

MOLOKAI PLANNING COMMISSION
REGULAR MINUTES
APRIL 24, 2019

A. CALL TO ORDER

The regular meeting of the Molokai Planning Commission was called to order by Ann Cua, Land Use Planning Supervisor, at approximately 11:22 a.m., Wednesday, April 24, 2019, at the Mitchell Pauole Center, 90 Ainoa Street, Kaunakakai, Molokai.

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

Ms. Cua: Okay, thank you everybody for your patience. We're going to go ahead and get started and hopefully one of our Commissioners can get his paperwork done and we'll continue. So I'd like to call the April 24, 2019 Molokai Planning Commission meeting to order. It is now 11:22. The first item on the agenda is public testimony. Is there anyone that would like to give public testimony in advance of any items that are on the agenda? If you give testimony now, that will be your time to give testimony or you can wait until the matter is up on the agenda. Anybody wanna give testimony at this point in time? Please take the -- take the podium and identify yourself.

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. Testimony will be limited to a maximum of three (3) minutes, with 30 seconds to conclude.

Ms. Cheryl Corbiel: I am Cheryl Corbiel. I'm a Molokai resident and an instructor at the college. I respectfully ask for your support for the proposed expansion of the Molokai Education Center. Since the 1980s, I have taught at the college. Throughout the college's three-decade history, the college has grown slowly and wisely to empower students to achieve their educational and career goals. Just a little bit of history. Kapuna tell us that initially students took college courses over the phone with Maui. In 1970, Maui College first offered off-campus instruction to Molokai students. Courses were in liberal arts and career courses, such as hotel operations, because the Kaluakoi Hotel was still operating at that time. Kaunakakai Elementary School class space was used with adults sitting in elementary sized desks. Everyone had to have a sense of humor. In February 1986, Maui Community College rented more space, which was a room in what is today we call "Molokai supply building" and also what is today the MCSA offices and continued to use the elementary school. I joined the college in this timeframe. The MCS building had one classroom and students from other locations had to walk through the classroom to go to the only toilet. I taught public speaking and the students struggling to overcome presentation fears had people coming and going through the classroom throughout the whole class. This was less than ideal learning conditions but we all continued to have a sense of humor. In 1988, distance classes on cable and Skybridge began. As a

Skybridge instructor, I taught Molokai students face-to-face but also Maui and Lanai students to ensure enrollments met the minimum quota for classes so we could offer more courses to our Molokai students. In 1993, the current two-acre site was selected. In 1999, the current building became the higher education focal point on Molokai. Finally, students had an educational home with quality teaching environments and modern equipment. Today, we continue to offer quality educational instruction and resources for the student population of over 70% Hawaiian, Native Hawaiian learners. We offer credit and non-credit certificates, associate degrees, selected bachelor and masters programs, which you'll hear about later. The campus is used for outreach as well from K to 12 students, and as a base for the U.H. Manoa curriculum research projects, professional development courses for teachers, such as me, and community groups, such as the Fire Department. However, our Molokai College is bursting at the seams. The demand for new courses, classroom space, and office space is intense, and we need to accommodate more career opportunities in this evolving world for our Molokai students. In an economy where more than 80% of all jobs require some form of post-secondary education or training, expanding access to high quality workforce programs at community and technical colleges is increasingly critical, according to the National Skills Coalition Organization. The college continues to provide the world of knowledge on Molokai but needs more space to meet current and future needs. I respectfully ask for your support for the proposed expansion of the Molokai Education Center. Any questions? Thank you.

Ms. Cua: Thank you. Anybody else wanting to testify at this time? Okay, thank you. Please identify yourself.

Mr. Villarimo: Aloha mai kakou. My name is John Villarimo and I am the Ka Hikina O Ka La Molokai Program Coordinator. Mahalo for being available this morning to hear our testimony. I am here to speak on behalf of Molokai Education Center as a past student as well as a current employee. I want to share a little bit about the importance of this place and why the proposed expansion is necessary. Five years ago, I relocated here to Molokai with my ohana from Hana. Back in Hana, I worked at Hana Youth Center while simultaneously trying to pursue an associate's degree in liberal arts. I could only take one or two classes at a time as the classes available to me in Hana were extremely limited. Needless to say, by the time I moved from Hana, I still hadn't finished my associate's degree. Now living on Molokai for the past five years, I was able to complete my associate's degree, earn my bachelor's degree through the Manoa Outreach, and I'm -- I am a current master's candidate with one year left before completion. This would not have been possible without the access, class availability, and resources Molokai Ed Center has to offer. As an employee of U.H. Maui College housed at Molokai Ed Center, I have had the pleasure of working with a very diverse demographic that makes up this beautiful island. Majority of the students I work with directly are nontraditional students or students that didn't pursue a degree straight out of high school. Many of them work

part-time, may be living off public assistance, and could never entertain the idea of relocating to Maui or Oahu to pursue and further their education. The access to education that Molokai Ed Center provides to this island is invaluable. So why do we need the expansion? Although Molokai Ed Center offers more than what Hana Ed Center had to offer me while a student there, courses and programs are still limited here on Molokai. As we look at trying to provide more degree programs here at the center to meet the needs of our student population, we need the space to make that possible. As a -- and as more students walk through our doors, our facility is literally bursting at the seams. This week alone we have two large events happening at the center, our 8th grade college and career visit as well as our end of the year paina pani kau. We're expecting upwards of at least 75 participants at each event; our largest room at the center can't even accommodate that, but as a small and rural community does, we improvise and try to make do with the best we got. Again, mahalo nui for your time and your consideration in approving our expansion. These are exciting times for education on Molokai and I look forward to what the future of Molokai Ed Center has to offer this beautiful island. Mahalo.

Ms. Cua: Any questions? Thank you, John. Anybody else wanting to testify? Please identify yourself.

Mr. Ah Yee: Aloha mai kakou. My name is Ekolu Ah Yee and I am a former student and former student worker of the Molokai Education Center. Okay, so just as a precursor, in 2013, I began my secondary, I guess, education journey and I didn't think that I would be able to succeed in the way that I had and a lot of that goes to the faculty and staff at the Molokai Education Center. And through my experience, I have learned a whole lot of new things and I've met a lot of people of like-mindedness who share the same vision as I do, which was to see our community succeed. During my time at the Molokai Ed Center, I was a part of the Molokai Student Activity Council, I am currently a member on the Molokai Education Center's Advisory Committee, I was a tutor for five-and-a-half years, and it has afforded me the opportunity to work at the current job that I'm at, I'm the head teacher at Hoomana Hou High School, it's the place where I graduated from, and like I tell my students, higher education may not be for everybody, yeah, but if you don't give it a try, you'll never know. I'm here to testify on behalf of the Molokai Education Center and to ask for your support in the expansion of our college. The expansion presents our community with the opportunity of bringing to Molokai vocational studies that are -- some are currently being taught here but do not have the proper facility and capacity to properly teach those courses, and with our expansion, the opportunities can be limitless and endless. So I humbly ask for your support in this endeavor. Mahalo.

Ms. Cua: Mahalo. Any questions? Thank you.

Mr. Rodrigues: Aloha. My name is Rodney Rodrigues, I'm a resident also on Molokai. Currently, I'm a student and a student worker, and also a peer mentor, tech support in the

back of -- in the back college supporting the Skybridge, and also all around help wherever I can - just a little about me. This is off the wing so I'm going to wing it. So a lot of my difficulties in my past has brought me to a place that I'm not so happy and proud of, but the Education Center has made it possible for me to become more reliable, more dependable, and, of course, more involved with the community and some of the things that the community center is involved -- our community learning center is involved. When I entered the -- the college, I really wasn't aware of where my -- my path was going to take me. I graduated from the drug court program, the whole program, and education was one of the -- was either a job or getting to school, so, unfortunately, jobs was hard to come by so education was my only route. I started school without any -- anything, knowing about any computer, I couldn't turn on a computer, I didn't know about turning on computers, or anything about looking for classes or nothing, literally nothing about what I was about to do, but after six years, today, I can proudly say that I got my AA in liberal arts, I got my AA in human service, and I have a certificate for a community health worker, and I just have been accepted into the bachelor's program of social work, and I'm asking for your support for this proposal, for the expansion because I know firsthand that, with the six years, there was some ups and downs, there was some challenges, I see a lot of other like I believe it's the real estate, you know, they have a whole other, besides the students, I'm sorry, I'm kinda nervous here now, but besides the students, we have a lot of other events that is -- is held on top our -- our small little campus, which is -- which is awesome, and I love helping out with these, you know, getting water for them and stuff like that, but the expansion will definitely help a lot of the students who really utilize the learning center, that's our library, and, you know, like I really don't know the logistics but like maybe a daycare, something to do with a daycare and help parents that having a hard time finding sitters and stuff, and also, you know, an open place. We have Kukui Grove, that's what it's called if you're not familiar with it, it's a little grove that we have with some benches and stuff, but I just saw a plan that actually give us a little -- little corner to, you know, I saw a little bit of the plan, and I'm excited. I'm excited to say that I could actually call it "Rodney's corner," you know what I mean? They laughing 'cause I was actually talking about Rodney -- you know, I call it -- it's my home, you know. It's become my home. I'm so proud of this place because it helped me achieve so many stuff, you know. I'm happy that we have distance learning that Manoa is offering to me right now. You know, I was worried about I have to, you know, go and relocate off of this beautiful island that we call "home" to continue my secondary education but, you know, fortunately, we have this distance learning but having something more near and close will be way more positive for our community, and I encourage a lot of students to come out, and I'm part of this team that we encourage and we try to recruit and stuff, and having something to say that, you know, we have this expansion and we have this in our -- in our years to come will be awesome. But thank you and I ask for your support for this expansion. Thank you very much.

Ms. Cua: Thank you, Rodney. Anybody else wanting to testify at this time? Okay, thank you very much. We also will allow testimony if you have not -- oh, you wanna testify now?

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

Ms. Cua: Absolutely. I was just going to say that. Yeah, we can also allow testimony, if you haven't testified, when the agenda item comes up. So we will proceed.

C. INTRODUCTION OF NEW COMMISSION MEMBERS - JULIE-ANN BICOY and BRIDGET MOWAT

Ms. Cua: We would like to introduce -- oh, first of all, I probably should introduce myself. I'm Ann Cua. I'm with the Planning Department staff. I'm a Land Use Planning Supervisor on Maui, and I'm just here today to help out with the -- some of the training for the Commissioners. And, also, I would like to introduce our Deputy Director, Jordan Hart. He's flown over today to, he probably knows some of you already, but just to be here in support of staff and to meet all of you. And then, of course, we have Sybil from our office as well, who will be helping me with the training today, and then we have -- Mimi's going to do some training as well, your Corp Counsel, on your legal responsibilities.

So we'd like to start by introducing two new Commission Members, one who will be with you today, Bridget Mowat? Mowat. Mowat. And Julie-Ann Bicoy. She's sitting in the audience today and she'll be ready to serve as a commissioner and get all her paperwork done by your next meeting. So we'd like to welcome both of you. Congratulations on your appointment and good luck.

D. ELECTION OF CHAIR AND VICE-CHAIR FOR THE 2019-2020 BOARD YEAR

Ms. Cua: At this point in time, we'd like to elect a chair and vice-chair for the 2019-2020 board year, and so I'd like to take nominations for chair.

