should be the body that's taking action right now or not, you know, is, is subject to question. So if you just basically provide your direct recommendation to the Department, the Department will take that into heavy consideration. You know, that would be a scenario.

Ms. Preza: So I think that we should not pass –

Mr. Hart: Including the recommendations or conditions.

Ms. Preza: I think we should not pass. So what you're saying we could not pass the motion and we could still provide our recommendations.

Mr. Hart: You have a vote, you have a vote to be the decision making body right now. And so, you know, what I was suggesting is whether or not that's the appropriate move. But what I'm saying if you make a vote for a recommendation to the Department, the Department will take that seriously.

Ms. Preza: Okay, thank you.

Mr. Delacruz: But if we pass this motion with the conditions, the conditions apply, correct?

Mr. Hart: I think you need to consult your Counsel. I apologize.

Ms. Thomson: So the reason why this is so confusing is that the trigger basically evaporate in between the time that the public hearing notice was published and now. I think we're, I think we're in a gray area. You know, it's obviously on today's agenda. It's before you right now. As your legal counsel I think that you can take action on it.

Mr. Delacruz: I would prefer to pass this motion with the conditions. That way the conditions have more substance when it goes back to the County. If we do nothing and only recommend the conditions, the conditions will not have as much as substance if we didn't, if we don't approve it here tonight. So unless there's compelling reason to deny, I would prefer to see this motion approved with the two conditions.

Ms. Preza: Okay. I guess everyone, it seems like we want to vote. It seems like the Commissioners want to vote on this. Okay, so all in favor? Yes, Jared? Sorry.

Mr. Burkett: Before you make a motion or vote on that, I also would like you to be sure you include the normal 22 recommended conditions plus the two additions, as well as adopting the staff report as the decision and order so that a new decision and order does not have to be written.

Ms. Preza: Okay, so that's part of John's motion now?

Mr. Delacruz: Do we have to say all that Jared?

Mr. Burkett: Well, Jordan raises a good point that it might still need a decision and order because it has changed so never mind.

Mr. Delacruz: But do we have to say all that? Include the 22 points and whatever Jared said?

Mr. Hart: The 22 standard conditions as well as the amendment to one, plus the addition that was referenced earlier.

Ms. Preza: Okay.

Mr. Delacruz: Can I say ditto and not repeat all that?

Ms. Preza: Okay.

Mr. Delacruz: Thank you.

Ms. Preza: So I also want to make clear that if any of the Commissioners were to vote no on this, it's just --. It's not saying that you're voting no on the application, you're just saying no to his motion, correct?

Mr. Hart: Chair, if I could add one more thing. In a scenario where the Department decides to -- if there was a scenario where the Department is the decision making body and we're going to approve this thing, these two conditions will be included.

Ms. Preza: Thank you. So, everyone feel okay to vote? We can move on? Okay, so all in favor of the motion, oh, please raise hands? One, two, three, four. All opposed? Three. So the motion does not --. Yeah, the motion dies. So that's all that's happened, correct? There's no --. I'm so sorry. So with that, I mean, have you guys gotten enough information from us just to understand where we all stand on the, the application itself?

It was moved by Mr. John Delacruz, seconded by Ms. Caron Green, then motion to approve the Department's report and recommendation on the short-term rental home permit request with the 22 standard conditions plus the two additional conditions – dies (no action).

(Assenting: J. Delacruz, C. Green, C. Trevino, S. Samonte)
(Dissenting: R. Catiel, S. Preza, M. Martin)
(Excused: S. Menze, G. Rabaino)

Although the trigger for the application to come before the Commission was no longer applicable since one of the two permitted short-term rental permits within the 500 foot of this subject property was sold, the public hearing for this project was still held in order to hear the Commission and the public's comments and testimonies. The Commission took action on the item, but since the vote was four ayes and three nays, the motion died (no action). The Department, though, will take the Commissions' comments that ensued during their discussion and the testimonies provided by the public into consideration when the determination is administratively made on the application by the Department.

Mr. Hart: Yes, I think so. I mean if you could pass a specific recommendation that would be nice, but I also recognize that there are other items that are broader that might warrant more discussion time so that's, you know, for your consideration.

Mr. Delacruz: Can we just give this back to the County, and take a break, and move on to the next items on the agenda which we should have done months ago?

Ms. Preza: So I think that what we're saying, you know, for those who recommended approval I understand why. For those of us who denied part, for me at least, it's just because this, you know, I'm not totally comfortable with this. I don't think we should have been making a motion. I think we just wanted to hear our thoughts about it. But I do think all of our thoughts come from a broader place of wanting to see, wanting to discuss the other agenda item. So that's why --. Yeah.

Mr. Hart: I believe the Department has a pretty clear understanding of the Commission's demeanor on the subject.

Ms. Preza: Thank you. I'm so sorry this had to get so confusing, but I appreciate everyone's patience. If we could take a five minute break. Sorry.

Mr. Hart: I don't think it's critical if it's going to consume a lot of time. The vote did happen.

Ms. Preza: Thank you. So if we could take a five minute break promptly so we can continue on with our agenda items. Thank you.

(The Lanai Planning Commission recessed at 6:28 p.m. and reconvened at 7:00 p.m. Ms. Caron Green is excused from the meeting at 6:37 p.m.)

C. UNFINISHED BUSINESS

1. **Discussion of allowing no building setback in the Residential District in Lanai City for carports, garages and storage buildings. (J. Hart) (Previously scheduled for the November 28, 2018, December 12, 2018 and April 17, 2019 meetings and deferred.)**

The Commission may determine whether the front, side and rear yards should be zero feet for carports, garages and storage buildings on properties in Lanai City that are zoned Residential. The Commission may then direct the Planning Department and the Department of Corporation Counsel to draft such a bill for public hearing at a future Planning Commission meeting.

Ms. Preza: So it's now 6:37 p.m. we're going to begin again. So, oh, where's my --? So we're moving onto unfinished business, C.1., discussion of allowing no building setback in the residential district in Lanai City. It seems like Jared is not here, but Jordan, if you could answer. I'm so sorry. Oh, Jared, sorry I didn't see you there. Pardon me. This, this came before us, like, many months ago, and it got deferred a lot. Could you just remind us what the current setback is?

Mr. Hart: So for the residential district the existing setbacks are 15 feet for the front yard, side yard is six feet, and the rear yard is six feet.

Ms. Preza: Thank you. Questions?

Mr. Hart: If I could, I do want to make some clarifying statements. There was some discussion earlier tonight about having setbacks, you know, 30 years ago. In 1989 there were setback requirements. The County does enforcement, it's complaint driven. Basically we're just not equipped or have the staff to proactively look at everyone's homes and cite them for everything. And I don't think the community would be happy with if that was the way it was done anyway. But basically the way these happens is complaint driven. So there are quite a few homes that are existing non-conforming in Lanai City where they were built before there were setback requirements. But there were also a lot of things that were done consistent with existing non-conforming homes that are just violations. And so the question at hand is basically does the Planning Commission want to encourage the Department to draft legislation to normalize all of the people who came after and match the original character of the neighborhood or take the position that the way was done originally is okay because it's existing non-conforming but that shouldn't be continued. There was also discussion about whether or not there's a point in time established as of today or as of whatever date and then beyond that it shouldn't be done. But in summary, you know, you live here, you see people building on the setbacks and do you want to make it legal.

Ms. Preza: Thank you. So this is just --. We're just going to give you our opinions and then perhaps future legislation will be drafted if that is something we would recommend?

Mr. Hart: If you say that you want the Department to draft something and present it back to you that's what we'll do.

Ms. Preza: Okay, thank you. Commissioners do you have thoughts on this issue?

Mr. Delacruz: I have thoughts on the issue. I like to setbacks as they are now; 15 feet in the front, six feet on the side, six feet in the back. And as far as normalizing, I would say no. If you're not grandfathered now you should not be grandfathered for violating the code after the code existed. We have too many buildings that are not in compliance now that should be enforced. But like you said it's complaint driven. There are buildings that are almost next to the road on some streets that should be taken down. But again, it's complaint driven. But I like the setbacks as they are now. I just want to clarify something though. Six feet on the side is for an enclosed building. If you, if you make a carport, and you don't put in a door, then the wall maybe three feet from the property line.

