

MOLOKAI PLANNING COMMISSION  
REGULAR MINUTES  
DECEMBER 11, 2019

A. CALL TO ORDER

The regular meeting of the Molokai Planning Commission was called to order by Chairperson Lori Buchanan at approximately 11:03 a.m., Wednesday, December 11, 2019, at Mitchell Pauole Center, 90 Ainoa Street, Kaunakakai, Island of Molokai.

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

Chair Buchanan: Aloha everyone. Good morning. Thank you. Welcome to the December 11, 2019 meeting of the Molokai Planning Commission, and I'd like to call this meeting to order.

**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.**

Chair Buchanan: So I didn't have any request for amendments to the agenda, so seeing none, we going move straight into item B, if you have the agenda, which is public testimony, and this is for anyone in the public that wishes to testify on a planning subject, but if you're here for an agenda item, especially item C, we'd like you to wait for that agenda item to testify and, on item B, you have about three minutes to testify if you have to leave. So if anybody wants to take advantage of the -- that item B public testimony time, I'll open the floor for public testimony. Okay, seeing none. I'm going to close public testimony, item B, and move right into item C, the Special Management Area Minor Permit, item number 1, Mr. Luigi Manera, and I don't see him today so I think he has someone else:

*Chair Buchanan read the following agenda item description into the record:*

**C. SPECIAL MANAGEMENT AREA (SMA) MINOR PERMIT**

- 1. MR. LUIGI MANERA, on behalf of OKIMOTO HOLDINGS, LLC, requesting a Special Management Area Minor Permit in order to expand and operate a 3,200 square foot warehouse associated with the existing Friendly Market, located in the Kaunakakai Country Town Business District at 90 Ala Malama Avenue, Kaunakakai, Molokai TMK (2) 5-3-002:089 (SMX 2019/0161) (Valuation: \$262,900) (S. Lopez)**

**The Commission may act to approve or disapprove the permit, or defer.**

Chair Buchanan: And we're going to ask staff to give a report. Thank you, Sybil.

Ms. Lopez: Thank you, Chair. Sybil Lopez, the Staff Planner on the project that is before you. It's a request for approval with conditions, special management area minor permit to expand the existing Friendly Market Center Warehouse to 3,200 square feet, located at 90 Ala Malama Avenue, in the Kaunakakai Country Town Business District. The Kaunakakai Country Town Business District is pursuant to Title 19.15.060, according to the design guidelines and standards that all buildings and structures shall be erected, constructed, reconstructed, renovated, remodeled, enlarged, or converted in a similar and compatible architectural design character with that of surrounding commercial buildings. With that being said, the applicant is here today, the owner, the Okimotos, and before I allow them and the consultant to come forward, I wanted them to issue just a copy to let you know that -- that the owners are not Okimoto Holdings, but it is actually under the Friendly Market Center, Ltd., which we have Mr. Rob Stephenson passing that out for your review, so that would be the correction from Okimoto Holdings to the Friendly Market Center, so we just wanted to acknowledge that to the Commission.

So the existing Friendly Market Center is one of the major grocery stores in the country town Kaunakakai business district. It has serviced the island of Molokai since the 1940s and continues to provide for the island residents. With a growing population and the needs of the people, the applicant is looking to expand the warehouse. So I would like to turn the time over to them if they wanna have any additional information they wanna -- or we can set it back to the Commission if you have any questions or to the Chair to see what she wants to do, but they -- they are here if the Commission does have any questions for them.

Chair Buchanan: Commissioners, you guys have any questions for staff or the representative? Hang on. I have a question.

Ms. Lopez: Sure.

Chair Buchanan: Is the representative going to give a presentation or just --

Ms. Lopez: Just being available for any questions or comments or anything that you want them to address.

Chair Buchanan: Okay, so if any -- I mean it's so -- there's no more presentations on Friendly Market side, yeah?

Ms. Lopez: No.

Chair Buchanan: Okay. So, with that, then maybe we going open for public testimony.

Ms. Lopez: Okay. Thank you.

Chair Buchanan: And then come back to questions after. Okay, thank you. So anyone in the public wishing to testify on this item, please come up and state your name and then, because it's a contested case hearing, I going have to swear you in, so tell me who you are.

Mr. Egusa: Hello. My name is Jeff, Jeffrey Egusa, and I'm a concerned Molokai and also former owner of Friendly Market, and I -- I would like for you to --

Chair Buchanan: Okay, hang on. Before your testimony, I like ask you -- I like swear you in --

Mr. Egusa: Oh, okay.

Chair Buchanan: For your testimony, so please raise your right hand and I'm going to ask you do you swear or affirm that the testimony you're about to give will be the truth, the whole truth, and nothing but the truth?

Mr. Egusa: Yes.

Chair Buchanan: Okay, thank you. Go ahead.

Mr. Egusa: And I would like to support their permit, SMA permit, because it would really help the operation to make it more streamline and also more efficient, and it'd be better for them and for the community for them to have this, so that's why I support it. I actually had thought of doing parts of something similar to that but I just got too old and lazy so I didn't. Any questions?

Chair Buchanan: Okay, thank you. Commissioners, you guys have any questions for the testifier? Okay, we have a question for the testifier? No? Okay. That's okay we don't have. Thank you. Rob, do you have, as the representative of the developer, do you have any questions for the testifier? Thank you. Commissioners, you guys notice we trying to institute a new process? So roll with it, and we just trying to dot all our i's and cross all our t's in a contested case. Okay, thank you very much. Anyone else in the public wishing to testify, please come up, state your name for the record, and I will swear you in.

Ms. Egusa: Good morning. My name is Crystal Egusa, I'm also a former employee, Vice-President, of Friendly Market until we retired, and we're married, so just so you know there is a connection.

Chair Buchanan: Hang on. I going swear you in.

Ms. Egusa: Oh, okay.

Chair Buchanan: Please raise your right hand. Do you swear or affirm that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth?

Ms. Egusa: I swear.

Chair Buchanan: Thank you very much. Go ahead.

Ms. Egusa: So I ask for your support for this application. It's the back part of the warehouse, which is always something we kinda wanted to do. We -- we don't like storing -- having to have to store our excess freight out there. It's -- we put up, you know, different kinds of shade and everything, but, you know, when the rain comes, if it's raining, we really have -- we lose a lot of product to damage. We can't help it. We have to like store it outside. We don't have enough room in our warehouse while the store is open, and so just having -- extending the warehouse out will really help to protect the product and reduce our losses. Anyway, thank you. Any questions?

Chair Buchanan: Okay, thank you. Hang on. So representative for the developer, do you have any questions for the testifier? Commissioners, do you guys have any questions for the testifier? Okay, seeing none, thank you, Crystal.

Ms. Egusa: Thank you.

Chair Buchanan: Appreciate it. Anyone else in the public wishing to testify on this agenda item? Okay, seeing none, we going close testimony on this agenda -- public testimony on this agenda item. So, I think I going ask staff to come back and then, Commissioners, I know, Commissioner Sprinzel, you had a question for staff?