Mr. Poepoe: I nominate Lori Buchanan --

Mr. Pele: Second.

Mr. Poepoe: For chair.

Ms. Cua: Okay, we have a nomination and a second. Any discussion?

Mr. Poepoe: Will she -- does she need to be present to decline?

Ms. Cua: No. She -- I mean she doesn't need to be present. If she were here, she could participate in the discussion, but you can elect her without her being here.

Mr. Poepoe: Okay, thank you.

Ms. Cua: So, at this point in time, if there's no more discussion, I'd like to call for the vote. All those in favor of Lori Buchanan being your chair, say aye? All opposed? Motion carried.

It was nominated by Commissioner Laakea Poepoe, seconded by Commissioner John Pele, then

VOTED: that Commissioner Lori Buchanan serve as Chairperson for the 2019-2020 board year.

(Assenting: W. Moore, B. Mowat, J. Pele, J. Perez, III, L. Poepoe, J. Sprinzel)
(Absent: L. Espaniola)
(Excused: L. Buchanan)

Ms. Cua: Next I'd like to entertain a nomination for vice-chair.

Mr. Pele: I nominate Laakea Poepoe for vice-chair.

Ms. Cua: Okay, we have a nomination of Laakea for chair -- I mean for vice-chair and a second to that. Any discussion?

Mr. Pele: No discussion.

Ms. Cua: Okay, I'd like to call for a vote. All in favor of Laakea being the vice-chair, please signify by saying aye? All opposed, nay? Motion carried.

It was nominated by Commissioner John Pele, seconded by Commissioner John Perez, III, then

VOTED: that Commissioner Laakea Poepoe serve as Vice-Chairperson for the 2019-2020 board year.

(Assenting: W. Moore, B. Mowat, J. Pele, J. Perez, III, J. Sprinzel)
(Absent: L. Espaniola)
(Excused: L. Buchanan)

Ms. Cua: Congratulations. And because we do not have a chair today, I will have you replace me and have you chair our meeting today. Congratulations, Laakea.

Chair, oh, you have to come here. The Department would like to make a request. Yeah, I'm going to move. I'll sit by staff. Right here 'cause I'm going to move. Chair, the Department would like to make a request. We -- we do have training on the agenda today and the training, right now, currently, is scheduled after the first item, which is the Draft EA for the University of Hawaii item of business that you heard about, and we would request if we could do part of our training before you take that item just so that we could give you some training on the environmental assessment process; if that would be okay, we would like to ask that that be moved up on the agenda.

Vice-Chair Poepoe: Can I -- okay. Yeah. Yeah, anybody object to moving the -- the item up? Okay. Anybody else get any objections to -- to moving up the orientation? No? Okay.

Commissioner Sprinzel objected to the request.

F. ORIENTATION TRAINING NO. 1

- 1. Roles and Responsibilities**
- 3. Planning Framework**
- 4. Zoning**
- 6. Land Use Commission Special Permit**

Ms. Cua: Thank you. Okay, can everybody see this okay? Okay, so the agenda calls for a number of different matters that we'd like to present some training on, we're going to do some of it now, and then hold off on other -- other parts of the training just so that we could get you some information before you take up the matter on the Draft Environmental Assessment.

So just to give you an overall orientation on just County government, State land use, County government is the lowest level of government in Hawaii, and the County of Maui is responsible for the islands of Maui, Lanai, and Molokai, and Kahoolawe. Our County Government, Maui County Government includes 16 departments; many of these departments work together to consider proposals for new development. In the Planning Department, we have six divisions. Our Administration is where our Director and our Deputy is housed. The Long-Range Division takes care of general plans and community plans, and they've come before you to make presentations. We have a Plan Implementation Division, which actually implements our long-range plans. And then myself and Sybil are part of the Current Division and we process land use applications as well as development applications. And then we have our Zoning and Enforcement Division and we know that you are very interested in enforcement and part of the training that you are going to be receiving is we're going to have one of our zoning inspectors

come over I believe at the next meeting to provide you some training on enforcement and, hopefully, answer some of the questions that you might have

So a lot of people are not -- are not aware of the role that the Planning Department plays, and I think for the Commissioners sometimes you're not aware of how much work and what the process is that occurs in the Department before an application even comes before you, and so we thought this would be helpful. So for the Planning Department, you know, we have to look at, when a project comes in or even when people come in to -- to meet with us, and before we can advise them, we need to know what is the State land use designation, what does the general plan or community plan say about your parcel of land, what's the zoning, is it in the special management area, is it in the flood zone, is a shoreline parcel, does it trigger an environmental assessment, is it in a special district; before we can even advise somebody on a project, we need to -- we need to have these facts, and once we know the answers to all of these questions, if you will, then we can advise as to what kinda permits you need, what kinda process you have to go through.

As I mentioned, the Current Division, we process a lot of land use entitlements. Land use entitlements are, for the most part, matters that go before the County Council, like community plan amendments, change in zoning, district boundary amendments, those are to name a few. We also do development permits, like special management area permits, plan developments, shoreline setback variances, things like that. And then we do design approval. You have country town business district in Molokai and we handle - - we do approvals for country town business district, which is primarily limited to design. And then we also do short-term vacation rentals and bed and breakfast. Majority of -- well, some of them gets approved administratively, but some of them also come to you for your approval.

So in terms of land use -- land use regulation, it really goes more general to more specific. As I mentioned before, we start with the broader land use, you know, land use designation, and I'll go over those classifications, and then we narrow down to general plan and community plan, and then, finally, what is County zoning. That's -- it goes broad to very specific.

So in terms of State land use classifications, all lands on all island are classified into four land use categories: conservation, ag, rural, and urban. And as you can see from the chart, in terms of within the State, the red is conservation and the lime green is ag. You can see the majority of lands are within the State and ag -- State ag land use classification.

For Molokai, even more specific, 98% of all land is either State land use agriculture or State land use conservation, so very little urban and rural.

And the very good news, which I know you're all very happy about, is, on December 19, 2018, your Molokai Island Community Plan became effective and so now that is a document that both the Planning Department and the Planning Commission must use in our review of both land use and development permit applications.

So let's start with some basic fundamental things. What is zoning? Zoning -- zoning is a process that encourages the most appropriate use of land, it conserves and stabilizes the value of property, it prevents certain uses that will be detrimental to existing uses, and it's there to promote health, safety, and general welfare of the respective districts. Zoning regulates land use. It tells you what kind of uses are permitted in a specific use zone, things like open space, residential, agriculture, business, hotel, and industrial, those are different types of zoning classifications, and within these zoning districts, like I said, there's permitted uses, there's accessory uses, and then there's special uses, so if a use is outrightly permitted, it's not something that will come to the Commission because it's a permitted use. If it's an accessory use, again, it's not something that would need to come to the Commission because it's accessory to the permitted use. But if the use qualifies as a special use and it needs a special use permit, then that is a permit that needs to come before this Commission. Zoning also contains development standards, it regulates height, how high you can build on your property based on your zonings, your setbacks, your lot size and your lot widths, it also has performance standards, you know, do you need to maintain a buffer from let's say parking to -- parking on a business lot to a residential lot, or just a business building to a residential -- residential lot, it regulates intensity of use, and it also determines your parking requirements.

We put this slide in here because for many years, when you wanted to come and check your zoning and you come into the Planning Department, we had to pull out these long maps, and they were pretty beat up, and in order for us to verify your zoning, we had to bring out that map, roll it out, and probably refer to some ordinances just to make sure we're giving you the right zoning, but what's happened very recently, and I think the last time I was here, I was here to talk to you about our -- our DSSRT project, which is our dead sea scrolls project, we refer to those maps as the dead sea scrolls, and the whole goal of this project was to replace the County's official paper zoning maps with digital versions, and the -- the intent is going to be to make these digital zoning maps available online for public use, and we have confirmed all existing zoning for all parcels in the County of Maui, and when I say I -- well, actually, yeah, we've done it in all of Maui County, but in terms of going to the County Council to adopt individual maps for each island, we could only do one island at a time, and that's what we told you when we came up for the training, so we've done Maui first, that was adopted I believe in December 2018, and then we're going to be doing I think Lanai next, and then Molokai.

So, again, what we've done is we've been able to confirm zoning accurately and efficiently, there's going to be greater public access to accurate zoning information, we're

going to reduce the, significantly, the zoning determinations by the Department staff, and between fiscal year 2013 and 2016, we processed 21,000 zoning confirmation forms, so we're, hopefully, going to reduce that eventually to -- to nothing because people would be able to go and look up their zoning information on their own. This digital map will improve coordination between governmental agencies and it'll be a key foundation to our upcoming County online permit process, which is called "MAPPS."

So what is the Department's role in this whole process and the Commission's role? Well, the planner's role, so Sybil -- Sybil is our Molokai Planner, and her role is to get a project ready to come before you, and what does she need to do to do that? So a lot of times, sometimes several months, sometimes a year, depending on how large the project is, before the project comes to you, people normally will come in, they'll meet with Sybil, sometimes with the supervisor, and we'll start to take a look at -- at an application or sometimes not even an application, they just wanna come and talk, and remember what I told you about how we have to verify what's your State land use, what's your zoning, are you in the SMA, you know, we have all that discussion so that people clearly know what kind of permits they need to file. So there's a lot of back and forth. One big thing that gets determined is is there a trigger for an EA or an EIS, and when we get to -- when we get further down in the training, I'm going to talk about the triggers. The project that you -- that you have before you today is to get your comments on a Draft Environmental Assessment. The trigger on that particular project is the use of State and County lands. So again, when we're meeting with an applicant, that is one -- that is a very important thing for us to determine because that is the first thing that needs to happen before they get any kind of a permit. They need to finish, start and complete, the environmental assessment process before you, as the Commission, can approve any permit for that associated action. When an application does finally come in, the Department sends the application out for agency review. The applicant refines the application sometimes. We encourage them to meet with the public, so I wanna talk about that a little bit.

If there is a public hearing required for a particular action, the applicant is legally required to do a notice of public hearing, so it's a written paper that goes out to owners and lessees within 500 feet, for the most part, sometimes -- for a special use permit, it's less, but for the most part, it's within 500 feet. That has to legally happen. What doesn't have to legally happen that we strongly encourage applicants do is to meet with people within 500 feet in advance of this public hearing notice, so not to wait until the item is scheduled for review with the Planning Commission but in advance of that, to sit down and talk with them, and get their comments, and -- and let them know what the project is because sometimes what happens we found in that process is that they'll get some really good comments that come out from the community and they may wanna tweak their project a little bit, make -- make a little bit of changes so that by the time it comes to the Commission, they've heard what the public has said, and they've been able to accommodate maybe some concerns so that that doesn't all air at the time when you're

trying to review a project and you're going to have the public saying I've never heard about this. So that's a very important step.

And then at some point, Sybil is going to write her staff report and recommendation, she'll give it to a supervisor for them to look at, and then it'll ultimately go either to the Deputy Director or the Director for signature, and that becomes the Department's report and recommendation. And then, at that point, the project is finally ready for your Commission review.