Mr. Hart: Under the existing ordinance there can be basically a greenhouse may be constructed along the rear or side lot lines provided that the entire roof is constructed of laths or screen to permit passage of air and light. The clear distance from the front lot line is not less than 30 feet, and no portion of the greenhouse shall overhang into the next property. If greenhouses are not constructed on lot lines, then there must be -- then it must conform to the side and rear yard space of six feet. So, in the context of carports anything that...anything that may have been legally built, whether it didn't require a permit at the time is, is called existing non-conforming. But, but I'm not aware that carports without doors are permitted to be built in the side yard setback or the front yard setback at this time.

Mr. Delacruz: Thank you. But the six feet in the back that, that include storage sheds.

Mr. Hart: It does not, and that's basically what Mr. McOmber was talking about. He has a container which the County does consider to be a structure in the setback. And from his comment, I wasn't around when the notice of warning and then the notice of violation was issued for his situation. But my understanding from conversations, from his statements, is it's for storage purposes. But regardless of any specific person, no, just, the one exception is what I read to you which pertains to greenhouses which are generally allowed for the passage of air and light.

Mr. Delacruz: But for a storage shed, a person could put up a hollow tile storage shed in the back lot and it not have to be six feet from the, from the back lot?

Mr. Hart: They would, if they --. You can build things without building permits. Regardless of whether or not they got a building permit, the Planning Department would require the side yard setback to be -- all setbacks to be clear.

Mr. Delacruz: So the best thing to do is apply for a permit and see what the Planning Department says?

Mr. Hart: Well, there are exemptions so, so I wouldn't --. I mean, you can look at the exemptions and make a call. It's under the building code. The point being the Planning Department enforces the side, front and rear yard setbacks regardless of whether or not --. Like regardless of any situation. And if there is a permit then certain scenarios the Planning Department is a reviewing agencies and we do look for setbacks in . . . (inaudible) . . .

Ms. Preza: Commissioners, any other questions, discussions, or thoughts?

Mr. Delacruz: I think what the recommendation was or the thought of the recommended discussion was does the Lanai Planning Commission or any other planning commission want to make the setbacks zero? If we don't recommend to make it shorter, they won't make it shorter. But if we don't make a recommendation to keep the setbacks the way they are, it would be like saying nothing. So we should say something.

Ms. Preza: I think for --. So if I could --. So I understand what Ron was saying, what Alberta is saying about how we have small lots and we don't want someone's garage, like, right next to your property. I think --. But I think, but I feel like for storage building, like a small shed or something, you know, there are small properties on Lanai, and so I feel like --. I don't know this is just my thinking, but like six feet back or from the side for certain lots is like, some people don't even have yards. You know, so if they want to put a small storage shed, does that mean it has to be, it would have to be six feet away?

Mr. Hart: Chair, if I could address two things. The first thing is this is only coming to Lanai. This is not going to any other planning commissions. And the second item is that the Planning Department's position is that you can't have anything in the side yard setbacks except for greenhouses which are permitted by code under existing conditions. So if you did even build a shed that would be considered a violation. They're complaint driven, but that would be a violation.

Ms. Preza: Comments? Thoughts? I understand. Go ahead Mili.

Ms. Martin: I was just wondering about carports. Like some carports I noticed that they build it, they'll have a roof, but it kind of abuts right to the fence, you know, somebody's side fence or something like that. Is that allowable to have something like that?

Mr. Hart: So part of the reason that this is being asked of the Commission is because some of those are permitted. And so the Department really needs to do a lot research to make a conclusion that something is totally not permitted, it needs to get warning or violation. Let's say somebody made a complaint. First thing the Planning Department does is verify whether or not it's actually a violation or not a violation. And then, and then if it is a violation, we have to take action on it. So, so that...it is quite complicated because customarily that was done

earlier and so people copied whether or not they were in time or, or you know, against the rules. So some are, and some are probably not.

Ms. Green: So let me understand. Are we really maybe going to grandfather people in who have already done things and then say going forward these rules will be enforced? Or --

Mr. Hart: So, so what you might be doing tonight is, is giving the Planning Department instruction to draft some rules to present to you to see if you wanted to amend them or recommend them as they are to the Maui County Council for their decision. So whatever happens tonight is basically just a recommendation on whether or not you want the Planning Department to spend more time on this and present to you some options on how this could be addressed.

Mr. Delacruz: My recommendation on this at this time is I would ask the Planning Department to make some recommendations and send it to the Lanai Planning Department. Also, I prefer the setbacks to remain as they are. But what I would like to do now is get this out of the way so we can move to our criteria for short-term rental homes.

Ms. Preza: Commissioners, do you have --? Would you like the Planning Department to come back to us with options? Not options, but legislations recommendations? And then we can further discuss before --

Mr. Hart: So Chair, thank you. Without trying to consume your time, the Department is trying to see if there is a real desire for the Planning Commission. If the Planning Commission or the community has an actual desire for the Department to take this on. The Department is not saying that we want to change this. Basically there's an issue at hand, do you think that this should be fixed or changed? And if you do not really feel that way, then this just goes away for the time being.

Ms. Preza: And you said it was complaint driven.

Mr. Hart: Action is complaint driven. So, so you know, you heard from one person who had a complaint, and then the Planning Department did verify the situation and did issue a notice of warning, which was not responded to and then there was a notice of violation which automatically follows a notice of warning. So if you feel that this is a broad situation that needs to be cleaned up, then the Planning Department will spend time and draft some proposed legislation to have you make a decision on or provide recommendations on it. But if you don't really feel this is critically then I would prefer that we do not just suggest that we spend a bunch of time drawing something up so that you can actually decide whether or not you think it is necessary to consider at a later date.

Ms. Preza: Understood. What do you think?

Mr. Delacruz: I think for Lanai, complaint driven is not enough because I don't know how other

people feel but Lanai people don't complain. We just sit there and stew, and say why doesn't anybody do something about that? So I think it should be violations should be pursued by the inspectors, at least on Lanai. Because on Maui, I'm sure people do complain and other islands. But Lanai people no complain.

Ms. Preza: But, so, but Ron was saying that, you know, now he's being fined, you know, \$200,000 because of a container that, you know, wasn't within the six feet, right? So, I mean, I don't --. That's where --. You know, I mean, so someone did show up to talk about, like, how they would prefer the lower setback.

Mr. Hart: Chair, the only thing I'll say in defense of the Department is that, you know, there is an opportunity to respond and establish compliance before a notice of violation is issued. So, you know, the position that why didn't anybody call me and talk it out to me, you know, the Department basically sends a certified letter and says, hey, you have a situation here, and you have 30 days to address it. And there's generally opportunity for conversation and negotiation and things like, but it's not a situation where the Planning Department sends somebody out to sit on your front porch and talk to you about your situation, you know, if you have violation. So, you have a lot of --. Suffice to say, if you want the Department to spend time on this, coming up with options and presenting something to you, we will do that. I recognize the --. I will also say that that I think the complaints are becoming more common on Maui, but in general Maui people don't complain, general local people don't complain as much and the same with Molokai, so it's similar, but, anyway, it's anecdotal.

Ms. Preza: So is this something that you would like the Department to, you know, draft up, if it's reducing setback or do you think it's fine how it is? I mean, John, John thinks it's fine.

Mr. Delacruz: Well, I think the setbacks should remain the same, but enforced, not only complaint driven for Lanai at least.

Ms. Preza: Moving forward or for anyone who has ever violated it?

Mr. Delacruz: Moving forward. I mean you can --. No, we're not going to grandfather the existing violations, no. But what I'm saying is keep the setbacks the way they are. But if you know it's a violation, if the County knows it's a violation, submit a warning. Don't wait for a complaint. Because there are a lot of, there are a lot of situations on Lanai where there has been construction right next to their property line, but, oh, you know, I knew that family when he moved in so I not going say nothing.

Ms. Preza: Okay. I don't, I don't get the feeling that people have strong feelings about this on the Commission so maybe we should just move on. I don't, I don't think that anyone is recommending drafting up legislation to make it a no setback, to make it a no setback legislation. Is that what I'm hearing?

Ms. Trevino: I think that the reason that it is here is because someone complained and somebody came to us with this issue because there is a complaint. So are we looking at this from just a standpoint of what we have now is it sufficient or are we looking at a standpoint of for Lanai residents is, is it just or fair that person A is turned in for a violation so they got to pay it. And person B isn't so they don't have to pay it. So I think that's kind of the dilemma here because I think it sounds like everyone feels like what is in, what is here is good. But there's this blurred line of people we know versus people we don't know and --

Mr. Delacruz: I think the only thing that person A generated was the discussion. And it's a discussion that warrants discussing. It may turn out to be that there was no violation but there was a complaint. Anyway, but what I'm saying is whatever setbacks we have now are good. Keep them. And whoever violated is in violation should not be grandfathered.