Mr. Sprinzel: Thank you, Chair. Just to get it clear, we've discussed this on previous occasions and, as far as I'm aware, everything is -- has been passed in the way of construction of additional buildings, so all we're talking about now is a permit?

Chair Buchanan: So, staff, can you explain to Commissioners that this is an entirely different project from the project that was discussed at the time with the previous owners and the Egusas, and even the location is different? The location previously was across the street, the discussion was for across the street, but today's project, and maybe you can go more into depth, or maybe the developer can, to explain that it's -- it's where the warehouse is now but we're renovating, expanding that footprint. Is that correct?

Ms. Lopez: Correct, Chair, and thank you, Commissioner Sprinzel, for the question. The previous project that came before you was for the property that they own next to the Ace Hardware store that they bought out from -- previously it was the Egusas as well, that -- that intention was to build their warehouse, which this Commission approved for that warehouse to be built on that property. The project that is before you today is to extend the existing warehouse that currently is on the same property as the Friendly Market Store itself, and so it'll extend at least 3,200 square-foot more out, and it is aligned next to the parking lot. In -- when you go in the back of the Friendly Market Center where you park, there's a little bit extension out in the back that is not covered where the previous testifier did explain that the products and inventory does get pushed outside during operations so they can move and have space available for their daily operations. So I hope that kinda brought clarity to the question or concern that you had, Commissioner Sprinzel. Thank you, Chair.

Chair Buchanan: Commissioners, you guys get any other questions for staff on the expansion? Okay, if not, I have one question, Sybil. Does the best management practices of the digging if the footing is more than I think two feet or two-and-a-half feet, is there the condition that work will halt for inadvertent finds of iwi and SHPD contacted? Is that in the recommendations from staff?

Ms. Lopez: Yes, it is.

Chair Buchanan: What item is that?

Ms. Lopez: It is on item 5, and when you are ready for the recommendations, staff can let you know, but it is under your recommendations and it's the following condition subject to number 5 that a Molokai archaeological monitor shall be onsite during ground-disturbance activities. In the event that historic properties, including concentrations of artifacts, human skeletal remains, subsurface cultural deposits, or structure remnants over 50 years of age are identified during construction activities, all work in the vicinity of the find must cease, the find must be protected from additional disturbance, and Department of Land and Natural Resources, State Historic Preservation Division, Maui Island Section shall be contacted immediately at the number provided. Thank you for the question, Chair.

Chair Buchanan: Staff, was this project required to notice people within 500 feet?

Ms. Lopez: No.

Chair Buchanan: Because it's not shoreline rules?

Ms. Lopez: It's not subject -- it's not subject to the -- it's not a special management area major use permit.

Chair Buchanan: Okay, okay. Thank you. Okay, anymore questions? I'm okay. Okay, seeing none, thank you, Sybil.

Ms. Lopez: You welcome.

Chair Buchanan: So, Commissioners, if you guys don't have anymore questions and I think all we have left is -- wait. Mr. Stephenson, on behalf of the developer, do you have any questions for the staff or anything from us that you heard?

Mr. Stephenson: Not at this time. Thank you.

Chair Buchanan: Thank you very much. So seeing none, Commissioners, we open for a motion on this agenda item.

Mr. Sprinzel: Chair?

Chair Buchanan: Yes, sir?

Mr. Sprinzel: I propose we accept the motion and according to the five items on their recommendation list.

Chair Buchanan: With the recommendations. Okay, so it's been moved by Commissioner --

Mr. Pele: Second.

Chair Buchanan: And second by Commissioner Pele. Yes, Sybil?

Ms. Lopez: Chair, sorry. I have a question. Do you want to hear the Department's recommendations?

Chair Buchanan: Oh yeah, that would be helpful.

Ms. Lopez: Okay. Thank you.

Chair Buchanan: The only one I wanted to hear you went read, yeah, so I sorry, Sybil, go right ahead.

Ms. Lopez: Okay. In consideration of the foregoing determination that the SMA minor permit is required for the proposed action, pursuant to aforementioned, the Department recommends approval of the SMA minor permit subject to the following five conditions, as stated in your memorandum, on page 6, that in consideration of the foregoing, the

Department recommends that the Commission adopt the Department's memorandum to the Commission for the December 11, 2019 meeting as its findings of facts, conclusions of law, and decisions and order, and authorize the Director to transmit the said written decisions and order on behalf of the Commission. Thank you, Chair.

Chair Buchanan: Thank you, Planner Sybil. Okay, with that, shall we reiterate -- the motion is still good? Okay. My lawyer said the motion is still good, so we -- it's been moved to accept, and it's been seconded by Commissioner Pele. I going to call for vote then. All those in favor, please raise your right hand? Thank you. It's unanimous. Thank you very much.

**It has been moved by Commissioner John Sprinzel, seconded by Commissioner John Pele, then**

**VOTED: to accept the Department's recommendation and conditions.**

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

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

Chair Buchanan: Okay. We look forward to the new warehouse. And then moving on. Hang on. I just saw papers. Okay. So thank you very much. We're going to move on to item D:

*Chair Buchanan read the following agenda item description into the record:*

**D. WAIVER OR NON-WAIVER OF SPECIAL MANAGEMENT AREA (SMA) ASSESSMENT REVIEW**

- 1. MS. MICHELE MCLEAN, Planning Director, notifying the Commission pursuant to the provisions of Section 12-302-13.1(a) of the Molokai Planning Commission's Special Management Area Rules that the following proposed action located within the Special Management Area is not a "development" and therefore exempt from the requirements of the Molokai Planning Commission's Special Management Area Rules:**
  - a. DEPARTMENT OF PARKS AND RECREATION, proposing to install an outside door visible and accessible to the public for services provided by the Planning Department staff, located at 90 Ainoa St., Kaunakakai, Molokai, TMK (2) 5-3-002:005 (SMX 2019/0427) (Valuation: \$7,500) (S. Lopez)**

***The Commission may act to waive or not waive its review or defer. If the Commission votes to not waive its review, it may review the subject SMA assessment and act to approve or disapprove a SMA exemption, or defer.***

Chair Buchanan: Thank you very much. Planner Sybil?

Ms. Lopez: Thank you, Chair. I'm Planner Sybil Lopez, the Staff Planner on this project. What you have before you is a proposal from the Department of Parks and Recreation, which we have Ms. Natasha Kalani here if you have any questions from the Department of Parks and Recreation. So, basically, what is being proposed is you notice the wall on this side, we will be, well, the Department will be constructing a door so that the Planning Department has access to the public, and that is, basically, what is in front of you today, so if you have any questions for the staff or staff of the Parks and Recs, we are here available to answer any of your questions.

Chair Buchanan: Thank you very much. It is an agenda item so we would, at this time, Commissioners, I'd like to open up for public testimony on this agenda item. Anyone in the public wishing to testify on this agenda item, please come forward, state your name for the record. Seeing none, I'm going to close public testimony on this agenda item. Commissioners, any last questions for staff? So if it's okay, I think what you described was -- was good enough. If so, can I call for the vote? Okay, thank you. Floor is open for a motion.

Mr. Sprinzel: Motion to -- to waive.