Now in the report that -- that Sybil writes are things like the description of the project, what regulations govern this project, what agency comments have we received, and then based on all of this and based on the criteria for that particular permit and the zoning, community plan, we do an analysis. We do an analysis of the land use. We do an analysis of infrastructure and potential impacts, socio-economic impacts, environmental impacts, and then we include a whole bunch of exhibits, agency comments, letters of testimony that we've received. When an agency comments, we always have the applicant, if the agency has something significant to say, we have the applicant respond to that and our report will include the applicant's response as well. All this is to be able to give you the most accurate information that we have to help you to make an informed decision. And then we also present a recommendation.

We, I think it was last year, we put this together because we really felt it was important for the Commission and public to understand what is the planner's role and what is the Department's role in this whole process. The planner's and the Department's role is to provide you the facts of the project, to analyze the project relative to Federal, State, County rules and regulations, to present agency reviews on the project, to discuss public issues and concerns, and to answer your questions. The planner represents the Department's position, it's not Sybil's position, it's not my position, it's the Department's position, and I think the most important takeaway that I'd like to leave you with for today is the planner does not represent any applicant nor do we represent any specific interest, and that is -- that is really important. Sometimes when we come to you with a recommendation of approval, and we've done the back and forth before it even came here, and a lot of times we have applicants change their plans because we're like, okay, this is not appropriate, we need you to change this, so we get the application to a point where we feel that we can recommend approval of it; sometimes it can feel -- there can feel like there's a perception of, well, we're representing the applicant. That's not the case. We represent the County's interest, the public's interest, and we do an analysis based on the laws, and rules, and regulations.

What is your role? Very important. Your role is to use wisdom and balance in decision making utilizing Federal, State, and County laws and regulations with the consideration of island issues. The important thing I wanna leave you with on this is that, you know, we

all have -- we all have individual feelings on all kinds of things, and it's very hard to separate your personal feelings sometimes, but as a Commissioner, you take a different role. You have a different responsibility. You can have your own feelings, and that may be fine, but you really need to pay attention to all the work that's gone into the report that's before you because your actions have to be legally defensible, and that's why we take so much time to go through the laws and the regulations, and we prepare an analysis for you, and it is totally within your power to ask whatever questions. If you feel, you know, something in the report doesn't make sense to you, ask us because once you make your decision, it needs to be based on facts, not just based on how you may feel. So that's really important.

This is just an illustration of, you know, how the process works. You know, you have the County Council that is responsible for land use decisions, you have the various planning commissions who sometimes -- who, for land use decisions that the County Council is responsible for, you make recommendations to the County Council, but then you have authority for various permits just on your own. There's things that you are responsible for. We make recommendations to you, you're responsible to make the decision. And then you have resources to help you and these resources help us as well in terms of us getting our report to you. Sometimes, like for SMAs, we're required to take it to the Urban Design Review Board. The law requires that. But sometimes there may be something culturally significant on a property so we may wanna take it to the Cultural Resources Commission. So these are resources to both the Department and to you.

And I'm gonna just highlight this again. So here you are. So this shows the same thing as, you know, how all those boards and commissions were on the bottom, you're in the middle and you can utilize the Cultural Resources Commission, all the governmental agencies, Urban Design Review Board, Arborist Committee to help you in your decision making, and you know that with a lot of these boards and commissions, there's public testimony. So in addition to the public testimony that goes on at your meeting, if there's another meeting held on a particular project, there's going to be testimony at -- public testimony at that level as well.

We have a number, I'm not gonna go through all of this, we have a number of governmental agencies that we utilize to get comments from and we incorporate their comments into your staff report. Just to give you kind of a feel in terms of permits that come before our Department and that some -- some of them that you are able to -- that you are responsible to review, SMA exemptions need a waiver from the Molokai Planning Commission, that can -- the timing on that can go anywhere from two months to a year. You see that FDP in parenthesis right here, this is flood development permit. If your project is in a flood area and you need a flood -- flood development permit, we cannot and you cannot act on the application until they get a flood development permit. That can take a while. So that a lot of times causes a delay. SMA minor permits and time

extensions, those come before the Commission. That can take anywhere from four months to a year. Public testimony on both of these levels. Permits with change of use or intensity, and that would be like a special use permit, like I talked about, remember you have permitted uses, accessory uses, and special uses. If you need a special use permit, it has to come to the Planning Commission. That can take a little bit more time. Again, the agency comments. When we give agencies the opportunity to comment, we give them about 30 days to comment. And then there's the change in zoning or community plan amendment. Those has to go to the Planning Commission for public hearing, and then you make a recommendation to the County Council. If there's an EA that's involved in a community plan amendment that could even take more time, so, you know, this can take ten months to eight years, I mean it can take a long time, the whole process. I had a project, a change in zoning, on Maui that took eight years. It happens.

So there are specific permits that you -- you play an important role in and you have the final authority and County special use permits is one of them. It's Section 19.510 in the Maui County Code. As I mentioned before, uses identified as special uses within a zoning district requires a County special use permit, the Molokai Planning Commission holds the public hearing, and you are the final authority on County special use permits. Conditional permit. Pursuant to Chapter 19.40, it establishes uses not specifically permitted within a zoning district but are similar, related, or compatible to permitted uses. As the -- the Commission is responsible to hold the public hearing, but you are not the authority on a conditional permit, the County Council is. So you hold the public hearing and you make a recommendation to the County Council. And this is -- these are all examples of projects that went through the various permits, so this Neighborhood Store went through a conditional permit. I'm just here. Sybil did this whole presentation. I'm just here talking through it, so she does a great job. Planned developments. You don't really see much of that here but it's a process that encourages desirable design and land use patterns within existing natural environments. We always use this example of Puamana in Lahaina. It's a planned development. If someone wants to do a planned development in Molokai, it's a three-step process, PD-1, 2, and 3. The Commission is the authority to review and approve steps 1 and 2, and the Director does the review for step 3 followed by the Commission review and/or waiver of the approval, and no public hearing is required. It comes to you on your agenda as a communication item. Change of zoning, subject to Chapter 19.510. It allows for a change from one zoning district to another, like going from residential to business, or business down to residential. The Molokai Planning Commission would hold the public hearing and provide a recommendation to the County Council, the County Council is the authority on change in zoning applications. So this is an example, the Kamakana change in zoning, I think some of you were involved in that or are familiar with it. How does this process start? It starts with a basic parcel map. There's the -- the parcel outlined on a map. It's a 14.59-acre parcel. The State land use classification is urban. The Community Plan is single-family. So that -- so the land use plan for that area is to do single-family residential. One important -- one important thing

we cannot stress enough, the difference between Community Plan and zoning. A Community Plan designation is a land use designation, it is not zoning. Yeah, so, for example, single-family would be the Community Plan designation, but the zoning would either be R-1, R-2, or R-3. R-1 has a minimum lot size of 6,000 square feet. R-2 has a minimum lot size of 7500 square feet. R-3 has a minimum lot size of 10,000 square feet. It gets much more specific than just a general land use classification of single-family residential. The zoning for this particular parcel was interim and they requested a change in zoning to R-3 residential district. And this parcel was in the SMA, special management area. So this is kinda how it -- it layers up, you know, we have the parcel, and this is all, again, like I mentioned, I keep going back to what do we do when we first meet with somebody. We have to know all of these. We have to know: What's your designation? It's urban. It's single-family. Okay, well, they can't do their subdivision because they don't have zoning, it's interim, so they had to go through the Planning Commission and the Council and, in 2016, everything lined up, all of this has to line up, and once it does, then a family can subdivide their parcel. Not an easy process. A very expensive process. But it's just the way it is.

Okay, I'm going to touch very briefly on the special management area, and the reason I'm going to just talk very briefly is because, at your next meeting, we're bringing our shoreline team over, and they're going to talk specifics on the special management area. You review special management area permits. So it's important that you have a good understanding of this. But, very briefly, the SMA rules assist the Department and the Planning Commission in giving full consideration to establishing special controls on development within areas along the shoreline, it also helps you to avoid permanent loss of valuable coastal resources, and it also -- it's there to provide -- to assure that there is adequate access to beaches, recreational areas, and natural reserves. And then there's the shoreline setback rules, so sometimes a project is only within the special management area, but sometimes it's in the special management area and within the shoreline setback area, and sometimes a shoreline setback variance application needs to come before the Commission. The shoreline setback rules were adopted back in October 2003. The purpose of those rules is to move structures out of harm's way, to plan for the obsolescence of structures in the shoreline setback, to ensure shoreline access, and to limit the types of structures and activities in the shoreline area. And, basically, it comes down to two choices: Do we protect the land and lose the beach, or do we protect the beach and lose the land? Not an easy decision. And a lot of times it's a balance and that's one of the things that makes your jobs -- your job difficult.

In terms of environmental assessments, okay, this is -- this is the whole reason why we asked to do this part of the training because you have something on your agenda about this. So Chapter 343, Hawaii Revised Statutes, deals with environmental impact statements. It was adopted in 1974. It deals with environmental, social, and economic consequences; this process assures public participation; it encourages conservation of

natural resources; enhance the quality of life; and there are two types of actions that -- that this process can take. One is applicant actions, and one is agency actions. When a government agency does a project, they can exempt themselves from the environmental assessment process or they can be the accepting authority, and in this particular case, the Department of Education is the agency action -- is the agency that is preparing the document and will be the accepting authority, so the Draft Environmental Assessment that's coming before you today is come to you for comments. And as I mentioned before, so for this particular application, they're going to come in for a change in zoning, a district boundary amendment, and an SMA. Okay, those permits are all going to come before you for a public hearing, but before they can come to you, this environmental assessment has to be done. So this -- this graph on the side is kind of important, and it kinda breaks it down. So the large circle is every project that exist, and then some of those projects are subject to Chapter 343, the environmental assessment, but some of those can be exempt, and if you're not exempt, then you have to prepare an EA, environmental assessment, and sometimes, based on your impacts, you have to provide -- you have to -- you're required to do an environmental impact statement. So that's kinda how it goes, from broad to very specific.

Triggers. What triggers the preparation of an environmental assessment? The use of State or County lands or funds, conservation district lands, shoreline area, designated historic sites, County General Plan, conservation district lands, helicopter facilities, wastewater facilities. The trigger for the Draft Environmental Assessment that's going to be presented to you today is the use of State or County lands or funds. That's the trigger. I'm not going to go through these in details. You know, I mentioned, when you looked at those circles and I said, okay, if you're required to get -- if you're subject to Chapter 343, you might be exempt. These are the exemptions. If you -- if you qualify as an exempt class of action, then you can be exempt from the process.

If you are subject to the process and have to prepare an EA or an EIS, there's significance criteria that you need to address, and I'm not going to go through all of the, we can always do it in more detail, I think because today you're going to have a presentation, you're going to see how they go through some of this criteria, they have to address all of these issues to be able to put forward a draft environmental assessment, and then, ultimately, a final environmental assessment. So how the process is going to work today is you're going to present your comments, give the applicant your comments, the Department will do a letter, and the applicant will need to address your comments and incorporate their response, your comments and their response in the final environmental assessment before it gets accepted.

And that concludes my presentation. Sorry, I tried to go a little bit fast so that we can make sure we get everything on the agenda. Are there any questions for now? No?

Okay. I think that's it, Chair. I think we can go now to the -- the Draft EA that's on your agenda. We'll complete the rest of our training later.