Ms. Preza: So we don't want buildings to be too --. We're saying we don't want no setbacks because we don't buildings going up to the property line. Like do we want something that's like three or four feet? Like would that give some room for people who, you know, I'm just throwing this out there before we move on, but, you know, do we want six feet is good or --? Yes?

Ms. Martin: Jordan, I'm sorry. You said something about 1989. Is that when they set these setbacks? No? Okay.

Mr. Hart: No, much, much earlier.

Ms. Martin: Okay, much earlier. How many --? When was this do you think was done?

Mr. Hart: One moment. You know, I actually --

Ms. Martin: I'm sorry. Just kind of estimate. Maybe about what, 25 years? 30 years?

Mr. Hart: I would guess it was in the 60's.

Ms. Martin: In the 60's.

Mr. Hart: I would guess.

Ms. Martin: Okay. Okay. So that's when all the plantation was here and stuff.

Ms. Preza: I think, now the town is more dense, though, right?

Ms. Martin: Yeah, yeah, yeah. But I'm just thinking because we have those garages that are abut right up to the, to the streets and stuff, I would hate to see them get penalized, you know what I mean? So we got to start it from some kind of time line on to be grandfathered in, right.

Mr. Hart: So just existing non-conforming or grandfathered is anything that was built legally at the time it was constructed. So whether or not it required a permit or it got a permit, then it's -- then the rules changed later -- it's okay. It's okay to remain as it is. And it can be reconstructed with specific regulations and so on. But, but everybody who, who did something that wasn't in violation at the time they did it, doesn't have anything to worry about.

Mr. Delacruz: That's the question I was going to ask. Existing non-conforming is if you're in violation after the setback was changed, it's okay to grandfather that.

Mr. Hart: Yeah, and more specifically they're not even in violation because what they did was legal at the time they did it and the rules have changed. So, so any of the homes that were built before there was a regulation on it, or the carports or any other things that were built before there was a regulation are legal existing non-conforming.

Mr. Delacruz: I, I would agree to that. What I thought you meant by existing non-conforming was they knew what the setback was when they built it, and a year has gone by, five years have gone by, they know they're in violation, but since you didn't do anything five years ago, it's okay. It's not okay.

Mr. Hart: I think the issue is that people who were confused or not aware of the setback that existed at the time they did something, violated the setbacks. Does the Commission want the Department to look into creating some concession or grace for those people or do they want to leave things as they are?

Mr. Delacruz: My opinion is if they knew they were violating the code, don't excuse them after they violated the code.

Ms. Preza: I feel. Sorry, I feel like a lot of --. I mean, if I wasn't on this Commission, I would have no idea about what the setback rules are to be completely honest, and so I don't think a lot of people are. You know, the average, you know, person trying to build a little storage shed in the back, I don't think they're doing it purposely, like, thinking I'm violating some kind of permitting. Like the average Lanai person, like, basically I want a place to put my two shovels, you know. And so I'm thinking about a lot of families I know who have, like, sheds and stuff, they may be respectful, like, four, you know, four feet. Maybe not within the six feet but back, but I don't think, it's not right on the property line. So maybe I would say that we should shorten it a little bit. It seems like even --. I mean, since Ron was the only who really brought up because he had an issue with this. You know, he was like, oh, it was a little less than six feet, but it wasn't like, right, you know, zero. So I don't, I don't think a lot of people --. I think intention is hard to say, you know, like did they intentionally know, know this, you know, they're violating and build it. I feel like that's really gray. I think we should assume that most Lanai people aren't aware of, you know, you have to be six feet back from your back, six feet back from your side, and then 15 back from your --. I don't, I don't think the average Lanai person knows that. I didn't.

Ms. Samonte: I just wanted to make a comment on that because I know you're talking about a shed. But, where does it defer from a shed to an actual structure where they're going to extend a home up to that three foot line. Then, I'll have someone looking into my bedroom, which --. That's why I agree with the six feet.

Ms. Preza: Does anyone else have thoughts? I understand what you're saying. I think I bringing up sheds because I just feel like people put sheds and that's what I'm really thinking of. I don't want those people to eventually like have to, you know, be fined thousands of dollars when they generally didn't know, like, four feet back is not legal. Does everyone kind of get what I'm saying?

Mr. Hart: Madame Chair, if I might. So the, the suggestion for the Department is if you want to consider non habitable structures. So, you know, if something were to evolve into an inhabited structures, it would be a violation, but enforcement would still be complaint driven. So, you know, if you --. Structures are starting to be built, you know, they may evolve, but it's still going to be necessary for the community, or the neighbors, to report if they want the Planning Department to do something about it.

Ms. Preza: Right, so this isn't, like, house extensions, like added bedrooms. It's like a garage or --. Oh, yeah, they turn, they evolve in, right.

Mr. Hart: Chair, if I might. What the Department is asking the Commission if they want to entertain is not residences, residential uses, but you know, if, if we presented something and you want to go in that direction, you know, that would be the direction that it went in.

Ms. Preza: Thank you. So I bring that up because you were talking about someone looking into your house. Yes, Jared.

Mr. Burkett: I just wanted to mention the reasons why setbacks were established. It might help your decision. They were established because, and in past eras there were hazards whenever there weren't setbacks because there wasn't enough air flow or light into the homes. So, a big portion of the issue for a setback is the height. So if it is a carport let's say, it's blocking the light and the air moving through the neighbor's window. So that is the reason why almost all jurisdictions have setbacks. So a shed is a different height, but I just wanting you to be aware of the reasons why setbacks were established.

Ms. Preza: Thank you. Okay.

Ms. Martin: Okay, I'm making a motion for what John said about accepting the setbacks that are already there. I can do that?

Ms. Preza: Wait, no, I don't think we need to make a motion. We're just giving recommendation so do you want to withdraw that?

Ms. Martin: Thank you, I withdraw it.

Ms. Preza: Sorry, so what were you recommending, though?

Ms. Martin: I was recommending that we take what John said and keeping those setbacks.

Ms. Preza: Okay.

Ms. Martin: I think they're fair, and I think that how we can go forward. I mean, there's already people that have already --. And I think I'm considering what Alberta said about having to look into her neighbor's wall, wall. And we can figure out things like that, and the County can recommend things for us to look at. Does that make sense?

Ms. Preza: Sorry, the County is not --. So they're asking if they --

Ms. Martin: The Planning Commission to say --

Ms. Preza: So if we just say, this is fine, we're not going to get anything back on this so --.

Ms. Martin: Okay.

Ms. Preza: So, yeah. Okay, it seems like --. You know, in the future it could come back to us, correct? Thank you. Maybe if we have more, you know, know people who are interested in defining those lines, maybe reducing. I would say reducing it to four feet, maybe, but you know, that's my main concern at this moment.

Mr. Hart: Chair, if you wanted to revisit anytime, we could talk about it in the future.

The Commission discussed the no setback in the residential district in Lanai, and comments were to retain the existing setbacks, as well as possibly decrease the setbacks to a lower number. However, after discussions, the Commission did not direct the Department to draft any legislation. If though, the Commission wishes to continue further discussion, they will request the Department to bring this matter back for further discussion.

2. **Discussion of options for regulations of Short-Term Rental Homes and Bed and Breakfast Homes on Lanai, and related amendments to Chapters 19.64 and 19.65, Maui County Code. (J. Hart) (Previously scheduled for the November 28, 2018 meeting. Discussed at the December 12, 2018, January 16, 2019 and April 17, 2019 meetings and deferred.)** [MEMO](#)

The Commission may determine whether a cap(s) or other proliferation controls should be established and if so what the suggestions should be, as well as amendment to Chapters 19.64 and 19.65, Maui County Code, proposed in future legislation. The Commission may then direct the Planning Department and the Department of the Corporation Counsel to draft such a bill for public hearing at a future Commission meeting.

Ms. Preza: Great. Thank you. Let's do that. I think what we really want to talk about is short-term rental home. So, in the interest of time, since we're two hours in, it's seven o'clock. So we've had many conversations about this. My recommendation is that we --. We've had many conversations about this. We kind of have the general feeling of how everyone might want to move forward. I think we should kind of summarize certain things we would like to see. Richelle told me that we don't need to, like, pinpoint. Thank you Richelle for printing out copies of the ordinance so we can see the wording. But we don't need, I don't want us to focus on so much the wording of everything at this moment. I want us to summarize what we would like to see drafted up, and then the draft will come back to us at a later date, then I think at that point it would be much easier for us to kind of go in and be like, oh, we should change this verbiage or you know. Does that sound good to everyone? Great.