Chair Buchanan: Awesome. Motion to waive. Do I have a second? Second by Commissioner Leonora. Any discussion? Seeing none, all those in favor, please raise your right hand. Thank you very much.

**It has been moved by Commissioner John Sprinzel, seconded by Commissioner Leonora Espaniola, then**

**VOTED: to waive its review of item D.1.a.**

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

Chair Buchanan: Build that door.

Ms. Lopez: Thank you.

Chair Buchanan: Okay, then we going move right on to item B:

*Chair Buchanan read the following agenda item description into the record:*

- b. MR. MAUD SCHROLL, proposing to construct a 14-foot diameter wood dome gazebo supported by five concrete footing blocks and wood posts, at 8582 Kamehameha V Highway, Pukoo, Molokai, TMK (2) 5-7-007:087 (SMX 2019/0352) (Valuation: \$15,000) (S. Lopez)**

***The Commission may act to waive or not waive its review or defer. If the Commission votes to not waive its review, it may review the subject SMA assessment and act to approve or disapprove a SMA exemption, or defer.***

Chair Buchanan: Planner Sybil?

Ms. Lopez: Thank you, Chair. I'm Sybil Lopez, the project planner on this project that is before you today. So this project is located at 8582 Kamehameha V Highway in Pukoo, it is located on the shoreline, and the proposed action that is in front of you does consist of a gazebo, a 14-foot diameter wood dome supported by five concrete footing blocks, as stated by the Chair. It is located -- hold on. So you did have a packet that was sent to you regarding this project, and it actually is in the State rural and the County zoning is hotel district, and the Community Plan is rural. It is in the special management area and in the flood zone. I do have the owner here today if you have any questions regarding that specific property, and I'm here to answer any of your questions, Commission. Thank you.

Chair Buchanan: Okay, I guess following in line, we going hold -- Commissioners can hold their questions for now, and I going open for public testimony on this agenda item. Anyone in the public wishing to testify on this agenda item, please come up and state your name for the record. Okay, thank you. Seeing none, we're going to close public testimony on this agenda item. So, Commissioners, questions for staff on this application? Okay, nobody get questions? Okay, you have, Nora, no? Okay. Planner Sybil, I do have questions, and I actually have -- because, through the years, so much has gone on with the property, maybe it hasn't and it has, so I guess I really need -- I'm confused about the two TMKs, so the separate smaller TMK owned by the hui - wait, yeah. The smaller TMK owned by the hui is not affected. Is that correct?

Ms. Lopez: Actually, are you talking about A? Correct. So the smaller TMK is the TMK A and the larger -- the larger one that surrounds that -- that TMK is B, so the hui that you're talking about owns the larger property. The one that you have before you is the smaller property, property A, if you're looking at the vicinity map --

Chair Buchanan: You know, I get hard time.

Ms. Lopez: Tax Map Figure 2 is the property site located on that TMK, parcel 87.

Chair Buchanan: Okay. Is the proposed project subject to shoreline certification?

Ms. Lopez: The proposed --

Chair Buchanan: 'Cause it's on the shoreline, yeah?

Ms. Lopez: Correct. But the proposed action is outside of the shoreline setback.

Chair Buchanan: How we know that?

Ms. Lopez: If you look at your project plot plan, the shoreline setback was determined by the -- the ALD, ALD, which stands for the average lot depth, so in your legend on the righthand, it tells you the ALD method that the -- that was used to determine the shoreline setback.

Chair Buchanan: What was the date? What was the date of that certification? It's not a certification then.

Ms. Lopez: It's not a certification because the certification that was done was done back in 2011, but the applicant is showing that how they determined that the proposed project was not in the shoreline setback is that they did the determination through an average lot depth method, which they showed on their plot plan, which they showed also where the proposed new gazebo is going to be located and where the actual shoreline setback is.

Chair Buchanan: Okay.

Ms. Lopez: So, if you notice, it's 176 feet outside of the shoreline.

Chair Buchanan: The -- what was the year of the purchase of the land by the trust because that is what they using as the date that they obtained all the necessary permits to -- to begin the multiple projects that they did on the land?

Ms. Lopez: I -- I probably wouldn't be able to answer that historically --

Chair Buchanan: Okay.

Ms. Lopez: But I do have the owner who probably could answer that question.

Chair Buchanan: Okay.

Ms. Lopez: If -- if it's okay that the Chair --

Chair Buchanan: Yeah. Let me get all my questions in a row first --

Ms. Lopez: Sure.

Chair Buchanan: Because on Attachment A, the description of the proposed activity or development, it describes the existing use, and the tax map key identifies, like you said, that smaller property, which is where we have a floating dock, the home with the porch, and another structure, and then now we want the gazebo, yeah, but --

Ms. Lopez: Correct.

Chair Buchanan: When I looked at the pictures, the berm looks different than the berm that was approved way back when, was supposed to just be one berm that wasn't hardened, I think, and now I see that it's actually a stonewall, so I guess because I trying to, logistically, trying to figure out how all of this looks, so if you went back years and you looked at the proposed and approved berm, it's not the same berm, and so I just -- and then also, the waterline and the permits for that waterline, I never see that any water going be provided to the gazebo. Is that correct?

Ms. Lopez: As far as the plans that was submitted, no.

Chair Buchanan: And then on the footing, I never see the depth of the footing on the cement, the five cement pillars, I saw the width and stuff of the poles that going be used, but I never see the depth that they was going dig to in order to secure the cement pillars. And I know that this is all filled, so probably the likelihood of inadvertent finds would be low. And when I asked about the shoreline certification, I also wanted the definition of a "private lagoon." 'Cause I remember that the initial home was fairly small, under thousand square feet, and I see it's 700 square feet, but that the actual terrace and open space covered space was 1700, so I guess that's like one lanai. It also says that the existing mound fill was reshaped to create a berm for wind protection, so I don't know if a permit was granted for that reshaping of the berm mound that was previously permitted. My -- my bottom concern is drainage and water flow into the near shore waters because the project was an ancient fishpond but it's also bordered by fishponds as well and I just worry -- I just want to make sure that anything from the development does not go into the near shore waters and that's -- that's my reason for questioning. It's been a long time and I only depending on my memory for the initial permit of the 700 square-foot home, and at that time, we did tie in I believe the berm, which, at that time, we called "the sump," was to catch the excess water and that concern back at that time was that when the berm was full or the sump was full, that the overflow would traverse into the nearshore water. I

never even know that they had one permit for the drydock, the whatever is in the water. And then my question for the private was, lagoon, was if it was subject to shoreline setback. So I think I would be comfortable with one site visit if I think what I saying in the long run and I -- 'cause it's hard on paper to place everything and to actually see that to alieve my concern about nearshore water runoff; since it's a fill, I don't have that big concern about depth, footing of depth, so I don't -- I'm not concerned to put one SHPD condition on the project, and we cannot condition, we can either waive or not waive so --

Ms. Lopez: Correct.

Chair Buchanan: That would be my questions.

Ms. Lopez: Okay.