Vice-Chair Poepoe: Thank you for that presentation. We are moving on to item E.1., Communications:

Vice-Chair Poepoe read the following agenda item description into the record:

E. COMMUNICATIONS

- 1. MR. TOM SCHNELL, of PBR HAWAII & ASSOCIATES, on behalf of the UNIVERSITY OF HAWAII, requesting comments on the Draft Environmental Assessment for the proposed construction of a 1,100 sq. ft. multi-purpose classroom and site improvements such as a fire lane, outdoor courtyard, and restroom facilities, 375 Kamehameha V Highway, TMK (2) 5-3-003:013 and 014, Kaunakakai (SM1 2019/0002) (CIZ 2019/0002) (DBA 2019/0002)**

The Commission may provide its comments on the Draft Environmental Assessment.

Vice-Chair Poepoe: Handing it over to you, Sybil.

Ms. Lopez: Thank you, Vice-Chair. Thank you, Commission. I'm Sybil Lopez, the Staff Planner on this project that is before you today, and, yes, it's just a Draft Environmental Assessment and I do have Tom Schnell, of PBR Hawaii & Associates, and his team here today to do a presentation for you, and I would like to turn the time over to Tom and his team. Thank you.

Mr. Schnell: Good afternoon, Commission Members. Thank you for having us here on Molokai. It's always great to be on Molokai. Thank you very much. My name's Schnell, I'm with PBR Hawaii. PBR Hawaii's a land planning firm and we prepare environmental assessments and various other entitlement applications. With me today is Shawn Kodani, who is with the University of Hawaii Community Colleges, so he's from Oahu and representing UH; Kelley Dudoit is the Molokai Education Center site coordinator, she's here and may be able to answer questions if you have questions, and then we have our architect, Glenn Yokotake, who will be able to address specific concerns about the design and the building.

So we're here today, specifically, to talk about the Draft EA, which we prepared, and it's been out for public comment, the public comment period started on April 8th, and I believe you all got a copy of it in the mail probably. The comment period runs from April 8th to

May 8th, so we're a little bit at the beginning or in the middle. After we receive comments, after the comment period deadline, we will respond to those comments. We will incorporate the comments into the Draft EA and change that into the Final EA that will incorporate and address all the comments. Let me just move on forward. As Ann was mentioning, so the applicant in this case is the University of Hawaii, they're a State agency, so the State agency happens to be the accepting agency in this case too so the University of Hawaii will review all the comments, all of the responses, and then make a determination if they find the Final Environmental Assessment acceptable.

Just to go over the project a little bit. There's -- there's two parcels on the Molokai Ed Center site. One has the existing building on it now; the other parcel is vacant. Those two parcels total about five acres. The proposed action is an extension, an addition to the existing building. It will be connected with a covered walkway and a courtyard in between the building. It's approximately 3,100 square feet in total, and there's some major land use approvals that are -- will be needed for this. There'll be a State land use district boundary amendment because the property is currently in the State agricultural district, and I'll get to that in a minute. There's also a change in zoning that will be required. The property is currently zoned interim. And a special management area use permit. And I'll get to those specifically but I just wanted to give you the overview of that.

I'm assuming you're all familiar with the location. This shows an aerial photo of the location, so this is where the current Molokai Education Center building is, they also own this property over here, and the new project will -- or the addition will straddle this area right in here.

A little bit of background about Molokai Education Center. I know you've heard some already. The Maui College has been operating on Molokai since 1970. You heard some of the distance learning that they conducted before. And, finally, in 1999, the current center opened in a permanent building. Molokai Education Center currently serves close to 250 students and offers programs and degrees in liberal arts, Hawaiian studies, human services, early childhood education, agriculture, nursing aid training, and I understand many more. I didn't list them all.

So why do they need to expand? You heard some of the testimony. They need to expand to meet the growing needs of education and students on -- on the island. The new expansion will allow them to serve up to 350 students, to offer more degrees and programs. And an important issue that I've learned talking from -- talking to Kelley is that they do a lot of distance learning, and the distance learning is not just somebody remotely on their computer, but they actually can come to a classroom in the center to access the distant learning facilities, the telecommunication, and moving away from the current system to a new system that requires more space for them at their center now. And then, finally, to provide space for large events, such as graduations, exhibitions, lectures, and

community events. I think one of the testifiers mentioned they're currently maxed out at about 75 people and that they could hold much larger events with the new center.

So what is being proposed? The current building is -- is shown here. You can't see it. It's just -- it just grade out 'cause it's already there. The parking lot is up here. The expansion area is shown right here, and if you see, there's the property line that the building will go over, and I'll talk about that in a minute. I've talked about the uses. We need a larger facility for classroom space, lectures, graduation ceremonies, community events.

What will the new classroom include? So it's designed as a large classroom that has three dividable spaces so they can divide into smaller classrooms if they need to. The large openness spans allow each classroom to connect so -- or open up flexible learning spaces to support campus and community activities, connection between indoor and outdoor areas for larger campus assemblies and events, there's also a restroom, storage, a mechanical room, and even room for a future serving kitchen, and the architectural design will complement the existing design of the center.

I wanna get a little bit into the permitting, which Ann touched about on her presentation, but this is the current State land use district boundary map, and the green area is agriculture, and the red area is urban use on the State land use -- land use map. The current Molokai Education Center is operating under a State land use special permit, so they were granted a special permit to build on agriculture land in 1999 or maybe a little bit before the center was built. They have been renewing the special use permit periodically 'cause a special use permit has a time limit. The most recent renewal was in 2014 and that gave them a ten-year extension on their State land use district special permit. So in 2014, actually this Commission granted that special use permit extension and one of the conditions of that extension was that, it's down here, no. 8, is prior to any future expansion of the facility that applicant shall acquire a State land use district boundary amendment for this property, so I take that that the -- it's probably not a good idea for a facility to continuously getting extensions on permits, they should actually change their district boundary to the correct district for that use. This is a map of the Molokai Island Community Plan, which was recently adopted. The property is here, the two parcels. The blue represents public/quasi-public designation, which is an appropriate use for an education facility. But the zoning, I don't have a zoning map, but the zoning of the site is actually interim, which is a holdover zoning designation that's -- that's been existing for quite some time, so the proper way to designate this property consistent with the Molokai Island Community Plan would be to change the zoning from interim to public/quasi-public, so we will be applying for that also.

It's interesting, this is the special management area map. The parcel right here where the existing center is is currently not in the SMA, but this second parcel is in the SMA, so

because we will be utilizing the second parcel, we're -- we'll be coming before you for a special management use permit too. I'm not exactly sure why the line is drawn this way, but it's probably likely that this center was built out of the SMA at one point to not be in the SMA, but with the second piece, we need to enter into the SMA.

And then, finally, one of the last major approvals is the lot consolidation, so this is currently two parcels. To be able to -- to build the building on the property line, we need to consolidate the parcel into one -- the two parcels into one parcel, so we will be applying for the lot consolidation too; that will allow us to build the building on the parcel regardless of this line right here, otherwise, we'd have to comply with setback requirements for each specific parcel, so it's important for us to be able to consolidate the parcel into one.

Permitting summary, real quick, district boundary amendment, it's under 15 acres so that will be processed with recommendations from the Commission and the County Council can approve that. A change in zoning is also receives recommendations from the Molokai Planning Commission; ultimately, the County Council approves the change in zoning. And the special management area use permit will come back to the Molokai Planning Commission after the Council has approved the district boundary amendment and the change in zoning. So, actually, the Molokai Planning Commission has the final approval and decision making on moving the project forward.

I wanna talk a little bit about the Draft EA 'cause that's why we're here today. We follow the process and we also had some community meetings. The first step in any EA is to do pre-consultation, and, typically, the way we do this is we send out letters to affected groups and agencies asking for their early comments on what they think the EA should include, and that process started in the fall of 2017, we've gotten responses back to all of those comments and we've prepared the draft based on those comments and other criteria, so we've already incorporated those comments. In October, we had a community meeting at the Education Center that was on October 12th. We sent out notices to people within 500 feet of the project, and some folks came, and they provided their feedback and it was mainly supportive positive testimony. In December this year, actually Kelley and architect, Glenn, went door to door in the neighborhoods, and they knocked on everybody's door, the folks that were available and home, they were able to speak to; if they weren't home, they left a flyer with some information at the door or, you know, where they could leave it.

So the Draft Environmental Assessment, it took us quite a while to develop it. We employed several experts in different subject area fields. We had a biologist look at the site for any endangered or threatened plant or animal species. There were none identified, although I understand that some seabirds may fly over the site, but there were no endangered or threatened birds that roosted on the site. We also had an archaeologist got out and inspect the site. He prepared a report. It went to the State Historic

Preservation Division, and in response, the State Historic Preservation Division wrote a letter saying that their determination was that this new building would not have any impact on archaeological resources 'cause none were found on the site. And we had a transportation engineer take a look at the traffic impacts, and they did an analysis report. The analysis came back that they did not see a significant impact to intersection operations or traffic in the region because of the increase of students coming into the center.

So what kind of impacts will there be? So those are just a brief summary of kinda the major areas, but, typically, for a construction project, there will be some short-term impacts due to construction. There could be air quality impacts such as dust, noise, solid waste from site cleaning and grading and clearing and construction. There may also be potential storm water runoff issues that might be due to grading the site, and if it rains, we have to have mitigation measures to be sure that that runoff does not reach the ocean or leave the site. So Molokai Education Center will comply with all County, State, and Federal rules regarding these issues, and there are specific guidelines and requirements that we need to follow. We'll have best management practices, which are our practices that will have berms or different kind of swells so that the runoff will not enter or cross the highway and into the ocean. But, overall, when you look at the overall impacts, no significant long-term impacts are anticipated, and because of that, the EA, Draft EA has gone out, it's called "Anticipated Determination Finding of No Significant Impact;" that remains to be seen based on comments that are received and the final accepting authority reviewing those comments and making that determination, it's not a determination that, you know, as a consulting firm, we make, it's up to the State agency that's accepting it.

So maybe a little bit more interesting or what might be more pertinent is what's going to be proposed and what the site will look like and what the building would look like and for that part of the presentation, our architect, Glenn, will be explaining the details.

Mr. Yokotake: Good afternoon, Commissioners. Vice-Chair, Commissioners, community members, my name is Glenn Yokotake, Architect, and please allow me to walk you through the design.

So what we have here is a site plan representing what we are proposing. The light green shaded areas represents the minimal site disturbance and area that we are intending to improve. The existing Education Center lies right here. Here's the highway and this is Alanui Kaimike Street up to the fire station. The existing paved parking lot is right here, and part of our project is to reuse the existing overflow lot that was constructed in the last '90s by the original center for our parking purposes. The square footage on this Maui Education Center's expansion triggers about 24 parking stalls according to the Maui County Code. Along with this expansion here, we have a connecting walkway that physically ties us into the existing center. This is the Verizon little enclosure and tower,

just for your reference, and we also have a small little storage building as part of our permitting or our design.