Pardon me. I'm sorry, the green paper I believe is from Butch, Butch's recommendations for -- so thank you for sharing that with us. Who would like to start the discussion?

Ms. Trevino: If I can suggest. I don't think it would be a good idea to be jumping around, and oh, this, this, that, that. Even though it might seem like it might take longer, I think we should just start from the front and go through it from the beginning. Because there's going to be stuff we're going to say skip, skip, fine, skip, skip, looking at the Chapter 19.65, right, point six, five, because that's what we're looking at right now to make comments on, correct?

Ms. Preza: So I don't --. I think it might take a long time to go through each and every. We can. Alternatively, we can just share our thoughts and what we would like to see and then, then something can be drafted up in regards to changing the changes. And then they can come back to us and then we can relook at it.

Ms. Green: Actually, I thought Chelsea had a really good idea to give this some structure. I don't think we're going to talk about every point. We're going to pick out just a few areas where we think are important when it gets to things that really are applicable to Lanai, like, numbers and things like that. But if we just talk individually it's going to be so scattered. I do think that that's an excellent, excellent idea.

Ms. Preza: Okay, does the Commission feel okay with this? Okay. If I could just summarize. I wrote a couple of things. And I think, Mili, you summarized a lot of how I felt. If I could just share a little bit before we start going through things. I think, and just so the Planning Department, I think you already kind of a sense of what direction we want this to go in. I think a lot of people who live here care about the integrity and character of neighborhoods, and that

means having Lanai based people here. We've had many testimonies in the past about people, you know, wanting to know their neighbors and that's a big part of life here. It's a very small town. You know, children walk to school on their own, and it --. That's a part of this community, you know, like being able to know who you're living around, or even who's even five street down from you, like, that's a normal thing. And I think that things, you know, obviously changes happen, but I think we want to keep that in mind definitely. And Mili brought up a good point about investing in communities so --. But I agree. Okay, we can go point by point and I don't any of you wrote down suggestions, but if we have any other suggestions that don't fit like into a specific point, then we can just bring them up at the end. Does that sound good?

Okay, so we're looking at Chapter 19.65, Short-Term Rental Homes. So we don't have to go over the Purpose. Districts. Restrictions and Standards, so this is what we're looking at. (A), so this one is short-term rental home use is permitted in no more than two single-family dwelling units per lot except that the short-term rental use shall not be permitted in an accessory dwelling pursuant to Chapter 19.35 of this title. So are we going to read every single? Okay.

Ms. Green: No, I think maybe we can each peruse it. Like for example under this one, I know Butch had it and have it too, under (B), it says each permitted dwelling unit on a short-term rental property shall be rented to one group with a single rental agreement, except on the island of Lanai. This is the thing we talk about every single time. So I think that needs to be removed, on the island of Lanai, it needs to be removed.

Ms. Preza: Sorry, which one? Oh, (B).

Ms. Green: B.1.

Ms. Preza: Okay, so does anybody have any comment on (A) then? Okay, moving on to (B). Okay, except -- we like that to be removed. (C), GET license, no one has problems. (D), hold a minimum of 50 percent interest. Well --

Mr. Hart: Chair, we can go through the whole ordinance line by line, but I think that if everybody said the issues they want to regulate and then we all make sure that everybody has said their peace, and then generally it's agreed that those are issues that the Department should draft something up, we can find the locations to put them into the ordinance and draft the wording. And then we're going to bring that back to you for this exercise of wordsmithing. So I understand if you want to make sure to go through each section to be sure that you don't miss anything. But if everybody feels confident that they, they have their issues they want to regulate, then that might be the most expeditious way to, to give us direction on a future draft.

Ms. Preza: I agreed with that, but it seemed like the Commissioners wanted to go through it. I wanted to do the same thing. Do you, do you folks still want to go line by line? No? Oh, yes?

Ms. Green: I think it was just giving some form to the discussion, but I didn't mean to go line by line. I don't know if you did Chelsea or not.

Ms. Preza: Well, do you folks have, like, specific thoughts laid out that you would like to see or would you --? Okay, let's just --. I think we've all had enough --. The reason why we kept deferring is because we all kind of wanted to take some time to summarize our own thing, so I don't think it's going to be too scattered. But, no, I appreciate the recommendation for structure.

Ms. Catiel: Okay so my thoughts are for Lanai short-term rental is cap 30 with Lanai Planning Commission application comes before us as well as the renewals because automatic the Planning Department renews for in the next, for the island of Maui and Lanai, automatic five year renewal.

Ms. Preza: So, well, the cap, I think we should talk about.

Ms. Catiel: Okay.

Ms. Preza: But I, I agree that --. This is a comment I was going to have is for, like, a lot of thing, you know, if there's a three year or five year permit, they don't come back to the Planning Commission. They just, the Planning Department can just, you know, recommend re-approval. I was going to recommend that all short-term rental home permits come before the Commission, and then when something is up for --. I mean, that's a consideration, you know, when --. I mean, I think definitely initial application should come before the Commission, and then we can discuss if we would like to, you know, if it's going to expire to come back. And my thought on this is because we've talked a lot about, oh, well Lanai people aren't here to complain, or, you know, share their thoughts. And I think it would be great to have more participation at Commission meetings. Oh, sorry, not Commission. I'm sorry. What I'm going with this is, oh --. Sorry, I'm talking about when people send out notices, stuff like that, I don't think the average Lanai person will, like, write a complaint about a short-term rental home because they see a sign in the yard. I'm saying they would be more inclined to come to a commission meeting if they, if it's held and the application is on the agenda.

And also because and -- you know, as long as we've been on the commission I feel like for a few applications there were small things that the Planning Department missed. Or not so small things, like the property manager not living on Lanai and stuff like that. And that's, I know you folks have a small department, but if it's just a second set of eyes and people are here and living here, I think that's a really good idea because then it makes me wonder like what other permits are just going through the Planning Department with mistakes that maybe a Lanai person would have caught if it had just come before us. And I don't think it's going to be a burden on the Commission. I think it would actually be good. Does everyone feel like that's a good idea for them to come before us?

Yeah, the other reason why we want to do this is so that there is some longevity with the thoughts that we're articulating when we're, we're off the commission, you know. I think we want Lanai people to be the ones who are, you know, giving their thoughts on how we want this community to be, not just going to --. You know, Maui County is very Maui-centric so, yes, it has to be on Lanai.

Ms. Catiel: Yeah, so another thing is doesn't the renters have a say on this? Because they're like long-time permanent residents on Lanai. They're a part of our community. I mean, it would be nice if we have their, you know, their manao.

Ms. Preza: What renters?

Ms. Catiel: The long-term renters who's renting Pulama homes.

Ms. Trevino: I think this was brought up at another meeting where we talked about the notices that go out via certified mail are going to homeowners and not to the people who are actually living in the homes. And then so I think that was something we kind of were talking about was can, can actual people living in the homes be the ones who are notified as well because those would be the people who, who would be affected. Because on Lanai you have many home renters who have been living in their homes for 30 plus years, but it's -- let's say for example, a company house. So they don't own it, they don't get a notice. It goes to the homeowner. So I think that was something that we, we did talk about, to enable our community to participate in this process.

Ms. Thomson: That's one of the reason that we have so many different types of notice. So we have a yard sign and then if it requires a public hearing, you know, then it's published also. But that's one of the reason is to alert other people that may not get those mailings. So it's just one of the type of notice.

Ms. Preza: I think again if all permit, permit applications come before the Commission it's another layer for Lanai people to show up. Do you have other thoughts or John would you like to share some of your?

Mr. Delacruz: The parts I would like to address, that we make sure we look at is the, again, the number. We should have a number, like a limit, like 30 or something. And the placement. Like the guys last month said I don't want to be sandwiched by two short-term rental homes. You know, discuss the placement on if it's on the left side, the right side, behind, across the street, that kind of stuff.

Ms. Preza: Yeah, density. I think that's --. So do we want a cap or do we want, like, for example, I think Caron made a comment last time like we should just keep it two within a 500 foot radius and then that's it. Would that be --? I'm not sure --. I can't do the map in the geography, but would that be something we would be interested in?