Chair Buchanan: And the owner is here so if any -- if the owner or any of his representatives can answer those questions?

Ms. Lopez: Yeah.

Chair Buchanan: If they familiar with the historical construction of the multiple stuffs. State your name for the record.

Mr. Kaholoaa: Okay. Aloha. My name is Yama Kaholoaa.

Chair Buchanan: Aloha, Uncle Yama.

Mr. Kaholoaa: Okay, and one of the question you asked about the footing size, that's -- I don't know if you got a copy of the plan, and it's -- it's a 30-by-30 footing and with a 15-inch thick, and it's going to be just ground level and wherever -- it's going to be 5 kiawe post rather than just regular wood post. And then, you know, as far as all the other, I think we did some of the job work there. We had a permit, and we had inspection on -- on the buildings or whatever we did there, and -- and talk about the -- the flow of the water, there is a runoff that is -- it collects all runoff, the water there, so I, personally, feel that it's my - - my opinion that where the gazebo is going to be built, it's going to be away from any obstruction of the natural -- and then weather, yeah. Anymore questions?

Chair Buchanan: I get one question, Yama. You built the stonewall on the berm?

Mr. Kaholoaa: No. No.

Chair Buchanan: You never?

Mr. Kaholoaa: So that stonewall, they had a permit for -- it was the tile wall, so that stone that you see it's just a veneer, it's lightweight, it's a vermiculite lightweight veneer, and all you do is put a little plaster on it and just stuck it on. It's almost same like -- it's the same thing like Molokai Shores, that wall you see, that's all veneer. It's all made out of vermiculite.

Chair Buchanan: Oh, I never know that. Okay.

Mr. Kaholoaa: Yeah. That's lightweight so that stonewall, it's just a facelift, you know, so that make it kind of natural with the environment rather than one long tile wall.

Chair Buchanan: Yama, how long you been working on -- in that area helping the trust with construction?

Mr. Kaholoaa: Oh, couple years now, you know, off and on. When they get job, I go there and work on the job. I'm the kinda person that wanna make sure everything is in place, make sure they get the permit if I do anything and same like today on this gazebo --

Chair Buchanan: Yeah.

Mr. Kaholoaa: That's why I'm here to testify that -- and be sure that, you know, we're -- we're not -- there's no conflict of what we're doing. We want to do things the right way.

Chair Buchanan: You helped with the construction of the existing 700-foot square home and covered deck? You helped with that?

Mr. Kaholoaa: Yeah. Yeah. Yeah.

Chair Buchanan: Okay. Has the sump, where the water collects, that area, has it changed in any way?

Mr. Kaholoaa: Oh, no. No change, yeah. So they had I think it's a 105 compaction and that's a requirement to be able to build on any -- put any structure, so that gravel there was compact by Goodfellow, I think was about 18 years ago or 15 years ago, so that thing is really solid, so they planted grass, they sprayed grass and it's covered and so everything is flowing real good and we not have any loose fill being moved out.

Chair Buchanan: Okay. Are you aware of any runoff from any of the structures in Lot A at times of heavy rain that you witnessed going into the ocean?

Mr. Kaholoaa: No. No.

Chair Buchanan: Okay. That's -- thank you.

Mr. Kaholoaa: Okay. Thank you.

Chair Buchanan: Anybody get questions for Uncle Yama? No? Okay, thank you very much.

Ms. Lopez: Chair, and I got the owner to address the questions.

Chair Buchanan: Hi. Well, I mean if you have anything to add --

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

Chair Buchanan: Okay. Thank you very much. For the record, the owner just had no questions and invited us anytime we wanted to go. Thank you. Okay, that's -- that's it for me. If there's no more questions from the Commission? Alright, then we are open to a motion to waive or not waive. You know, you can waive or not waive, and if you not waive, you have options. If you waive, you don't have any options. And then if you don't waive, then they just have to come back or it can be pending any other further information that we want them to provide. Is that a good -- okay. And with that, we're open for a motion on the floor.

Mr. Poepoe: Motion to not waive.

Chair Buchanan: Motion to not waive. Commissioner Poepoe has a motion to not waive. Is there a second? Okay, there is no second, so the motion fails. We open -- the floor is still open for a motion.

Mr. Poepoe: Motion to defer.

Chair Buchanan: Oh, okay. We have a motion to defer by Commissioner Poepoe, is there a second for discussion?

Mr. Moore: I will second.

Chair Buchanan: Okay, we have a second. Motion to -- to defer has been seconded. Now we open for discussion unless staff has a question.

Mr. Hart: Chair, thank you.

Chair Buchanan: On procedure.

Mr. Hart: Just a request. If there is -- if there's going to be a decision to defer, I'd really appreciate, on behalf of the Department, if you clearly define what you would like to happen in the interim. Thank you.

Chair Buchanan: Roger. Okay. We figured that. So we in discussion. The maker of the motion, Commissioner Poepoe, what -- what more information would you like to see or hear or do? You have a suggestion?

Mr. Poepoe: The clarifying at which point the original shoreline setback was determined relative to the purchase date by the -- the current owner.

Ms. Desjardins: I just wanna clarify that, for purposes of determining, we're here today to examine just the gazebo, not the other structures on the property and whether it's in the shoreline setback area or not, the question, as a matter of law, is what is it today, so regardless of when the property was purchased or not, the real question is do you have enough -- and so this could be one of the things that you're deferring for is to answer the question more clearly, has the Planning Department gone out to determine whether this is in the setback area, I know we heard from the testifier or from Planning that they left it to the testifier to determine whether it was, but based on the evidence from today, perhaps the deferral is based on the Planning Department verifying whether or not and in fact it's in the setback area, but I'm just gonna caution you to focus really on the gazebo itself and whether that is a development or not, and not the other structures, although I understand the concern about runoff and things and because the gazebo could possibly affect that as well.

Chair Buchanan: Commissioner Poepoe, I can agree with that that -- that it would be good if the Department went out and validated that the -- that indeed it meets the setback, it is -- 'cause somebody used the lot depth, I'd like to see that too. That would be -- that would be good. Commissioner Poepoe --

Mr. Hart: Chair?

Chair Buchanan: Yes?

Mr. Hart: One point of clarification. I would just say -- I mean staff can go out, but, most likely, standard practice is that we would rely on the applicant to provide measurements, you know, by -- by a licensed professional or something to that effect, and then we would use that information and then check out rules to verify, but just a point of clarification that the Department wouldn't be doing field measurements or anything like that. Thank you.

Chair Buchanan: Okay, got it. So if the -- if we deferred and the applicant came back at that time, we would probably have to ask them to get a shoreline certification based that we did not waive the project and we wanted to review the project, then the question at

that time would be to -- are they properly -- do they have a setback, a shoreline setback, and that would have to be determined by OCCL?

Mr. Hart: I'm not prepared to say whether or not the Department can confirm that a certification is required but, suffice it to say, the Department's committed to verifying what -- what we believe the setback is, you know, for the next time we visit the Commission.