This is a blowup of what the actual expansion will look like, so as Tom mentioned, there are three classrooms - we have one classroom, two classroom, three classrooms, but they are totally openable by these sliding doors, so if you can imagine, Kelley and her staff can operate this as three individual classes, a medium size class, and one small class, or one gigantic classroom, and what this does is it gives the center the ultimate, I guess, flexibility for all kinds of different instructional programs, classrooms, labs, you name it, community events. In addition to this, the center's expansion will open up its windows and doors and sort of face mauka to take advantages of the natural mountain breezes but also the indirect northern daylight, so in a subsequent illustration, I'll show you what that looks like. What we have here is a covered breezeway. This is our walkway right here that ties into the -- the corridor at the existing center, through the glass doors, and we'll have an outdoor lanai, and these are the three restrooms that we're proposing to support the additional classroom space, we also have some storage here for tables and chairs, like this stuff, so when we need reconfigure the space, we need to move all of these stuff out of the way, so that's where it goes, and we have a tiny little service or janitor's room just for support and maintenance reasons.

So this view right here is looking at it from the mauka side, so if you're standing on the mauka side looking toward the ocean, this is what you'll see, you'll see a lot of glass, it's a very, very open building. The glass is intended to bring as much daylight into this facility as possible, and one of the ideas behind that is to reduce its energy consumption, trying to keep into consideration University of Hawaii's net energy zero goals in the future, we wanna contribute to that rather than make that a little more challenging. This is the view from the street so all you see is walls and a roof, and it's sort of consistent with what you already see with the existing center. The colors, the materials will be fairly similar as well so they'll integrate very well together.

This is what we call "longitudinal" or a "cross-section;" basically, you just take a knife and you cut the building in the long way and the short way and that's, basically, what we did here. The heights that are represented in these three classrooms are very similar to what you're seeing right in this space, so the volume, we're trying to illustrate what the overall volume may look like, so these are the doors that could open, and this is the overall volume of that, each classroom. From the side, you'll see that this -- the design is a very simple single-sloped roof. The angle of this roof is sloped toward the highway but the angle is also there for the maximum solar exposure for PV, so, again, in keeping with energy efficiency and the University's energy goals, future plans call for a PV system on this roof. Now, we could easily design something a little bit more creative and fancy, but we thought we wanted to be energy efficient; that was a big goal. And with Molokai having the highest kilowatt per hour rating rates in the nation, we thought this was super

important. And this is sort of illustration of what we feel the colors, materials, and the overall scale might feel and look like. This is looking at it from about the parking lot area of the existing center as you park your car and approach the center, you just look off to the west a little bit, and there it is. So there will be a small little landscaped courtyard. We intend to plant some Hawaiian native plants here as sort of screening. There's the lanai area right there. There's the covered walkway that connects to the existing center. And here are those operable doors facing the makai side open to the lawn out here, and the high windows bringing in a lot of that daylight. So that's kinda the -- the overall feel of what this center will -- will look like, it doesn't mimic the existing center exactly down to the material and all the color, but you'll see that some of that materials carry down here and the roofing is all the same, so from the other side, it looks seamless. Okay, with that, I'm going to turn it back to Tom. Thanks.

Mr. Schnell: Thanks, Glenn. I just have a quick wrap up and summary just to go over some points and also let you know of other opportunities to comment and what the next steps are going to be in the process. So we're here for your comments on the Draft EA today, and when we receive those comments, we will incorporate those into a Final EA. We are scheduled to go to the Urban Design Review Board on Maui on, sorry, May 7th, and we expect that they will provide more detailed review of the design, and the materials, and the colors, and the look of the building. The Draft EA public comment period and agency comment period is open until May 8th, so there's a couple weeks to go. We will be back at the Molokai Planning Commission at some point after the Final EA is finished and that will be a hearing on the SMA, the district boundary amendment, and the change in zoning, and this is to get your comments and your recommendations to the Council on the district boundary amendment and the change in zoning. So after that hearing takes place, we would move to the Maui County Council because they have the authority to approve the district boundary amendment and the change in zoning. If they do approve that, then we would come back to the Molokai Planning Commission to receive approval for the SMA. So it's a multi-step process and comments are encouraged and allowed at every step, and public testimony can be provided at all of those hearings also. If the -- if the SMA is approved, the final architectural plans will be submitted for a building permit, we'll also move forward on the lot consolidation, and construction will commence. That's the summary. That's a quick brief story on the Draft EA and the plans, and we're here to hear your comments and your concerns and answer questions if we can.

Vice-Chair Poepoe: Are there any comments from the -- or questions from the Commission Members? Okay, go ahead.

Ms. Mowat: Thank you for your presentation. I appreciate that. I just was a little concerned about the wastewater. You talked about the pipe going along -- I was privileged to get some information regarding our wastewater system which stated that its -- they just had a report in March -- January or March, and the wastewater treatment

facility right now is -- the report was unacceptable because it's in a 100% capacity already and they're not processing the wastewater, so that was a concern of mine and -- and then also the fact of the climate change and the ocean rise, and I know a section of -- of the area is in that area where it could get flooded and I know that is a concern of yours also the flooding and the -- the -- so I'm just kinda leery about -- I was -- I was wishing that it was you folks were going to use some money to move it up further because the wastewater system, it will eventually need to be moved upland because it's so close to the ocean, so I don't know how you would address that, but -- also, another thing you mentioned in the review palapalai being planted, palapalai?

Mr. Schnell: I'm sorry. What?

Ms. Mowat: Palapalai. You was going to -- you mentioned palapalai as a ground cover and palapalai is usually plants that is up in higher grounds and it takes a lot of water so that's just my comment.

Mr. Schnell: Okay, thank you for your comments.

Ms. Mowat: Thank you.

Mr. Schnell: I can try to address them in -- in some level. So as far as the wastewater, I understand that there is a sewer line that does go to the project or the property. The current plan would be to connect to that, you know, County system. We do have a civil engineer onboard, the civil engineer is not here, but we can definitely check back and find out about the sewer capacity, and I believe that the County also will have to grant permission for us to be able to connect the additional facility to the system. So if there's no capacity, that permission probably will not be granted and that would be probably a major impediment to the project. We'll make sure that that's taken care of or all the proper approvals are received. You also mentioned flooding and sea level rise. I do have some slides here. So this is the -- the flood insurance rate map, and the property is in this area here, the blue zone is called the "AE zone" and it is susceptible to flooding. The "EL" means the base flood elevation level, so in order to avoid flooding, we need to build a building at an elevation greater than eight feet about sea level, so that's been -- that's been designed into the -- into the project and, you know, the foundation will -- the habitable floor will be above the base flood elevation. Regarding your concern about sea level rise, we did look into sea level rise. There are many models that predicts sea level rise. We used the University of Hawaii model. In this -- this map shows that potential flooding areas within a hundred years, that's with the idea that at sea level within a hundred years will -- will rise two point -- or 3.2 feet, and if that did occur, this area in the blue would -- would be subject to sea level rise. The building would -- would be about here, and actually, in 50 years, the rise is not projected to be as great as this, this is a hundred-year projection, so it's an obvious problem that -- that many folks will have to

deal with but we feel the -- the useful life of the building or at least there would a 50-year period where the building could be serving the community and what the impacts of sea level rise will be after that point will have to be dealt with on a regional level. And you also had concerns about landscaping I believe. We do have a landscape architect on board and we can check into the appropriate plant materials. If we've listed something incorrectly, we could double-check. The goal is to do water-efficient landscaping that does not require a lot of irrigation and to be adaptive to that area.

Vice-Chair Poepoe: Anymore questions from other Members? Seeing none, I going open the floor to public testimony if get any members in public who'd like to testify.

Ms. Poepoe: Hi. My name is Mahina Poepoe. I'll start by saying that I support the college and the educational opportunities they provide. I got my associate's degree there and then transferred to U.H. West Oahu and got my bachelor's degree so I appreciate all of that stuff. I wanted to talk about two general things that apply to this project and all other projects that are going to happen and the sea level rise and tie-in to the wastewater. So I'm going to talk about sea level rise and wastewater treatment plant kind of jumping on what Aunty Bridget was talking about. From what I understand, the sea level rise maps for Molokai are a bathtub model only and so they only compensate for the slow calm rise of water and don't take into consideration any other environmental factors, like wave action or the wind, so while they are useful models, the bathtub model, it's not a completely fully encompassed model for all probabilities. So how fast or slow the sea is going to rise is still really dependent on politics and what we do in the meantime to slow or quicken our carbon emission contributions, so it could be three feet in a hundred years, it could be five feet, or it could one foot, it's just dependent on what happens in the meantime. So with the sea level rise issue for really all projects, I think it's important to also start planning for when the water does come how you're going to remediate and prepare the land to have the water come and not just be leaving behind like a bunch of buildings or infrastructure; that should be planned for also in projects. So the wastewater treatment facility, in the Draft EA, when it was put together I guess, I think it says seventy or eighty-something percent capacity, and then in February of 2019, the Department of Health reported that the capacity is a hundred percent at the wastewater facility among other things which was that they weren't treating the water correctly to be able to reuse the water, some data values were off, but their -- their finding found that our plant is at a hundred percent capacity and is unacceptable standards for the Department of Health, so when considering new tie-ins to the sewer, that's also something I'm concerned about with all new tie-ins everywhere that are going to go into the sewer. That's about it. Thank you.

Vice-Chair Poepoe: Any questions by the Member of the Commission for the testifier? Thank you. No questions. Anyone else in the public would like to testify that didn't already? Anybody who would like to testify again? Seeing no more testimony, I'm going

to close the floor to testimony. Okay, Members of the Commission, do you have any comments that you would like to formally submit to the Planning Department regarding this issue? In addition to Commissioner Mowat's concerns and comments, are there any additional comments that you'd like to submit to the Planning Department? Okay, I get some. I get some comments I'd like to submit. So, actually, I wanted to have -- I had one question for the -- the biology report and I wanted to ask if it could include a more - let me see - so when was the -- the assessment for the biology of the area done?

Mr. Schnell: I'd have to check the date. I believe it was 2017. We're checking right now. Yeah.

Vice-Chair Poepoe: Were they multiple dates that data was collected?

Mr. Schnell: Check.

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

Vice-Chair Poepoe: Can that be read into the -- the record?

Mr. Schnell: It was -- could I -- can I see it? So the result -- or, sorry, the data was collected in September 2016 ...(inaudible)... I have to look at the methodology of the report. Typically, the biologist that we work with goes to the site on a day and then also into the evening to monitor for birds, but let me just double-check. Well, it's not clear by the report. I can follow up and ask the -- the biologist when he went out and how long he was there.

Vice-Chair Poepoe: Okay. I'm asking because I see a species that might be missing from this report, which is the kioea that I -- I know to be -- to frequent this area and it does land inside of the property, the existing MCC.

Mr. Schnell: Oh, the birds?

Vice-Chair Poepoe: Yes.

Mr. Schnell: The -- yeah.

Vice-Chair Poepoe: Yes. And I not sure if I just didn't see it or it was written with its American name.

Mr. Schnell: It -- it -- yeah, I think it -- the report notes that the birds may frequent this site or they may fly over, but they don't -- he didn't spot or observe any nest or any, you know, anybody -- or any other species, you know, actually habitating the site.

Vice-Chair Poepoe: Is it included in this report?

Mr. Schnell: I'll double-check. I don't see it listed. No.

Vice-Chair Poepoe: Okay. That would be one of my comments that I'd like to add to this.