Ms. Green: Yeah, I really think that's a good way to go about it. I know Butch has talked about doing by blocks etcetera. I think we had this discussion with the County before and using this circle idea is more or less the standard on how people deal with this in many communities around, so I could go with either one or two within a 500 foot radius. But right then and there I think you're going to reduce the number of short-term rental applications if you just say only one or as, I think, Ron has said, you know, one within 300 feet. And maybe, and that way you keep the neighborhood from being invaded with a bunch of short-term rentals. So I don't know how Commissioners feel if it's one or two within 500 feet or something. But I do also think if there are two within 500 feet you don't want to have them be on either side of one house. So I don't know what kind of wording you'd want to put in there to make sure that, that, you know, somebody is not surrounded.

Mr. Hart: Chair, you establish the goal, we can come up with language. I mean, just, there could be a no closer than. There could be two circles, as an example, like no more than a certain number within 500 feet, and no closer than a certain distance as well.

Ms. Preza: Yeah, I think something like that. If we could see it in wording that might be helpful and then we can make revisions. And I think there should be --. I'm sorry I'm just thinking about this now because I, I understand that people brought up the issue of, oh, but then that limits who can apply. And then if you have the permit, you know, if there's two within then just no more, that doesn't given opportunity for other people to, you know, try to get an application. But maybe when permits expire they come back to the Commission, some way for other people to know that. Or they can put an application if another place is going to expire maybe. And then, we can, the Commission, whoever can compare, like, oh which one would be better suited for the neighborhood or something like that. Just so it's not like one person has the monopoly on, you know, a block or something.

Mr. Delacruz: So why don't we just make a list. Go down the row, make a list. Well, okay, Richelle can keep a list for us and then we can come back to her and she can tell us how it applies to the, the ordinance as it is now and how it impacts the ordinance the way we want to see it. So we can start from the left maybe.

Ms. Preza: Wait, we were going that way.

Mr. Delacruz: So we start from the right?

Ms. Preza: That's what we were doing. We're all sharing our list. I'm sorry Roxanne I also didn't mean to --. Do you have more thoughts? I didn't mean to just move on to John. Okay.

Mr. Delacruz: So again what Roxanne said, have a limit and we'll say, let's say 30 and we can discuss it. Well, it's a start, you know. And then how many per block. I'm okay with one per block.

Ms. Preza: I'd say no more than one per block to avoid the sandwiching.

Mr. Delacruz: Yeah, and trigger, there's --. The 500 foot trigger is fine because if you have two short-term rental homes within 500 feet, you'll catch everybody. If you limit it to 300 feet you'll only catch one that might be close to you, but you might miss four that's 400 feet away. So the 500 foot circle is good. Do you see what I'm saying?

Ms. Preza: Right. But I think they were talking about a circle within a circle. Like two permits within the 500 foot radius, and then you can't be, like, those two can't be within a certain distance from each other or something. Do you know what I mean?

Mr. Delacruz: Okay, write that down.

Ms. Preza: Okay, something like that. We don't --. Our concern is density. We don't want --. Earlier we had an application where there was a house that was going to be sandwiched between two short-term rental homes and no one wanted that.

Mr. Hart: So Chair I'll make this easy on you. So all of us are writing notes, and it's completely clear that density is a concern. So we can provide --. We'll, we'll come back to our office and talk about it and think about, and then we'll, we'll provide some suggestions on that.

Ms. Preza: Okay, thank you. Sorry, so this is just --. It's good because then when we see the writing then we can continuing discussion but --.

Mr. Delacruz: Need to say something about blocks that have two rows of houses.

Ms. Trevino: . . . (Inaudible) . . . we just use distance or saying one per block, we're not addressing the actual dynamics of blocks on Lanai. Because some blocks are road to road and some are half-half. So you've got more houses on certain blocks, smaller lots, whatnot. So I'm not making a recommendation, but I'm saying there needs to be something that addresses that, not just distance or not just one block, one house per block kind of thing. Like...I don't know. I personally don't feel like one house per block is good. I'm like one every two blocks. I'm very low ball.

Ms. Martin: So we're thinking about capping it at 30, right? So if we, if we dispersed the 30, if we look at it and we disperse where the different 30 are going to be within the city and different parts of the city, it would be kind of spread apart, right? I mean, if we do that 500 feet circles and we do like one or two in each circles, how much circles are we supposed to have in the whole city? Like 10 or.

Ms. Preza: I don't know if we should establish like this is the cap. I think we should go with the --. Yeah, if there were circles within the city and there were two within each one, then what that total look like? Would it look like 40 or you know?

Mr. Delacruz: And in the interest of time, why don't we start with the list and then start comparing all the items against each other after we've compiled the list. Yeah.

Ms. Preza: Caron?

Ms. Green: I guess I had started out with a cap of 30. As we get more housing which I --. How far is that away Lynn? Two years? Two years away? We will have a lot more housing. So I think 30 locks us in. I do want to keep within any kind of circle a limited number. But I think 30 then becomes maybe then too small of a number. Because when we get to --. Oh, do you want to say something?

Ms. Lynn McCrory: Lynn McCrory, Pulama Lanai. The housing that we're constructing is a 201H. It cannot have rental in it.

Ms. Green: Okay then. But it will mean a lot more housing for Lanai people. Okay, if you do 30 then, you know, when you hit 27 it will go back to the County to see if we want to include the number. That's the 90 percent rule. So, and I don't know how long that takes to go, but I can go with 30. I was going to suggest 40, but I can go with 30.

Ms. Preza: Okay. Or shall I?

Ms. Green: Just let me say this. 40 was roughly five percent of the homes. That's where that number came from.

Ms. Preza: Maybe 30 to 40. I'm interested to see, like, the distribution of like the circles, you know, and what that total comes out to, but we can discuss this at a later time. But thank you. Any other? Okay. So let's see we talked about --. Yeah, I do think all should come to the Commission. I don't know how everyone would feel about this. I, you know, there was --. I feel like everyone on the Commission was glad when they passed the rule that you had to own a property for five years prior to applying for a short-term rental home because that eliminates -- or not eliminates -- but, you know, it curbs these people who want to speculate, buy a house, and then turn it into a rental.

I'm sorry, we were also provided with, you know, examples with STRH regulatory options. And there's a section in the City and County of San Francisco where --. Actually San Francisco and LA, they talk about the homes being used as like primary residences for like people. You know, not just someone --. I think I was really interested in this because I feel like a lot of what we've been saying is we, we really want to avoid people who live on Maui full time, buying or having a house for five years, and then they're still on Maui, no one in the Lanai community knows them and then turning it into a short-term rental home. So would, would something like requiring that, you know, someone also has lived on Lanai for five years prior to applying or something. I think what Mili shared is that, and what we all feel like, is anyone can say that they care about Lanai and that they care about the community, but unless

you actually invest time here then how do you understand the community. I actually think five years is kind of short. I don't think in five years you can really understand our, our place. Most of us have spent our whole lives here, you know, or have invested a significant amount of time living here. I feel like that's how you invest. That's how, you know, you see people in the grocery store, you see the flag football games going on in the park. Someone from Maui or Oahu or quite frankly a lot of people on the list, who, current short-term rental homes, they live on the continental US full time and people don't know them. And I feel like it does matter for Lanai people that people have put in time here. That's just a thought. I don't know if Commissioners have any thoughts on that.

Ms. Martin: I like that idea about having some form of residency here. Even if, you know, having owning it for five years, but also have an investment here in the city. I think that would be, I don't know, for me, it would show character.

Ms. Trevino: If I can give input on what I think about this. I don't know that people who live on Lanai would have the capacity to own two homes, in general, to be able to do that. So my concern there is you make that requirement you might just have no short-term rentals anymore because what is the reality of people who live here who can actually afford a home that they live in as well as a short-term rental. So that's where I'm a little leery on that.

I'm wondering if, however, because, because we are talking a lot about the local use, the community use, the sport use. Is there any way that we can have a requirement that a certain percentage of nights or something in a short-term rental is rented to, you know, a local, either a Hawaii resident or to a sport? I'm just curious if that's something that can be in there because I think that's one of the things that we keep talking about too. Is yes, you have your visitors who come from the mainland who are here. They're traveling. They're saving money to come on a trip. So of course, yes, they're, they have the funds to do that. But then we're talking also about not having short-term rentals for our families when they come back or, you know, for these other things. So I want to make sure that, how are we, what are we doing to address that? And I don't know that saying that they have to be a Lanai resident necessarily will contribute to helping with, with that issue.