Chair Buchanan: Okay, thank you. I think he does have a valid concern. And then I -- I do have a question based on what Corp Counsel said earlier about just reviewing the gazebo for today. Historically, we've seen that this project has had multiple applications, and sometimes I'm concerned that it could be part of a larger development, and so to determine, at this point, that it's not a development, I think it's arguable because of the multiple permits and, you know, we always look that if we caution ourselves against piecemealing things and then overlooking if it's part of a larger development, and the public has been concerned as to what is going to transpire with Lot B, I think, and which we not going discuss today so -- okay.

Ms. Desjardins: So just as a point of clarification for Planning. The concern that I hear is that, based on historical use of this property, did the Planning Department, in determining that this is not a development, take into consideration the cumulative effect of those other structures in determining whether the gazebo, in and of itself, is a development as opposed to, you know, like the Chair said, piecemealing it into eight or nine buildings that are, in and of themselves, possibly not developments, but could you just verify whether that was taken into consideration when writing the report about looking at the property as a whole. Is that a -- is that correct, Chair?

Ms. Lopez: Thank you, Chair and Corp Counsel. Yes. Yes. The Department can verify. You have a very good resource right now in -- in here that you do have the owner itself, and for me being able to do a site inspection and go out on the property and be able to ask the questions to the owner to see if there is more than just the development that's already been going on, he assured himself that he is not building a hotel, this is just basically for his personal use and that -- that the gazebo is mainly just for what he is designed to be able to do on that property. So with that being said, I mean if that question would be directly to the owner, if that would, you know, make you feel more confident in having that answer straight from him because if the Commission is planning to defer, I don't think that the owner will be here on the next meeting, so it would be just would encourage the Commission to ask your questions now while you actually do have the owner sitting in front of you today. Thank you.

Mr. Sprinzel: Chair? May I ask how long you two guys have been in the Planning Department?

Ms. Lopez: Myself? Good question. So --

Mr. Sprinzel: Both -- both of you.

Ms. Lopez: So, historically, I wasn't -- I wasn't in the Department when those structures did come up so that was -- that's a good question for me, and I'll let the Deputy Director answer that for himself. Thank you, Commissioner.

Mr. Hart: I've been in the Department for nearly a year now.

Mr. Sprinzel: You may wonder why we're a little bit hesitant about this. Lori and I have been involved with the planning for what - 15 years or more? And we've had such a lot of dramas with the shoreline state over the years; it came to the point where we didn't really believe everything we were told, that's ...(inaudible)... and accusation, which I should make here, but it's how everybody kind of feels, so that explains to you why we're a little rocked and that's all.

Mr. Hart: Chair, if I could respond. I think that -- I think that the request that I heard today of verifying the shoreline setback and relooking at whether or not cumulative impacts from prior approvals to where we are today were assessed or are consistent with prior Commission or Department decisions, I think that those are completely relevant, so I think that that's, you know, part of the Department's obligation as in the SMA process and we're fine to provide those details when we visit with you again.

Chair Buchanan: Thank you. Yeah, thank you very much. Thank you, Commissioner Sprinzel, for saying that and -- and even adding on to that, you know, there is an appreciation for the trust because they could have done other things with the property and then they decided to do very good things and leave a lot of it in open space, and this community is extremely appreciative of that and I wanted to, personally, thank them for that types of decisions that they were making; also, that the surrounding hui has management of the former fishpond, that is greatly appreciated as well, so thank you very much for that. And we do want to -- because that there's so much historical community discussion on this project, it's good for us to dot our i's and cross our t's, I think that helps the community in Pukoo overall, and so as my part of the discussion on the deferment, I don't see any harm in doing a site inspection. I think that would alleviate a lot of people's concerns. The owner is open as we've heard him just state. And I would be -- I'd be accepting of doing a site visit followed by the decision-making process, if that's -- if that's something other Commissioners would be in support of and if the Planning Department was willing to setup a site visit.

Ms. Lopez: Sure. We can discuss that further regarding your question to do a site -- site visit, but I just wanted to add some information regarding to the question of verifying the shoreline setback, and so to the history of that place, I know that that poses a lot of history in that area being Pukoo is such a sacred place for part of the Mana'e side of Molokai, but

historically, it is an infill, it has been turned into a manmade area, and determining the shoreline setback, if you notice on the vicinity map of Figure 2 and Figure 3, the shoreline is actually only a little sliver that would be determined because of the rest of the area is considered as a manmade area, but the question that you considered having to be defined as a lagoon, a manmade lagoon that's, you know, I've never heard of that and I would like to look more into that definition, but as you looking at the shoreline setback, you have to consider that the shoreline area is just a little portion of the TMK area regardless of it being surrounded by the lagoon, the shoreline and the determination is actually in a specific area considering the whole TMK along the other lot, so just kinda wanna make sure that the Commission is aware of where the determination will be in regards to the setback, the shoreline setback.

Chair Buchanan: Okay. Well, thank you then. I think I would, as a process of learning -  
-

Ms. Lopez: Right.

Chair Buchanan: And being the Chair of the Commission, I would like to see what the Department of Land and Natural Resources says about the lagoon, the rules governing private lagoons, there's not too much in Hawaii, and so it should be easy to find, I mean Koolina, we see is a private lagoon, and for Hawaii, our shoreline rules are really important, so I would also like to know, as part of that shoreline -- that private lagoon, and maybe I can ask the owner, he's here today, are they also leasing the waters? Do they have a lease with the Department of Land and Natural Resources for - what do they call waters, like in harbors when you -- that you lease the water as well? Do you know?

Ms. Desjardins: We just have to make sure the record reflects that the owner is saying no. Sorry, just because you're not at the microphone. We can't pickup what everybody is saying, for the record. Yeah, it would be great actually, if you don't mind, sir, just being near the microphone so we can get you on the record.

Chair Buchanan: Thank you for being here today.

Mr. Schroll: Christopher Schroll.

Chair Buchanan: So I just was wondering because, on Molokai, in Kamalo, right past Kamalo, there was going to be a development and the people who own the land also leased the oceanwaters, and they had a 50-year lease on it, so I was wondering, for your private lagoon, do you also own the waters or lease it from the Department of Land and Natural Resources.

Mr. Schroll: We don't lease it. We -- we had litigation with the Army Corps of Engineers, went to the Ninth Circuit up in San Francisco, and we prevailed such that it's a private lagoon.

Chair Buchanan: So -- so your understanding is not anybody can just sail their boat into your lagoon?

Mr. Schroll: No. They can't. But, however, you know, if someone's in danger, it's a question of life and limb or something like that, we'd probably would provide access.

Chair Buchanan: Okay. That's interesting so --

Mr. Schroll: It's not a mandate but --

Chair Buchanan: Right.

Mr. Schroll: You know.

Chair Buchanan: Right. Right. Well, I was just thinking about if you caught somebody fishing in your lagoon, they wouldn't be allowed into the lagoon, it would be from the entrance of the lagoon, yeah?

Mr. Schroll: Yeah.

Chair Buchanan: Yeah.

Mr. Schroll: You know, yeah.

Chair Buchanan: Yeah. Awesome. Thank you very much. Commissioners, you guys have any questions for the landowner? And again, thank you for being here.