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

Vice-Chair Poepoe: Kioea. Not the extinct one; the -- the kioea with the long beak. Staff, please, can you read for us the list of comments that you have so far for us?

Ms. Lopez: Okay, so what I got was Commissioner Mowat's the wastewater in regards to the Department of Health responding to the unacceptable report, and climate change and sea level rise, and landscaping on page 14 in regards to palapalai. So were you requesting to remove that from their list 'cause it's on page 14 of the draft?

Ms. Mowat: Yes. It is listed and I believe it's -- it's -- it uses a lot of water so if they could revisit that -- that and maybe I don't know something so if you could just revisit that palapalai.

Ms. Lopez: And in response to the sea level rise, just so that they can -- they have it on page 28 to 31 in the DEA and so you're responding to --

Ms. Mowat: I think there -- there should be more consideration because of the we don't know for sure how soon or, you know, and what are the, as far as if it should happen within the 50 years, what are your plans I mean and as far as removing, you know, that kinda stuff. Just being proactive and, you know, just -- just reconsidering maybe even the sight or going further back or I, you know, not to -- I support the whole thing, I'm -- I love it, but I just -- these are just things of concern to me. Thank you.

Ms. Lopez: And the last one that I have was your comment which, Vice-Chair, which you requested to include the kioea bird as one of the native species within that area.

Vice-Chair Poepoe: If can have public testimony included in that -- on that -- that list too.

Ms. Lopez: Okay, so the public testimony in the first part in its entirety? Okay. Any -- any other comments?

Vice-Chair Poepoe: Members, any other comments, questions?

Ms. Lopez: So can I go back to your bird, so in their draft, on page 33 to 36, they have a list and so I would just include that into their list? Thirty-three. Okay.

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

Ms. Lopez: Under fauna, page 33, 34, 35, and 36. They explain those, so I just wanted to know the location of what we're going to be addressing. And that -- is that all comments and public testimony?

Vice-Chair Poepoe: Yeah. Yes.

Ms. Lopez: Okay. Thank you.

Mr. Schnell: ...(inaudible)... just to follow up. The bird species you're asking about was kolea?

Vice-Chair Poepoe: Kioea.

Mr. Schnell: Okay. Is it -- 'cause they do reference it's K-O-L-E-A. Is that correct?

Vice-Chair Poepoe: No.

Mr. Schnell: No.

Vice-Chair Poepoe: It's a different species.

Mr. Schnell: Alright. So we'll double-check on that. They do reference some by Hawaiian name and some by English name, and scientific names, so maybe that particular species was not listed so I could follow up on that.

Vice-Chair Poepoe: Yeah, I was kinda concern that it may not have been present during the assessment period that it be included and maybe reassessed during the -- the season. So the spelling is K-I-O-E-A.

Mr. Schnell: Okay. Thank you.

Vice-Chair Poepoe: Okay, Members, I will --

Ms. Cua: Can I ask a question? I'm sorry, Chair, if I could ask a question. We have a question on the -- the public testimony that you want to -- I've just never seen that done before.

Vice-Chair Poepoe: Okay. Yeah.

Ms. Cua: So -- so what the Department is trying to do is get your comments that we want that the applicant to address, and we need to make that as specific as possible so that they can adequately address it, so I guess my question is to just have like a blanket statement about include public testimony for them to address, what is -- what part of the public testimony? I --

Vice-Chair Poepoe: Yeah.

Ms. Desjardins: Let me take a stab at it because I think what -- what the Vice-Chair is getting at is that there was specific testimony regarding challenging the actual sea level rise model that is being used and so the concern that was heard from the public testimony had to with, I think, was referred to as the bathtub model and whether or not the sea level rise information in the report actually contain information that would take into consideration things such as winds and waves and those other measures of sea rise level in making that determination, so, from what I gather, that was the specific concern about the public testimony that was heard about the sea rise level, and then there was specific public testimony regarding the same concern of Ms. Mowat about the capacity of the wastewater plant currently and whether or not that was taken into consideration specifically by the department, I believe it was Public Works, and whoever else would have authority over that --

Ms. Cua: Okay.

Ms. Desjardins: To ensure that those two things are adequately --

Ms. Cua: Okay, that -- that's much better.

Ms. Desjardins: Okay, is that specific?

Ms. Cua: Yeah. Yeah. And if I could maybe, just for future reference when you're making any kind of comments, again, we really -- that was super helpful and it's really important for us to have that level of specificity, again, so that we completely understand, we want to represent in our -- in your letter what accurately you want rather than when you just say something like public testimony, it shouldn't be to the Department's interpretation of what we describe that to mean, so we will, based on what Corp Counsel, if that is -- if that is the understanding of what the Chair wanted, we will incorporate that reference rather than just using public testimony. Is that okay?

Vice-Chair Poepoe: Yes.

Ms. Cua: Okay. Thank you. Thank you.

Vice-Chair Poepoe: I'll now ask if we can have a motion to adopt those statements on to the record.

Mr. Pele: So moved. You want me to repeat it?

Vice-Chair Poepoe: Yeah, please.

Mr. Pele: I move that we adopt the Commission Members' input on the Draft Environmental Assessment as stated. Is that good enough?

Mr. Sprinzel: Seconded.

Ms. Desjardins: And so would the motion also include the public testimony that was specified?

Mr. Pele: Yes.

Ms. Desjardins: Okay.

Mr. Pele: The public testimony as specified.

Vice-Chair Poepoe: So we have a motion by Commissioner Pele, and seconded by Commissioner Sprinzel. Is there any discussion on the motion? Seeing no discussion necessary, I will call for the vote. Everybody in favor, raise their right hand? Vote unanimous.

It was moved by Commissioner John Pele, seconded by Commissioner John Sprinzel, then

VOTED: to adopt the Commission's input on the Draft Environmental Assessment as stated and to include the public testimony as specified.

(Assenting: W. Moore, B. Mowat, J. Pele, J. Perez, III, J. Sprinzel)

(Absent: L. Espaniola)

(Excused: L. Buchanan)

Vice-Chair Poepoe: And we will move on to -- back to item F, orientation and training. Anybody like one break? Yes? Five-minute break everybody.

(A recess was called at approximately 1:10 p.m., and the meeting reconvened at approximately 1:20 p.m.)

(Commissioner Sprinzel was excused from the meeting during the recess.)

Vice-Chair Poepoe: Okay, I going call this meeting back to order and we're moving on to the continuation of item F.1., orientation and training for the Molokai Planning Commission. Anybody ready for -- no? Oh, yeah. At the podium is Sybil, our Staff Planner.

F. ORIENTATION TRAINING NO. 1

5. Short Term Rental Home and Bed and Breakfast Home Permitting

Ms. Lopez: Okay, so I'll be also doing my slide so I'll be moving around. Thank you, Vice-Chair. So the next training portion we are going to be talking bed and breakfast and short-term rentals.

Okay, so the city -- the County Council passed the bed and breakfast bill in December 20 -- 2008 and had some amendments in 2018, so Maui County permits. As of December 31st, because it's an annual report, so as of December 31, 2018, there's approximately 135 bed and breakfast in the Maui -- in Maui County. The Maui Island cap is 400, and there's no cap for Molokai or Lanai. As far as the short-term rental bill, it passed in May 2012, and it got amended twice in 2016 and 2018, so the Maui County permits, there's approximately 219 short-term rental home permits as of December 31, 2018. So the Maui Island cap is 382, and there's no cap for Molokai or Lanai. So Molokai itself, currently, we actually have 17, and so it's -- and I separated it, so - let's see, hold on - let me bring it all up one time. Okay, so the permitted ones are highlighted, and so I separated it from west district, central district, and east district, and so from - wait, missing one more number - there you go - so from east, you have seven permitted short-term rentals on the East End. You have one pending application. So central, you have a total of seven permitted applications, and you have one pending application. And for west, it actually, as of December 31, 2018, there was 18, but now there's three because, it was currently four, but now one the owner just sold their property, so instead of four permitted in west side, there's three permitted on the west side, and there's one pending application. So for bed and breakfast on Molokai, we only have a total of two permitted applications and they're located in the central district of Molokai.

So the basics of the bill. So it's there to protect the residential market. So both caps for bed and breakfast and short-term rentals are broken down by the Community Plans, so like Paia-Haiku has their own limit, Hana has their own limitations, and so on and so forth on the Maui Island basically. So the limited number of bedrooms per property for Molokai

is three bedrooms, that's the max, so neighbors can trigger an application review by Planning Commission, which that's where public testimony comes in, or a permit can be revoked. There are tax implications. They may lose the -- they will lose their homeowners exemption if they choose to either do bed and breakfast, they must pay a GET, the general excise tax, and the State tax, the TAT, so higher tax rate than any homeowner in the County.

So the ordinances, the purpose of the ordinance, both bed and breakfast, so -- and short-term rentals. So it establish a permitting process and standards and restrictions, allow small businesses an opportunity to benefit from local tourism, provide a visitor experience that is an alternative to hotels and resorts, and especially retain the character of the neighborhood.

So basic distinctions between bed and breakfast and short-term rentals. So bed and breakfast you -- the applicant must live on the property, they're not required to live in the same dwelling, but as long as they're somewhere on the property there, and they shall make non-hazardous food available, but cannot operate as a food establishment unless allowed in zoning district or by a conditional permit, so mainly like package goods. So STRHs, they are not required to live on property but they must have a designated manager, and so this designated manager must be a licensed real estate agent, either the applicant or a family member, except for in Hana or Lanai, which is where allowed per State law, so they're specific. Any manager must live within 30 driving miles. In the event that the manager is required to respond within one hour after receiving a call, they must be available within that 24 hours or -- for permit violations. So if I going too fast, let me know, 'cause I know this is all important information.

Vice-Chair Poepoe: I get one question, Sybil.

Ms. Lopez: Sure.

Vice-Chair Poepoe: How is -- how's it addressed or, wait, I don't know how for formulate this question, but when the -- the applicant advertises a car to be included with the STRH, is that something that requires an additional permit?

Ms. Lopez: Okay, can you repeat the question? So you asking if there's additional permit?

Vice-Chair Poepoe: If car rental or the use of one car that is advertised with the STRH advertisement itself, is there any rules against that?

Ms. Lopez: I've never seen that within the ordinances, either of the ordinance, but I get what you're saying 'cause, for Molokai, I know we don't have Uber, we probably only have

two taxi cars on the island, and I've noticed that these short-term rentals provide cars, vehicles as well, so I don't know. I don't know if -- but we'll look into that. I know Molokai is pretty much unique 'cause we're Uber free, yeah, and Lyft free. So it was just -- I know it's just like an added service, so we'll look into -- into that. Thank you for the question.

So I went over the basic distinctions, so similar requirements for both STRHs and B&Bs. They're allowed in no more than two dwellings so -- two separate dwellings or structures, so no more than three bedrooms on the property including both the dwellings, so if there's two dwellings, they have to total up to three bedrooms, so, like I said earlier, they must have a GET and a TAT license and show proof of tax payments at every renewal time. So permit must be held by the natural person, not in an LLC or corporation or etcetera.