Ms. Preza: I wonder --. Sorry. I was just going to say that maybe the investment. And I think we are talking about investment in the community. You're talking about in like, okay, when families want to come back or sport teams. I feel like someone --. I only brought up the five year thing because I feel like someone whose lived here might be more, you know, interested in, likely to do that because they are involved you. I think that is something that matters to us. Sorry, I do want to have your comment.

But I think something else I've been thinking about is there's obviously a shortage of affordable, like, you know, rental options for like, you know, a few days or weeks. Is short-term rental housing like the solution to that do you think?

Ms. Green: Well kind of following along with what you're saying there, can we make a requirement? Because right now what's happened is a lot of the short-term rentals are being long-term rented. So can we have a regulation? If you go for a short-term rental agreement, you use it as a short-term rental. Is that kind of going along with what you're saying?

Ms. Preza: Maybe something like that. Or, I like the idea too of, you know, who's using the property. Like, yeah, is there a way that we could set aside a percentage of time too, you know? Or I don't know, some kind of way to make sure that, you know, people who are coming back home or a sports team, you know, could be --. I know that's a little tricky, but if there's a way that we could word it. Yeah, I think we prefer that. Non-profit, you know. Yeah, because we understand that, you know, people can't stay at the Four Seasons. We all --. I couldn't. Sorry.

Or, sorry, I'm referencing back to like what they did in San Francisco and LA. It wasn't --. So I mentioned, oh, living on Lanai for five years, like your main residence. But this one is like, oh, you occupy the unit for --. I know that's like separate because maybe we want there to be properties that are open, but it is a consideration, you know, for someone living here for 75 percent of time. Maybe that could be an exception to, like, either living, having lived on Lanai primarily for five years, or you occupy the resident for, like, a certain chunk of the year, majority of the year, like, or, yeah, because I understand what you're saying. Yeah. Yeah. Great, that's kind of some of my main things.

Ms. Trevino: Yes, the other thing that I wanted to look at or figure out is this management of the homes on Lanai. I think we looked at a lot times what the wording is here in regards to the exception for Lanai. The on island manager not being a relative, not being a real estate agent. And I kind of --. Like, I know it's clear what is, what is allowed, but I don't know that...I don't know that I agree with the way it, like, there's no way to manage it is I guess my concern. I guess to give a physical example or a concrete example is, for instance, on Lanai, what, more than half or about half are managed by one individual, correct? If you look at who manages short-term rentals on Lanai right now, at least, about half or maybe a little less than, oh, more than, are managed by the same individual. And we know that this individual doesn't have a real estate license. Can we have a number? Like we could say, you cannot manage more than three homes if you don't have a real --. I think, I'm just curious about that. And when this person leaves, who then is managing. Because according to these guidelines when the manager is gone, somebody else is supposed to be available. I don't know that that's necessarily the case because this manager does go off island every so -- kind of frequently compared to some of us. So that was -- I don't have words for it -- but that was something that I, that was something else that I really kind of strongly wanted to discuss and talk about. I don't know if anyone else had anything on that.

Ms. Green: No, I think that's a very valid point. I think the only reason that they are requiring, or not requiring that you be a realtor here is because we don't have that many realtors. So I think that was why the exception was made. But I think your point is well taken as to, you

know, having one person be responsible for so many properties and who is the backup etcetera, etcetera, yeah.

Ms. Preza: I think if there's a way that, you know, easy --. So this paper with all the copulation that came from...? So, thank you so much. I think something that's been very confusing for the Commission, and we, you know, I think, we got a lot of information. It took us so long to try --. You may just get a list and it's not coming from the Planning Department, it's coming from a community member who took his time to, like, compile everything. There is a link, right to, you know, see oh these are the short-term rental homes and contact number. But I feel like that information isn't --. I think it's not very transparent. I feel like it's very difficult to find. So, yeah, I think following your point, you know, if there was a complaint or something then having a backup or if there's a way to make --. Oh, like --. Sorry, remind me again, short-term homes, are they required to have a sign still up every time they're operating with the property manager's number? Also a backup or just one? Just the one. Okay. Sorry, yeah, I do think they should be someone who, okay all these people lives on island. I don't know of --.

Ms. Trevino: . . . (Inaudible) . . . property's manager name and phone number.

Ms. Preza: I guess that's what they're saying is that each sign has the property manager's name and number. But I agree that it's hard when one person is managing most of the short-term rental homes. And I think --. I mean, the property manager should live full-time on Lanai. That's a regulation, though, right? They don't need to be licensed on Lanai because there are many realtors here.

Ms. Thomson: So the Hawaii, the licensing requirement, so this is through State law. So if you are a caretaker you can care take one property and not be licensed. You can rent out your own property without having to have a license. If you manage, and this -- manage is a legal term so it's according to what they consider a State law -- but if you're renting out multiple properties, short or long-term, then you have to have a license. It's more than one. Yeah, that's in --. Yeah, that's State law, but it's not spelled out that way in the County Code. I think really where you would deal with this is would be on renewals or with complaint, you know, because it is a requirement already of the code. So I don't, I don't really know how you would strengthen that part of the code much more because it's pretty tight right now.

Ms. Martin: So does the property manager, is their license on file when they have to, when the permit gets permitted?

Ms. Thomson: I know that you have to specify the manager's name, and it has to be posted on a sign during operations. And if it changes the, you know, you have to change out that sign as well. You mean, to find out whether or not that person is also holds a real estate license?

Ms. Martin: . . . (Inaudible) . . .

Ms. Thomson: Well, if they need a real estate license that's easy to find online. So there's the database online, yeah.

Ms. Trevino: So Butch I noticed on here you had asked to strike out Lanai, yeah, from that, what is that 2B. This is in regards to the manager, yeah? To serve as the short-term manager. So is this recommendation mean -- this recommendation would mean that anybody who is not the owner or the immediate family would need to have a real estate license, correct? That's what that would mean, right, if we struck out Lanai.

Is there a reason why you would want somebody to have a real estate license? Isn't the purpose of having a real estate license because you know what the laws are and you know how to manage? I'm just curious, you know, why we took that, we have that exemption. Obviously because we don't have a bazillion. But we do have many more real estate licensed people on Lanai today than we did 10, 20 years ago.

Mr. Hart: Chair, if I could? A licensee is also accountable to the DCCA and the Real Estate Commission so they have more at stake as far as their profession to make sure they do things properly and all of those kinds of things.

Ms. Trevino: So that is a check and balance, then. That's a check and balance for the person who's actually managing that.

Mr. Hart: That's, that's the thought is that they're more knowledgeable and more responsible because they have, you know, their license potentially could be on the line.

Ms. Green: The problem is there are realtors here but they don't want to do it. Otherwise Gail Allen wouldn't have all of these properties that she's managing. I think, you know, it's, it's an extra responsibility, and I know some of the realtors have full time jobs and doing real estate etcetera and they don't want to do it necessarily. So, if you, if you had that restriction right then and there, you wouldn't need to probably have a cap because you wouldn't be able to get that many people who would do the managing of the properties, I'm suspecting.

Ms. Trevino: And this is based on conversations you've had with realtors here?

Ms. Green: I haven't done a broad search and I do know some realtors and they really don't like getting involved in this.

Ms. Trevino: Maybe I should get my real estate license.

Mr. Martin: There could be an opportunity here.

Ms. Preza: Any other? Sorry, I know that was a lot. Sorry, I'm thinking --. Sorry, this is just my final comment and I'm -- because I am interested to see what you folks draft up and then

we can have further discussions. I don't want to --. You know, it's almost three hours in so I don't want to keep anyone too much longer. But, you know, in thinking about --. Because someone brought up, you know, what's happening in, you know, on other islands where, you know, obviously the, you know, tourism is can be good in some ways, you know, like small businesses here on Lanai. But, you know, we don't want to get over flooded like our neighborhoods. Is there a way that we could --? Because I think the Commission also, we base a lot of our decisions off of whatever data we can get. We're talking about, you know, we want people to rent out to sports teams or family coming, local families coming back or people in state coming to visit, you know, kamaaina stuff like that. Is there a way that we could write in that, like, whoever does have a short-term rental home permit kind keeps track of like, like, keeps data about, like, what percentage of, you know, this is like how many nights out of the year my property was rented. This percentage was rented towards to local families, this percentage to, you know, supporting a local team, this percentage to out of state visitors. I feel like that's information that would greatly benefit future commissions in thinking about the makeup of short-term rental homes on Lanai. And I think that would be --. I don't know if they do that on other islands, but I feel like, you know, we're a small community, we can innovate in that way and be more involved with in like the process if that was possible. Yeah. Are there any other thoughts?