Ms. Bicoy: I do.

Mr. Schroll: Thank you.

Ms. Bicoy: The lagoon, since it's private, is that lagoon shared with Lot A and Lot B?

Mr. Schroll: Yes, it is.

Ms. Bicoy: Okay. Just checking.

Mr. Schroll: Okay.

Ms. Bicoy: Thank you.

Chair Buchanan: Mr. Schroll, one more question, and I sorry, I'm going to apologize that it doesn't have anything to do with the gazebo, but we've had many questions about what's happening around the surrounding, is that just up to the hui or are you aware of the hui's management plans for clearing out all of the wetland?

Mr. Schroll: When you -- when you say "hui," you mean Ke Kuaina --

Chair Buchanan: Yes.

Mr. Schroll: Hanauna Hou?

Chair Buchanan: Yes.

Mr. Schroll: I'm aware of it. Certainly.

Chair Buchanan: Okay.

Mr. Schroll: I'm on the board of that foundation, but we have a lawyer, Isaac Hall, and he's told me don't, you know --

Chair Buchanan: I know Isaac Hall.

Mr. Schroll: To put it -- put it in his hands so under advice of counsel, as they say. I can't talk about it.

Chair Buchanan: Okay. Thank you very much. But one more -- they have a hotel, County has a zoning?

Ms. Lopez: It's zoned hotel.

Chair Buchanan: Okay. And that's only for Lot A?

Ms. Lopez: Correct.

Chair Buchanan: Okay. Thank you very much. Okay, sorry. We was just wondering how the County got hotel zoning in Lot A. It didn't come up at CPAC and I over --

Ms. Lopez: It -- 'cause the Community Plan is rural and so to the previous owner during the rights and I mean that was, what, back in '60s, '70s, '80s, prior to me, so the zoning never change since then, so it's been hotel.

Mr. Hart: Chair, if I could just add some context. Because we're in the special management area --

Chair Buchanan: Yeah, yeah.

Mr. Hart: You can only do the uses that -- that line up with all your land use designations, so if -- if someone were interested in pursuing some sort of hotel development, they would need to do an environmental assessment, a community plan amendment before they could look into that.

Chair Buchanan: Yeah.

Mr. Hart: Right, because of the rural community plan designation, so there's a bunch of layers that would happen before the property would even be ready for the Planning Commission to consider a SMA permit approval for some sort of development. Thank you.

Chair Buchanan: Thank you very much. And thank you for my extra questions. Thank you. I appreciate it. Alright, so there's a motion on the floor to defer. We've conveyed some concerns to the Planning Department on further information, and I think just the one that I would ask the Commissioners if they would be open to a site -- anyone opposing a site inspection? Okay, there's no one opposing a site inspection. Is that possible then, Planning, for us to have a site inspection and then come back with the -- the project again since it's deferred, deferred pending a site inspection? Oh yeah, okay, well we going vote on the deferral but I just asking. What you suggest?

Ms. Desjardins: I just wanna say that if we're going to do a site inspection, obviously, we have to agendize it as a public meeting, public would be invited, have to do all the proper postings, or the alternative is is that couple of you at a time could go check it out and come back, whoever wanted to see it, but if you want to do a formal site inspection, then you know the protocol of how to -- how to arrange that. If you don't, I can help you.

Chair Buchanan: Okay, so we can just call for the vote and to defer, and then we can work it out with Planning after if we do one site inspection. That's my understanding. Okay, question, Commissioner Poepoe?

Mr. Poepoe: Yeah, I get one more question for staff is where my concern arises on the compliance checklist, there's a check for no followed by the continuation down from the - - the checklist, and it's check for the use of the shoreline area, I just wanted for ask which one is the -- the -- was that intentional?

Ms. Lopez: No.

Mr. Poepoe: Was it meant to stop at the “no?”

Ms. Lopez: Well, if you go further in B, does the proposed action qualify for one of the following exemption classes, which it qualifies for exemption 3, where the construction and location of single, new, small facilities or structures, and the alteration, modification of the same and installation of new small equipment and facilities, and the alteration, modification of same including, but not limited, to a, b, c, and d. So, therefore, it is exempted from the Chapter 343 review of the EA, environmental assessment.

Mr. Poepoe: Yeah. So A.3., use of shoreline area is that shoreline area, is that a mistake or --

Ms. Lopez: Oh, you mean the checkmark?

Mr. Poepoe: Yeah.

Ms. Lopez: Yeah.

Mr. Hart: I do think it was a misunderstanding of the application. The staff report, you know, concludes that the project is outside the shoreline setback, but we've been asked by the Chair to come back with more information verifying that, so I would leave that one up in the air. If we come back and conclude that it is in the shoreline setback, then it is correctly checked the shoreline -- the shoreline area, but they believe that it was outside of the shoreline setback so I believe that they check that one in error and they should have just stopped at no.

Mr. Poepoe: Thank you.

Mr. Pele: Sorry, my heart beating.

Chair Buchanan: Okay. Question?

Mr. Pele: I get one question. Ok, so on --

Chair Buchanan: We still in discussion --

Mr. Pele: Yeah.

Chair Buchanan: On the motion.

Mr. Pele: Just a question on the motion to defer. So we're being specific about the setback and that's what we're -- the site visit, just trying to grasp what we're going to be looking at and if we're satisfied with what we're looking at, what the next step will be.

What are we looking for in this deferment and site visit specifically? What questions are we asking here? The setback, and we confirmed that.

Chair Buchanan: We're trying to determine impacts to the shoreline and the nearshore waters by the project, the proposed project.

Mr. Pele: Correct. So if we -- we're satisfied with that answer, does it end there or --

Chair Buchanan: I think --

Mr. Pele: For this -- for this deferment? I'm just trying to vote on this deferment. What is the --

Chair Buchanan: We already made suggestions to them. We like find out about that, the shoreline setback, and then maybe what I'm going to do is call back the owner to explain how they made the lot depth determination that they met the setback, and he can -- they can explain that on the record, and that would be good. And then also, my wanting one site inspection is because my historical knowledge of what was approved, it looks to be different, I need to know if the sump is still there, the berm is now a retaining wall, and I just wanna see for myself if I think that any of the projects are adding to waters, erosion into the water, the near shore waters.

Mr. Pele: Alright.

Chair Buchanan: Because they went go plant grass and stuff, and I think before was just one open sump and one mound.

Mr. Pele: And this is all directly related to this application?

Chair Buchanan: Yeah.

Mr. Pele: Okay.

Ms. Desjardins: Yeah, so one of the other thing was the cumulative impact --

Mr. Pele: Right.

Ms. Desjardins: Of this versus everything else out there, so I think that's what started the conversation about do you wanna have a site visit or not, and I guess you could poll the Commissioners to see whether there's interest in having a site visit, you don't have to vote on it, but it might be something to take into consideration given the two things that you've identified that you want the Planning Department to follow through with, and then

also to have the -- sounds like the Chair is saying have the owner come up and explain to you what precisely he did in order to satisfy that this was outside the shoreline.

Mr. Pele: Yeah, so this motion only deals with those two items. Correct?