So B&B, STRHs, TVRs can no longer be permitted in accessory dwellings. So the accessory dwelling ordinance just got passed this past December, and so this is up -- the most newest change in regards to accessory dwellings and B&Bs, STRHs, and TVRs 'cause I think the purpose of the accessory dwellings was more to accommodate the housing, yeah.

So safety requirements as part of their -- their submittal of their applications. So they have to -- they have to include a mounted fire extinguisher, it's pretty specific what type of fire extinguisher they have to use, it has to be within 75 feet to where the whole structure or the area that is being permitted that they could access. In the fire escape plans, they have to show the safe meeting area, and for every room, they have their own area of escape, their own escape plan. The smoke detectors have to be shown in their diagram. It must be built to code. And there's a home inspection by a certified inspector that has to be submitted as part of their application process.

STRH requirements, and so this is pretty new as well, so the limited -- it's limited to single-family structures existing and constructed at least five years prior to the date of application, and so the next one we just got effective of September 27, 2018 that the dwelling unit shall be owned by the applicant for at least five years prior to the date of application, so someone just buying a home to literally do short-term rentals, they have to own that for five years and then they can come in and apply for a short-term rental permit, so that -- that was effective September of last year. Other requirements, they have to submit house policies and these are the requirements within the house policies, so, as you can see, there's an example on your right, so you can have a lot of policies in your house policies but it -- there's require -- there's four requirements that must be included in these house policies - quiet hours, 9 p.m. to 8 in the morning, no amplified sound, be on property boundaries, no street parking - must park in designated parking stalls, and only for STRHs that there's no group gatherings that has to be included, all of that has to be included in the house policies.

So taxes, STRHs, they have a special tax rate, so they have a short-term rental tax rate. B&B properties, they are not entitled to receive any homeowners exemption, and B&B's, they're taxed at a commercialized residential. So this is how they get taxed.

So other requirements is signage, so this is how they incorporate trying to be a good neighbor, so the signage is pretty important. They have two types of signage. So the first signage that goes up is notifying the surroundings that they actually have an application that they submitted in the -- with the Department, and so it's pretty specific, so they need like a four square-foot sign, you know, it has to be in front of the property along the main access road, you know, they have to -- if it's STRHs, they gotta submit it, they gotta put it up ten days prior to the submission of the application where bed and breakfast they have to put up their notice five days, and so these are -- and the bottom is what -- so once they get approved, they have a permanent sign and on the permanent sign, these are what is required of them to have on the permanent sign, so with bed and breakfast -- for short-term rentals, they have to do that, but for bed and breakfast, because they don't wanna put a -- you cannot put a ground sign in, you have to have it actually on an existing structure because it's a permanent sign, and so they have to display all these four things on that sign, so if you -- if you drive past, you already know, okay, it's a B&B, short-term rental, and they have to have specific, like the permit number, telephone number, even the number of the Department as well.

So just real fast of the enforcement side, so proactive enforcement. I -- so there's a five-year ban for illegal operators, it is, actually, in the law, so it's in 19.65.080, and this got established in 2012 of the bill. So the ban is now applied at -- so this is an example of how the ban letter would look. The ban is now applied at the time of notice of warning. Otherwise, people just wait to be caught before they apply.

So the initial length of permits. So bed and breakfast versus STRHs. So bed and -- they both take about six months to a year, so bed and breakfast here on Molokai, only -- only on Molokai that they have to go through the Molokai Planning Commission, so like, for instance, like Maui, they just get administratively approved. So they have a choice to -- up to three years once they get approved but they have to renew with the Department every year. For STRHs, they can be administratively approved. Only when there are triggers, then they come in front of the Planning Commission, so the Molokai Planning Commission may want to consider one or two years to mitigate circumstances, so it kinda depends, but they both -- but B&B, they must, for the initial permit, they must go in front of the Planning Commission, and I think I said that.

So, basically, the Council's intent was most permits approved administratively by the Department so, however, these are the triggers, so how does it get to you guys to be the final decision making. Like I said before, all B&Bs go in front of the Molokai Planning Commission so -- and if they're coming in for a short-term rental, so they have to trigger

one of these five in order to go in front of the Planning Commission, so if -- if they're not trigger -- if the triggers, then they get administratively approved, so if they don't hit any of those, it just gets administratively approved. And so I know a lot of questions was regarding how is the 500 feet radius, so this, basically, how it looks like, if you go in our - I think it's open for our GIS system that so the square would be all the approved permitted, so these are all the -- the permitted ones. The triangles usually are those that are in pending or they, you know, they've submitted an application. If you see the circle ones, they're either in renewal, so each -- each of these symbolizes where they're at in the process, and so the 500 feet is -- is determined by that circle.

So what is a legitimate reason for denial? So basically --

Vice-Chair Poepoe: I get one question.

Ms. Lopez: Sure.

Vice-Chair Poepoe: That was one -- this is not accurate to 2019 right, this, this map right here?

Ms. Lopez: Oh no. It's just showing you an example.

Vice-Chair Poepoe: Okay.

Ms. Lopez: Yeah, yeah, yeah, yeah.

Vice-Chair Poepoe: Thank you.

Ms. Lopez: Yes. 'Cause, as you can see, it's an example from a Pukoo map. Yes. And, yeah, 'cause this was most -- yeah, so this is not recent.

Vice-Chair Poepoe: I see squares that shouldn't be there, so yeah.

Ms. Lopez: Right. So it was just showing the symbolic -- the symbolism of each shape and what it represents. Thank you for that question. So what is a legitimate reason for denial, so when it comes before you, as the Planning Commission, because you will be or, with these triggers, once these triggers are met, you are the final authority for these permits, so every staff report list applicable regulations on there and reasons for denial must be limited to the permit criteria within the report.

So basic summary. So you review all written material before a meeting, this is for the Commission's role while they're determining, you know, approval or denial or deferral, don't say unofficial things during the meeting 'cause comments will be in the minutes, and

we draw the decisions and order from these minutes. If you choose to deny a permit, state your reasons on the record and reasons must be based on these permit criteria. So most B&B and STRH permits approved administratively, however, so part two we'll get into properties that are located in the State agricultural district, so for Molokai Planning Commission, State Land Use Commission special permits, so Land Use Commission special permits used for any use not outright permitted under the Hawaii Revised Statutes 205, under the State agricultural district, so these are just some examples of those that are in the State agricultural districts, like the Neighborhood Store, and the reason why it's important under bed and breakfast because there are some bed and breakfast and short-term rentals that come in that they are located in the State agricultural district and so, therefore, they would have to come in in front of your guys for a State special permit.

And so what is a land use special permit and what's its purpose? So the purpose is a Land Use Commission special permit may be obtained when certain unusual and reasonable uses within the agricultural districts other than for which the district is classified may be permitted provided certain criteria are met, and approving agency, so with State agricultural district, you have two types, so if it's beyond 15 acres, 15 acres or more, it'll go to the State Land Use Commission, so if the project is less than 15 acres, it goes to you guys, the Planning Commission.

So what is this special permit criteria? So the following guidelines are established in determining -- determining an unusual reasonable use, so there actually is five, but it's not coming up, okay, so I didn't finish that one. So there are actually five, five permit criteria under the Hawaii Revised Chapter 205A that you can find and it is to determine an usual and reasonable use, so if the use shall not be contrary to the objective sought to be accomplished by the Chapter HRS and the rules of the Land Use Commission. So what we call our State special SUP2s associated with B&Bs and STRHs, so, like I said before, all B&Bs in ag will have a State special permit and will be reviewed by you. So STRH permits in ag may be approved administratively, so this is the distinction, so they would have to come in with two permits, if they wanna do an STRH, they come in with an STRH permit application and they also come in with a State special use permit application, so if the STRH is not triggered, then you'll actually only be seeing the State special permit and so when you reviewing the State special permit, it may be approved and the Commission may only see that State special permit and you would have to make your determination under that criteria because you're not going to be seeing the STRH, so that's the distinctions.

And the farm plan. So, you know, the farm plan has been evolving so as of today, this is how -- this is the intent, so the intent is to show compliance with the goals and objectives of HRS 205 agricultural district, one of which is promoting agriculture, so by requiring that over 50% of the land is in ag or some agricultural or agricultural conservation, this is the

-- that's the true intent of the farm plan but, however, you, as the Commission, make the determination if the particular farm plan meets the HRS 205. Any questions?

Vice-Chair Poepoe: Go ahead, Commissioner --

Mr. Pele: You know on the enforcement you said that now there's a ban of five years just starting from -- that's a new rule, right? The ban of five years if you're caught or else people will just keep doing it until they're caught, correct?

Ms. Lopez: Yes.

Mr. Pele: That's -- you said that was new?

Ms. Lopez: It's not new.

Mr. Pele: So, I'm trying to think, 'cause a lot of people, what if they come before the Commission and say, oh, you know, I was operating illegally but now I wanna be legal? No. It was before that, right? No wait. No, I thought you said there was something new.

Ms. Lopez: So -- so there was a period of time in which --

Mr. Pele: Try go back.

Ms. Lopez: There was an amnesty period I think --

Mr. Pele: Yeah, right there. Notice of warning. So now -- now ban is now applied at the time -- that's something new the one on top to your left, top left?

Ms. Desjardins: Can I clarify?

Ms. Lopez: Yes.

Ms. Desjardins: I think -- I think what you're referring to is that you have to own the property for five years before you can apply.

Mr. Pele: No.

Ms. Desjardins: That's new.

Mr. Pele: Okay, yeah.

Ms. Lopez: Yeah.

Mr. Pele: I understand that. Ban is now applied at the time of notice of warning, used as a deterrent, but I'm just thinking that sometimes people come here and say, you know, I've been operating illegally and now I wanna get legal, but when they tell us that, they've actually -- they should be banned, right?

Ms. Lopez: Yeah, you're correct. So --

Mr. Pele: But so if you haven't served the notice of warning yet, we can't use that as part of the permit process and we -- I mean if a guy tells me, oh yeah, I've been operating illegal, not I wanna get legal. You just told me you operating illegally, you should be banned, and you shouldn't be coming back for five years, but that's only if you've -- 'cause you guys -- staff sometimes say we can't monitor everybody, it's hard to get -- I know the County says it's hard to bust everybody and it's actually, the numbers you put up, they're more like 7,000 right, 7,000 illegal short-term rentals, right?

Ms. Lopez: Well --

Mr. Pele: Something like that was the number.

Ms. Lopez: Yeah, I don't know the number.

Mr. Pele: Somebody gave us that number one meeting, right, like 7,000 or something like that? I think the dude --

Ms. Lopez: Yeah, so I was going to say something and then Ann can chime in. And so back in 2016, they -- the Council amended the short-term rental bill and created an amnesty period because they noticed that, you know, a lot of people weren't -- so the Council actually had an amnesty period where we were -- we were allowing them to come within this time to make it right, and so the applications or the permits that you've seen that you're relating to were during this amnesty period.

Mr. Pele: We don't have that anymore?

Ms. Lopez: No. No. So because we don't have that anymore, because it was usually during a notice of violation then we were -- we were banning them, but now it's taken at the notice of warning to ban them straight up.

Mr. Pele: So when you ban them at the notice of warning, what is -- so that's a five-year ban you put on them?

Ms. Lopez: Correct. Yeah.