Ms. Trevino: So the last thing I just want to just bring up is (K). That's the number of bedrooms used for short-term rental on a home. Right now, it reads it shall be no greater than six rooms and that includes on Lanai. So somebody who has a house with six rooms could rent all six, like, rent out six rooms. And if we're talking about two vehicles allowed only on lot for a short-term rental, are we being realistic with that? Like, do we want to say four, do we want to say three, or do we not even want to touch that? I think Molokai is the only one that has, has the three, so I wanted to throw. That was the other thing I wanted to bring up.

Ms. Preza: I wouldn't mind if that was changed to lower. Just because I don't think there are a lot of properties on Lanai that have more than, in town, that have more than three or four bedrooms. That are like in the town vicinity and not up.

Ms. Green: What about the building that has, what is it Widmaier's building that he's been trying to sell? Doesn't he have more than three rooms there? That's a short-term rental isn't it?

Ms. Preza: No. It's not.

Ms. Green: But I mean, I think it's self-limiting because how many houses here have more than three bedrooms?

Ms. Preza: No, I understand. That's a good point. Any other thoughts before we --? I think that was --. Is that, Jordan, was that helpful in potentially, you know, drafting up something?

Mr. Hart: It was not confusing.

Ms. Trevino: That was a nice compliment.

Ms. Preza: It wasn't?

Mr. Hart: No. Some of the things I have to do some consideration and research and discussion on whether or not they can be regulated. But I understood what was said and wrote it down.

Ms. Preza: Thank you. We really appreciate the time and you folks coming over here. And, yeah, we understand if some things can't be done, but really appreciate you looking into it. And we just really care about our community. I think that's why we all, you know, spend three or four hours a month here because we really care. So thank you very much.

Ms. Thomson: What I wanted to ask about is something that I was reading in some of the materials and it was regarding home share, and the maximum numbers, number of days per year that a home could be rented which kind of to me sounds like you, you live here but you're going to be away for three months or six months or whatever. Is that something that you would want the Department to look into?

Ms. Preza: I don't know.

Mr. Hart: Chair, if I could, I think I can address that. So, so there are home sharing clubs that try --. Their theory is that they basically exchange the commitment to let you use their home and vice versa for a certain period of time. And the definition of transient vacation rental, I think -- or transient -- excludes that because there are situations where a resident family can have any guest they want for shorter than, than 180 days. But if you're not occupying it then if you are letting someone use your home for less than 180 days and you're not there, then that's a transient and so in the context of a single family residence you need a short-term rental home permit. So, I think that it is addressed in the, in the definition of transient. So the reason I know that is because we're dealing with somebody trying to do that on Maui right now. But I don't know. I think it is sufficiently addressed, but you know, we could talk about it further.

Ms. Preza: I think it's something good to keep in mind, I mean, we can discuss when you folks come back, is that okay? Okay. Great. If there are no other comments at this time, I think it would be really good to see something in writing and then we can definitely, you know, more structurally go through it, and you know, see what is possible and what's not so thank you. Great. So --. Oh, no, no. Are you done?

Ms. Martin: So we're not going to get any more like short-term rentals come to us for, for --? We are.

Ms. Preza: We still would if there was a trigger. You know, if for example if there was --.

Ms. Trevino: She's asking, I think, if we know of anything coming.

Ms. Preza: Oh, do we know of any coming.

Ms. Martin: Yeah. I mean, do we have to make decisions on them like tonight until this is done or --?

Ms. Preza: We would, right, or we could defer, you know, if something were to come before us.

Ms. Thomson: So until the law is changed, you have to apply the law as it is. Yeah.

Ms. Preza: So again the moratorium that Butch said that the Planning Director would consider that's not really or it is? Because I think all of us, you know, we want this to be done as soon as possible and we understand it takes time with the Council, but I mean, I don't personally, you know, feel --. Do you folks want to keep making decisions on short-term rental homes given all these discussions we've been having?

Mr. Hart: So Chair if I could. You know, the Chair sets the agenda. That's one thing I'll say and we can, you know, discuss this. I know that there was prior discussion on the subject Mr. Gima referenced. I was copied on that, that's correct. He relayed a correct statement. So, whether or not there's an established moratorium, I think that we need to look into that further and discuss it. I don't know the answer to that tonight, but I understand discussion happened. And I also understand that the Chair sets the agenda. The Department is in the habit of populating it because we know what's coming, but it's actually the Chair's agenda to set so, you know, I think that's an answer for you.

Ms. Preza: Okay. Thank you. If you could look into it or sorry do you have --

Ms. Thomson: Something else that we would have to consider is whether when an application is deemed complete you have a certain number of days to be able to look at it and approve it or not approve it or it's deemed approved. So you don't want to get into that either. I mean, there are ways in setting an official moratorium, a moratoria but that goes through Council.

Ms. Preza: Maybe for the next meeting if we could, if there's not too many things, other things to discuss, I kind of want to hear more about this and what the options are and kind of what you're saying, like, yeah, would we like to pursue that or if it's possible, I would like it on the agenda please. Leilani, do you write the agenda?

Ms. Thomson: You mean, like, setting a moratorium?

Ms. Preza: Yeah, or just like what, yeah, like what you're talking about is like I don't know all of the regulations between like, oh you have 180 days to --. But I'm probably --. John.

Mr. Delacruz: One thing to keep in mind is whenever, if we have a limit like, you know, Hana has a limit of 30, if Lanai has a limit of 30, we already have 24, 25, or 26 now. Any applicant that comes in from here on passes the threshold. Therefore any application that comes in if we had a limit would have to come to the Lanai Planning Commission.

Ms. Preza: Right, and I also think if we want, if permits that are going to expire to come back, then that would help, you know, not just that these are the only people who will ever only have short-term rental home permits so. Sorry, back to the moratoria, moratoria. It's more --. I don't want to like vote on it. I just kind of want to get more information about if you could look into it if we could discuss it more and know what the options are because I think this has come up quite often. And I think now we're getting the ball rolling really with getting some legislation drafted. I, I don't think people should be --. I don't think the Planning Department should be approving in the next, you know, if this can be done in the next, you know, within the year.

Ms. Green: Are you talking about this? Oh, well, I guess I have two questions. How soon would the Planning Department be able to come back to us with a draft? And then secondarily what kind of time frame are we talking about to get this all the way through Council?

Ms. Preza: It --. That is something that we could talk about when we discuss that, like, time frame, or unless you folks could answer it now.

Mr. Hart: It's going to be difficult for me to come to a deadline on when we'll produce the draft. It's suffice to say we're going to start working on it right now. With regard to how long something would take to get to Council, I can't, you know. The Chair sets the agenda there too so.

Ms. Preza: Thank you. I think we should all discuss it at, when we, but good question, when we come back. Okay, great, so there's just --. So we did the public hearing, we moved it up. Communications, E.1., semi-annual reports submitted by Lynn McCrory. Thank you and thank you for waiting this whole time. The public hearing, oh, we moved the public hearing up. D.1.? Oh, I thought you talked about it during your --. Oh, sorry. Okay. Okay. Okay. Sorry, yes, you can. Commissioners, you wouldn't mind hearing him before we move on? Okay, I thought, sorry, I thought public testimony we did, like, at the beginning and I didn't know you were waiting until the agenda to have public testimony. On the public hearing or on the unfinished business?

Mr. Gima: Most agenda items you can have public testimony. Some require public testimony.

Ms. Preza: Okay.

Mr. Gima: I didn't combine my earlier testimony to cover both agenda items.

Ms. Preza: Okay, pardon me that was my, my mistake.

Mr. Gima: Okay. Butch Gima. Two things of priority on this issue is one, the content of this chapter and then the process. I've testified many times especially having been on the Commission before how important it is to have something solid for you guys to make a decision off of. Absent that you can see how you guys have struggled these last, you know, five to six months. That being said that's why I e-mailed my recommendations to all of you. Had the expectation and hope that you guys would go through it and then formulate what you guys would like in terms of language, changes, and have it ready tonight. I also e-mailed this to you guys too because I think it's important to have a big picture view of what you guys need to decide on in terms making any changes in the chapter. I was hoping a whole meeting would be dedicated to the short-term rental because it's so complicated, convoluted, and it has taken up so much of your time. By having a workshop then you don't have to really adhere to the parliamentary procedure. You can have more of a dialogue, you know, with everyone here.