Ms. Desjardins: That's correct.

Mr. Pele: That's it. It's not going to go --

Ms. Desjardins: Those are the two concerns so far.

Mr. Pele: I mean it's not going to -- you don't keep piling it on as we're doing a site visit?  
I mean --

Ms. Desjardins: Well, you could. I mean you could go do a site visit --

Mr. Pele: I could.

Ms. Desjardins: And say now I have other questions maybe the pilings --

Mr. Pele: But we gotta come back here again?

Ms. Desjardins: The footing's going to be too deep or you know.

Mr. Pele: Alright.

Ms. Desjardins: Yeah.

Mr. Pele: Does that constitute another meeting and another motion?

Ms. Desjardins: Yeah, the site visit would be a meeting in and of itself --

Mr. Pele: Yes. Okay.

Ms. Desjardins: And then more discussion.

Mr. Pele: Alright.

Chair Buchanan: Sybil, would you be comfortable with a brief recess and then, after that, we can discuss the -- okay. Just -- I guess all we asking right now is how the setback was determined using that, you said in here, lot depth yeah? That the setback -- shoreline setback. Okay.

Mr. Schroll: I was just talking to Sybil --

Chair Buchanan: Yeah.

Mr. Schroll: About our engineer that we hired, Ron Fukumoto --

Chair Buchanan: Okay.

Mr. Schroll: Who has all the information that you're asking about and can supply it. I'm not a technical guy.

Chair Buchanan: Yeah, us too. Thank you.

Mr. Schroll: Okay.

Chair Buchanan: I appreciate that.

Mr. Schroll: Alright.

Chair Buchanan: Thank you for that statement. So I guess expounding on that then, Planning, maybe we need one -- one little memo from Mr. Fukumoto on how he made that determination; that might be helpful too. And I think what is, for me, is that whole private lagoon whether it's part -- it's subject to the shoreline and because I mean it's water so that's all we asking.

Mr. Schroll: Okay.

Chair Buchanan: So thank you very much.

Mr. Schroll: Yeah.

Chair Buchanan: Can ask Mr. Fukumoto for one memo on that.

Ms. Lopez: In Figure 3 --

Chair Buchanan: Figure 3.

Ms. Lopez: It gives you the calculation and the method to which he determined the setback.

Chair Buchanan: The print we no can see. Hang on.

Ms. Desjardins: I have a question for Planning. In terms of that shoreline establishment, it looks like they used data from 2011, but would -- would the -- would that be something that should be more updated or current in your opinion?

Mr. Hart: Chair, you know, from my position, I really don't think it's necessary to try and convince the Commission that we have everything here today. You know, you asked us to go basically double-check all of the rules. I do want to point out that my understanding is Ron Fukumoto is also a licensed land surveyor, not just a civil engineer, which is really relevant to this conversation we're having right now, but, you know, you basically asked us to provide you with sufficient information to clearly explain the situation and I don't feel like we have it here today, so I don't really feel the need to -- to discuss that.

Chair Buchanan: Thank you very much. That's -- that's fair. Thank you very much. Okay, just for the record for Commissioners, what we was just looking at and establishing is that the data for the certification by Fukumoto is dated October 17, 2011, about eight years, well, almost nine years now, and so, you know, whether we want that updated or not is -- is the question but it's not relevant to we going defer pending more information, and thank you, that was helpful. Thank you, Sybil. Thank you, Planning. Okay? So we still -- Commissioner Pele.

Mr. Pele: I'm just wondering if it's -- do we still want to defer or do we wanna maybe not waive?

Chair Buchanan: The motion on the floor is to defer, it's been seconded --

Mr. Pele: Yeah, I know.

Chair Buchanan: And we can --

Mr. Pele: But I'm just -- I'm just wondering if not waive would be more applicable or that's irrelevant right now? Just gotta withdraw our vote again, right?

Chair Buchanan: Well, the maker of the motion can either withdraw or we can vote on the measure and if it fails, we can enter one different motion. Staff?

Mr. Hart: Chair, if I could. I think that that's a really relevant recommendation because if you -- if you choose to basically not waive today, then we know we have to have this information for you in order to make a relevant decision on an application that comes before you as opposed to delaying whether or not you decide to waive or not waive.

Chair Buchanan: Okay, I think that's a great consideration too. Thank you, Commissioner Pele, for that thought. So, Commissioners, you guys hear what Commissioner Pele is saying and Planning Staff is that it may be more appropriate to not waive and then they

come back with all the information, and even at that point, if we decided we wanted a site visit, we could also convey that as well, staff?

Mr. Hart: Yes?

Chair Buchanan: If we still wanted a site visit, we'd still be open to asking for a site visit?

Mr. Hart: My understanding it's the discretion of the Chair to decide issues like that.

Chair Buchanan: Okay. Alright. Thank you very much. So, Commissioner Poepoe, do you feel we should still move forward with the asking for a deferral or would you like to amend your motion or withdraw your motion having heard discussion?

Mr. Poepoe: I withdraw my motion.

Chair Buchanan: Okay, thank you. The motion has been withdrawn, so we're open again for a motion on the floor. Do I have a motion on the floor? Commissioner Pele.

Mr. Pele: I move to not waive to review the items discussed previously by the Commission for Planning to submit to us as --

Chair Buchanan: Okay. Thank you very much. Is there a second to that motion to not waive? I have a second from Commissioner Poepoe. We've already had a lot of discussion but we're open for discussion on the not waive motion. Are there any questions by Commission? Commissioners, no questions? Okay, seeing none, then we're going to vote on the motion to not waive. All those in favor, please raise your right hand. Okay, seven is unanimous.

**It has been moved by Commissioner John Pele, seconded by Commissioner Laakea Poepoe, then**

**VOTED: to not waive its review of item D.1.b.**

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

Chair Buchanan: So we'll be coming back with more information on this project. Thank you very much, Commissioners. And we can move on or does anybody need a break? No? Power through.

Ms. Lopez: I -- oh, sorry, Chair. I have a question.

Chair Buchanan: Okay.

Ms. Lopez: Are you requesting, therefore, that you wanna setup a site inspection or site visit? I don't know. Is it --

Chair Buchanan: I -- I would love to have a site inspection. I haven't seen the property for at least 15 years. I think it would -- would be good to have a site inspection if anybody is not opposed to one site inspection. Commissioner Sprinzel.

Mr. Sprinzel: Do we have the authority to send say yourself and one other to look on our behalf and report back? Is that legal?

Ms. Desjardins: So as long it's not -- yeah, as long as it's two members I think that went out together or any of you could go individually or arrange with the owner to go out and look and come back and have that discussion, but you could have -- designate two of you to go out there, do some looking around, and then come back and report back to the Commission, or you could defer whether to have a formal site visit until after you've heard more information from Planning, or you could just say no, let's have a full-blown agendized site visit and have a -- have a meeting out there and -- and then come back. Those are your options.

Mr. Sprinzel: I would certainly suggest we send two people as our representatives instead of a full-blown site visit. Having been on several site visits, they do sometimes end up a little chaotic.