Ms. Desjardins: So I have one more clarification. If you determine that somebody's running an illegal STRH, and you're talking to them, and they say I wanna get legal, can they come before the Commission and apply even though they're running illegally so long as you have not issued the notice of warning?

Ms. Cua: Okay, that's a -- that's a very good question.

Mr. Pele: That's the ...(inaudible - not speaking into the microphone)...

Ms. Cua: No. You know, once we know, once we -- so, okay, that's a very loaded question. So once we know that somebody is operating, then they will get issued a notice of warning and be banned, and sometimes it could just be from an advertisement that they might get a notice of warning and so they can -- and sometimes the advertisement is not something that they did, it somehow got posted through some other entity, that happens, but it's for them to work with our enforcement division to find out whether or not they really did that advertisement or not. If you're operating, that's a different thing. If you're operating, you're operating. That's easy. What's been causing more of a challenge, if you will, is when -- when they -- their business is caught advertising, it doesn't necessarily mean they did the advertisement, so that -- that's a process that gets worked out with the inspector. There shouldn't ever be an application now in this day in age that we're bringing to you that has a notice of warning. It's they would be banned.

Mr. Pele: Yeah but the difficult -- I understand that. I believe, what I've seen, every application should have a notice of warning because they've all been operating illegally and I'm just -- I'm just going off, I know I'm supposed to not -- I'm supposed to hold my personal feelings but there's so many -- I mean I think -- what was it -- what's the dude, the boss before who used to come here? What's his name?

Ms. Cua: Clayton. Clayton Yoshida. Clayton.

Mr. Pele: No, no, not Clayton. The other dude.

Ms. Cua: Oh, Will Spence?

Mr. Pele: Yeah. That dude gave us those numbers, right, in one meeting, like seven grand or 6500 illegal, that's their estimate in the County.

Ms. Cua: Oh, in Maui County.

Mr. Pele: Sixty-five -- yeah, 6500 illegal STRHs but you had only a couple of hundred permitted, right, or, so there's a large spectrum of --

Ms. Cua: Yes.

Mr. Pele: BS, right, going on.

Ms. Cua: Yeah.

Mr. Pele: So I'm just trying to figure out what is the threshold, that's one of my questions, like who's deciding that this guy needs a notice of warning, you just told me --

Ms. Cua: Well, a lot of times --

Mr. Pele: If it's advertising it's hard because, in my occupation, people lie a lot when they wanna get their way, they wanna --

Ms. Cua: Right.

Mr. Pele: That's just what I experience at my personal job --

Ms. Cua: Right.

Mr. Pele: Like lies, flat out lies, and how do we -- ah, I'm just trying to --

Ms. Cua: And we can -- you know, when our enforcement division comes and talks to you a little bit more, we'll definitely, you know, let them know that this is -- this is definitely something that you wanna spend some time -- some time talking about. I mean it's -- it's definitely a challenging issue all the way around and, yeah, so the County has this LODGINGRevs system whereby we're actively going out and they are seeking people that are operating and when they -- when they, you know, find either notices or whatever, automatically a notice of warning is issued and a ban will be issued, so whereas normally the County -- the County doesn't have the wherewithal to go out and actively enforce on anything, on anything, usually it's complaint driven, but for STRHs and B&Bs, this LODGINGRevs is like a separate thing that has been funded by the Council to actually go out and seek to, hopefully, reduce some of those thousands that are operating illegally and to -- to at least call them out because there's a bunch of people that have come in and gone through a process, and it's not the easiest process, they have to a lot of times go before the Planning Commission, so, you know, we're just trying to be better about that and trying to identify those that are not in conformance, but it's a -- it's a work in progress, and we'll make sure our enforcement division knows that, you know, that's an issue that they should be discussing.

Mr. Hart: Hi. I'm Jordan Hart. I just wanted to add to what Ann said. As far as LODGINGRevs and the way the ordinance works that advertisement is treated as proof of operation so that what LODGINGRevs is -- they're looking for advertisements online, and then, basically, we get a list of advertisers from them and start issuing our notice of warning for those reports that we get, and then that goes on a ban list. The other scenario you were talking about, you know, I'm familiar with what you're saying as far as people who have said they've been operating in the past and they're coming in for permits, that's not what's happening now, and there's also a item on the application where you check whether or not you're operating, and there's also a portion in the application that talks about whether or not you give false information on your application, you know, that's grounds for total denial so -- so, you know, if you know or someone discloses that they were operating and the Department didn't know about it and maybe they were able to keep it secret, but somehow in their presentation to the Commission they inform you that -- that they are operating, you know, it's consistent with our ordinance that, you know, they can't get a permit if they're operating, so if that decision is made, you know, here now, that's reasonable.

Ms. Lopez: Thank you, Jordan. So that -- oh, go ahead.

Ms. Mowat: What is non-hazardous food?

Ms. Lopez: So --

Ms. Mowat: And why is it in there I mean I -- yeah, thank you.

Ms. Lopez: Thank you for the question. That -- that's actually in the ordinance by law and what it is is to show that it's a bed and breakfast home so it's mainly Costco food that are already pre-wrapped, like you see pastry wrapped or like Twinkies, something that is already wrapped and packaged, so it's not where you're preparing the food because it's not we're allowing you to have a food establishment where they're actually cooking breakfast for the -- the guests, it's actually something like bananas, you know, bananas, apples, and, yeah, packaged, already packaged like, you know, muffins that you get. So that's what it means.

Ms. Mowat: I cannot remember where it was, was it in the bed and breakfast or the --

Ms. Lopez: Yeah, it's only for bed and breakfast.

Ms. Mowat: Okay.

Ms. Lopez: It's not for short-term rental.

Ms. Mowat: Okay.

Ms. Lopez: Yes.

Ms. Mowat: Thank you.

Ms. Lopez: Sure. And just to -- before Commissioner Moore ask, so like what Ann said, we can definitely let enforcement know so when they come here to do their training in the next, on May 8, then they can have something specific to how they run that, the ban, and, you know, what that constitutes. Thank you.

Mr. Moore: I guess it's on. I saw on the short-term rental, at the bottom, it said "no gatherings." What -- how many people constitute a gathering?

Ms. Lopez: No group gatherings.

Mr. Moore: Okay, so that means you cannot have weddings or luaus?

Ms. Lopez: Oh no, that is strictly prohibited unless they do have a conditional permit so - - so that is something totally out of what does that means. Okay, so that concludes my portion of my training. I know we're kinda strapped or time so --

Ms. Desjardins: Yeah, we have to close down at 2:00 anyway so we have about five more minutes. I think I'm going to wait, if it's okay with all of you. Are you -- are you well absorbed of your training for today? We can start fresh with the Sunshine Law next -- next month or at the next meeting, okay?

- 2. County Policy Against Discrimination**
- 7. Sunshine Law**
- 8. Ethics**
- 9. Contested Cases**
- 10. Property Rights**
- 11. Rational Nexus and Rough Proportionality**

Ms. Lopez: So, Vice-Chair, if it's okay with you, we will defer no. 7 through no. 11 to May 8, and if you wanna continue on with the agenda, it's up to the Commission, yeah, 'cause we do -- oh, as well as no. 2, so no. 2, no. 7 through 11, under the training, if we could request to -- to May 8th. We're looking at letter F, under Orientation Training no. 1, so we're requesting that no. 2, no. 7, no. 8, 9, 10, and 11 to be deferred to May, May 8th, and that's usually Corp Counsel's presentation.

Vice-Chair Poepoe: So we going be referring -- deferring G.1., Director's Report?

Ms. Lopez: No, no, no, and you can continue. Oh, you can continue that right now. You have time. So you can continue. You can defer F --

Vice-Chair Poepoe: Okay. Okay.

Ms. Lopez: 2, 7 through 11, and continue to G and Director's Report.

Vice-Chair Poepoe: Sure. We going -- we going move on to G, Director's Report.

Ms. Lopez: Okay. Thank you.

Vice-Chair Poepoe: Thank you, Sybil.

Ms. Lopez: Thank you, Vice-Chair.

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

G. DIRECTOR'S REPORT

- 1. Notification of the Issuance of a Special Management Area (SMA) Emergency Permit pursuant the Molokai Planning Commission's Special Management Area Rules 12-302-16:**
 - a. December 18, 2018 Special Management Area (SMA) Emergency Permit issued to MRS. ARLEONE DIBBEN-YOUNG, Director, NENE O MOLOKAI to remove vegetation blocking water flow within the lined drainage ditch located at 2380 Kamehameha V Highway, TMK: (2) 5-4-017: 042, Kawela, Island of Molokai (SM3 2018/0012) (S. Lopez)**

Ms. Lopez: I do have a copy of the application if you guys need to review it but it's basically notifying you that the Department issued a special management area emergency permit, so would you want the -- okay.

Ms. Desjardins: And so, just while passing that out, this is just the Director's Report so there's action to be taken or comments or anything. It's an emergency permit. So for a regular SMA, if she comes in for that, then you folks will have an opportunity to comment.

Ms. Lopez: Yes. So the applicant is coming in, is submitting an SMA, so you will be seeing the SMA application in front of you. Okay, if there's no questions on that, I can move -- oh, Vice-Chair, is it okay to move forward to no. 2?

2. **Pending Molokai Applications Report generated by the Planning Department with the April 24, 2019 Agenda Packet (Appendix-A)**
3. **Closed Molokai Applications Report generated by the Planning Department with the April 24, 2019 Agenda Packet (Appendix-B)**
4. **Agenda Items for the May 8, 2019 meeting**

H. NEXT SCHEDULED REGULAR MEETING DATE: MAY 8, 2019

Ms. Lopez: Okay, pending Molokai applications report generated by the Planning Department within the -- with the April 24th agenda packet, so it's Appendix-A, so if anybody has any questions for Appendix-A. So you got the pending one, no. 3 is the closed, so it's Appendix-B, so if you have any questions with -- with these projects. If there's no questions regarding these, then the next agenda items for the May 8, 2019 meeting will be your training, so it's a continuation of the training of finishing what today's was and I think we're going to do some coastal zone management so our shoreline team will be here to do presentations, we will have enforcement here as well as the Long-Range Division to talk more about the community plan and our Plan Implementation Division as well. That's it. So your next scheduled regular meeting date will be May 8th. No questions? Okay.

I. ADJOURNMENT

Vice-Chair Poepoe: With the remainder of F.1. Orientation Training deferred to a later date, this meeting can be adjourned. Meeting adjourned.

Ms. Lopez: Thank you.

The meeting was adjourned at approximately 2:00 p.m.

Submitted by,

SUZETTE ESMERALDA
Secretary to Boards & Commissions II

RECORD OF ATTENDANCE:

Present:

William Moore
Bridget Mowat

John Pele
John Perez, III
Laakea Poepoe
John Sprinzel

Absent:

Leonora Espaniola

Excused:

Lori Buchanan

Others:

Jordan Hart, Deputy Planning Director, Dept. of Planning
Ann Cua, Land Use Planning Supervisor, Current Division, Dept. of Planning
Sybil Lopez, Staff Planner, Molokai, Current Division, Dept. of Planning
Mimi Desjardins, Deputy Corporation Counsel, Dept. of the Corporation Counsel
Suzette Esmeralda, Secretary to Boards & Commissions, Current Div., Dept. of Planning