A couple of things I want you take into consideration regarding the property manager. I'm not married to the fact that it has to be a realtor or a real estate agent. I think it makes a lot of sense from what Jordan said about accountability. But a couple of things, currently I think the language states that the property manager has to be here when the home is rented out. And that puts our community in a bind because unless we go out and see is Greg Sturm on island when that property is being rented out and that's tough to do. On top of that most of the signs do not have the property managers' names on it let alone their phone number. So it takes away the accountability issue and I fault the, the fault the Planning Department for not ensuring that the sign is up to code or accurate. And that it should be visible from the street. I think you guys mentioned that one of them is on the side. There's several around town that you have to go looking for the sign to see the information on it. So I think I put some language in here to address that.

Also in here --. I mean, I'm really passionate about this issue otherwise I would spend so much fricking time putting this thing together. Again, I had mentioned on several occasions that I think the Planning Department should have put this together for you. You can see there are some LLC and corporations, and that's why some of the language that I recommended in here that it has to state a natural person so that there is a sense of accountability. And you find, you find this in the business world that a lot individuals hide behind corporations. And so if something happens at the short-term rental next to your house, I mean if you, if you don't know who to complain to because there's only a corporation, then that really destroys whatever checks and balances that we have, you know, in the chapter.

I've also e-mailed to you a lot of articles from both The Advertiser and Hawaii Business magazine because I want to, again, look at the big picture and hopefully you guys can take a leadership role in coming up with language to prevent what's happening on Maui and on Oahu. You know, don't, don't wait for a problem to happen to then come up with regulatory language. I, I -- just because we don't have very many six room houses I would say stick with three rooms and then you can't rent out by room. That way it's taken care of.

Please keep in mind -- I know you guys talked about wanting to rent to locals or teams and stuff like that. Most of them are too expensive. And the reason why they are expensive is because it's a second home they pay higher property taxes. In researching all of the owners, it, it, it lists how much they pay in property taxes. Like I pay, like, about 240 bucks for my home because that's my primary residence for property tax. These guys are paying anywhere up to four, five, six, seven thousand dollars for property taxes so they got to makeup. I mean, they're renting at a higher rate so they can pay this higher property tax.

I, I recognize what you're saying Richelle about the decisions that you have to make are based on the current law, and, and several of us have asked for the moratorium. Not that by having the moratorium you can apply a new law to them. No. I recognize that. But many of us have recommended the moratorium so that you guys can get together and come up with some clear guidelines on how you can make decisions based on the current law all the while advocating for new language in the chapter.

I think, I think that's about, that's about it for now.

Ms. Preza: Thank you. Any questions for Butch? Thank you so much for all the time you've put to compile this information for us. We appreciate it.

Mr. Gima: One last thing. Please, again, prioritize the community and the residence. And you shouldn't be put into a position where you have to supplement or subsidize the, the visitor industry here. And basically you can't do that one short-term rental at a time. So again please prioritize the residence in our community. Thank you.

The Commission provided their recommendations and suggestions to controlling short-term rental homes and bed and breakfast, and also provided their comments as to possible amendments to Chapter 19.64 and 19.65. The Department will take the Commissions' recommendations, and will draft and incorporate verbiage appropriately in the ordinance. The proposed amended ordinance will be brought back to the Commission for further review and discussion at a future meeting.

E. COMMUNICATIONS

- 1. May 28, 2019 Semi-Annual Reports ([January through June 2018](#), and [July through December 2018](#)) submitted by Ms. Lynn McCrory, Senior Vice-President of Governmental Affairs, PULAMA LANA'I regarding the project irrigation demand associated with the Residential and Multi-Family Development at Manele, TMK: 4-9-017:001, 002, 003, 004, 005, and 4-9-002:049, Manele, Island of Lana'i. (95/SM1-015) (95/PH2-001)**

The Commission may provide its comments on the reports.

Ms. Preza: Thank you. Great. Thank you. If we could move on to E.1. which is semi-annual reports with Lynn. Thank you.

Ms. McCrory: Lynn McCrory, Pulama Lanai. I just want to make one clarification statement to what I said about the 201H. You just can't do short-term vacation rental. So just your subject cannot go into those homes. We do long term and that type, but not short-term.

Okay, water issues. You have one year of reports because we got behind. So if you look at the first one, and I'm sorry they're both dated May 28th, but you're going to look down into the first paragraph for January through June of 2018. It's the thicker package. And, and the change that we have in here was a request from John Delacruz to change the way Manele Project District potable water quality usage report was showing for the Manele Bay Hotel. It used to show hotel property including irrigation, and he wanted it to show excluding irrigation which matched the conditions. So we had only six months, whereas your prior reports covered two years. So what we did was give you a copy of the prior two years, so it's just not included. But you have that as the last two pages in that packet. So this is the packet that has four charts in the back. Okay. So you can see nothing really changed. It all keeps going along pretty much the same water usage.

What you're going to see in the next report is how we're kind of getting dryer which means more water is used. So this is the report that the first paragraph says from July to December 2018. And then this one you have now one year. So as we go forward with the next report, the next report that you'll get will show a year and half, and then we'll finally get back to a full two years of information.

But again nothing terribly out of whack. Everything pretty much the same. We're seeing some decreases in some areas, but not much in this last six months. And I think, Joy is here, and she would probably tell you very clearly we are having some drought issues. And I think you can see that when you walk on the grass. I was out at the, when I came today and the airport and I was walking on the long term grass which is brown and it's kind of crispy and goes crunch as you walk on it. And I'm like, oh my goodness, I forgot about that. But no irrigation there.

So anyways, if you have questions that I can answer I will. But if not, we have the expert here.

Ms. Preza: Commissioners, any questions about the update, the report? Great, thank you so much for your time and waiting through the entire Planning Commission meeting. Great.

F. DIRECTOR'S REPORT

- 1. Reports from members who attended the Native Hawaiian Law Training on June 7, 2019.**

Ms. Preza: So, we're through with Communications. Next is Item F, the Director's Report. F.1. is reports from members who attended the Native Hawaiian Law Training. Did any of you go? Just Jerry. Okay, yeah. I wanted to go. Maybe next time.

2. Open Lanai Applications Report as distributed by the Planning Department with the June 19, 2019 agenda.

Ms. Preza: Open applications report. We have the paper, but does anyone else have any from the Planning Department anything to add? Great, if not then, okay agenda items for this July 17th, 2019 meeting, is that something you want to discuss or we can, we can discuss?

3. Agenda Items for the July 17, 2019 meeting

Ms. Preza: Our next regular meeting date is July 17th. Oh yes, Jared.

Mr. Burkett: There is a decision and order that, to reach the 120-day requirement, would have to be adopted by the Commission on the July meeting so that's one thing.

Ms. Preza: Sorry, what was that for?

Mr. Burkett: It's a decision and order for Hale Nani that was, Hale Nani that was denied I believe it was April.

Ms. Preza: So we have to do?

Mr. Burkett: The decision and order has a 120-days to be adopted by the Commission.

Ms. Preza: Okay.

Mr. Burkett: That, that --

Ms. Preza: That would be on the agenda.

Mr. Burkett: Yeah.

Ms. Preza: Okay, thank you. Yes, July agenda. Okay, any questions or --?

Mr. Delacruz: Kind of like explain that to me. If it was denied why do we have to take further action on it?

Ms. Thomson: Your Lanai Planning Commission Rules require it, and so some planning

commissions defer certain types of orders to the Department to go ahead and issue final orders. But when an application is denied by Lanai Planning Commission it has to come back to the Commission for formal adoption.

G. NEXT REGULAR MEETING DATE: July 17, 2019

H. ADJOURNMENT

Ms. Preza: Thank you for the explanation. Okay, great. Our next meeting is July 17th. Thank you very much. It is 8:07 p.m.

There being no further discussion brought forward to the Commission, the meeting was adjourned at 8:07 p.m.

Respectfully submitted by,

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

RECORD OF ATTENDANCE

PRESENT:

Roxanne Catiel
John Delacruz
Caron Green
Mililani Martin
Shelly Preza, Chair
Shirley Samonte
Chelsea Trevino, Vice-Chair

EXCUSED:

Sherry Menze
Gerald Rabaino

OTHERS:

Jordan Hart, Deputy Planning Director
Jared Burkett, Staff Planner
Richelle Thomson, Deputy Corporation Counsel