Chair Buchanan: Anymore discussion on that? Anymore suggestions or discussions? I mean Planning is giving that confused look. He's like what are you saying?

Mr. Hart: Chair, if you don't mind if I have a --

Chair Buchanan: Sure.

Mr. Hart: A brief recess? Thank you.

Chair Buchanan: We can. We can take a break. You want to take a five-minute? No? The Vice-Chair said no. Power through.

Mr. Sprinzel: Sybil? Sybil?

Chair Buchanan: I think it's a great time to take a bathroom break, five-minute bathroom break, otherwise, we just waiting and I'm not comfortable we're just waiting and having side conversations, so this Commission is in recess, five-minute recess, for bathroom break.

*(A recess was called at approximately 12:25 p.m. The meeting reconvened at approximately 12:30 p.m.)*

Chair Buchanan: Thank you. I'd like to call this meeting back from recess. Thank you very much. Okay, I was like what -- what happened to our planner? So, Commissioners, we have a standing motion on the floor to not waive and so, procedurally, I think we were going to -- sorry. Sorry. We checking. Okay, awesome. We just had to really make sure, procedurally, what we did, so we did vote to not waive, and it was unanimously approved by this Commission, and so now we wanted to discuss Commissioner Sprinzel's suggestion of just sending two people instead of having everybody and a full meeting similar how we setup our kinda TIG but that we would -- those two people would have to go out with clear instruction on what we actually trying to achieve by going out for the site visit, and then coming back and giving a report to this Commission about that inspection, site inspection. So, Commissioners, with that, I would like to be one of the two people to go on a site visit, and then we would open up to other Commissioners who would want to go on a site visit with myself, and then, for the record, I would say what we actually going out there for, to look at what are we actually looking at and what the reason is for so we can come back and make that report to this Commission. So, Commissioners, do I have any volunteers to go on a site visit, we don't even have it scheduled yet, but just to say who would go on a site visit? Anyone from Manae?

Ms. Bicoy: If no one will go, I will represent the other second half to go.

Chair Buchanan: Thank you for that volunteering. Okay, Commissioners, are you guys good with that? Any opposition? No? Seeing none. Okay, so we already gave our laundry list to -- Sybil, you have a question? No? If it was okay with the owner?

Mr. Kaholoaa: Yeah, so Chris was asking if could do it tomorrow 'cause he'll be here only for a few days, he gotta go back to the Mainland. Tomorrow would be the best time for him.

Chair Buchanan: Okay, for the record, that Yama Kaholoaa speaking on behalf of the owner of the property asking if tomorrow is possible, and both of us went hmmm, okay we working but -- so either Thursday or next week Monday? So the two Commissioners, myself and Commissioner Bicoy, we're open to coming tomorrow, so tomorrow morning is better. What time? What time is good for you?

Ms. Bicoy: What time is good for you ...(inaudible)...

Chair Buchanan: Okay. Okay, I going skip the time for this minute, and I'm going to ask, Commissioners, we're going to go down that laundry list again of what we wanted, so I know what I would be looking for, I would just be curious about the proximity to the shoreline of the development. I would be looking for obvious signs of runoff and erosion.

I kinda wanted to see the berm, I'm familiar with the permit years ago for that berm, it looks like it's been reshaped from earlier, so it might be a good thing. I'm curious if the sum is still there and if it's still adequate in the water retention to keep it from going into the nearshore waters. I would be interested in taking a picture, just for the record for the Commissioners to have. And the overall condition of the shoreline. Anybody else wants to add to that 'cause that was just, boom, off the stop of my head kinda stuff? And that's besides what we've already asked, the research part of the Planning Department to do, which is shoreline determination, private lagoon, whether that shoreline is -- is subject to shoreline rules or not because it's -- it's kind of a special case, I don't want to set precedence, and I think we need to consult with DLNR about it, and so that's -- that's what the staff has to do that -- that type of heavy-lifting and research for us.

Ms. Lopez: Chair, can I --

Chair Buchanan: And us is just site kine stuff.

Ms. Lopez: Chair, can I make a note that the Department won't be participating in your site visit so -- so just to make mention that --

Chair Buchanan: Okay.

Ms. Lopez: The Department would be a part of your site visit.

Chair Buchanan: Commissioners, you guys heard that? The Department is not going to be part of this site visit tomorrow morning. Does the Planning have anything to do with that, I mean say on that?

Mr. Hart: Chair, I just wanna clarify. It's because staff will be on Maui, not -- not any other reason.

Chair Buchanan: Because they flying out today for work. Okay. Commissioners, any of you opposed to not having staff there? Okay, seeing no opposition. Commissioner Pele or Poepoe, you guys have any other to the laundry list?

Ms. Lopez: So with the research --

Chair Buchanan: Okay, no additions.

Ms. Lopez: Sorry, Chair. So with the research that the Department will be doing and the report that is coming in front of the -- that your site visit will be in addition to, yeah, 'cause we not going --

Chair Buchanan: In addition to.

Ms. Lopez: Okay. So I'll just...(inaudible)...

Chair Buchanan: Thank you. For the record, our site visit is in addition to the staff report. Okay. And, of course, if we see anything else that we'll put it into our report if -- oh, I can do one oral report. I might do one powerpoint. Nah. Just joking. Okay. Do I have to -- okay, we don't have to vote on that, and so setting the time for tomorrow morning, I -- yes, anytime as long as we not sweating. I bringing one umbrella. So up to you. Maybe we should ask the -- our host. Planner Sybil, can you ask the -- what time is convenient for our landowner?

Ms. Lopez: They said anytime. It's up to you when you're available. They're available all day. They'll be on the property.

Chair Buchanan: Are you available for breakfast? No, I'm just joking. I joking. I joking. Everything so by the book. Okay, how about what, 9 a.m.? Not too late; not too early? Nine a.m.? Good? Okay, thank you very much. We see you guys at 9 a.m. tomorrow morning. Okay, let's move on. Okay, we're into item E, Director's Report, under that, we going have item E.1, 2, 3, and item F. Planning Staff? Thank you.

## **E. DIRECTOR'S REPORT**

### **1. Pending Molokai Applications Report generated by the Planning Department with the December 11, 2019 Agenda Packet (Appendix-A)**

Mr. Hart: Chair, thank you very -- thank you very much. You have your pending Molokai applications item E.1. is attached to the agenda. I had made some comments about improving the configuration of that list. We're still working on it. My understanding is that it's -- it's a report that's run out of a Kiva permitting system and so it's -- anyway, I'm interested in finding a way to make it more clear, but that's there for you to review. If you have any questions, let us know.

Chair Buchanan: Would the Department consider adding a separate sheet with just the short-term home rental and B&B permitted with the time attached to it that -- would that be difficult to generate for this Commission and to be added as part of your guy's report?

Mr. Hart: So I'm not sure, right now, what -- what -- what we can do. Anyway, just to -- to make it a shorter story, the Kiva permitting system is like a back of the house management system --

Chair Buchanan: Yeah.

Mr. Hart: For the Department. You can see the public version Kiva Net; anyway, the reports that it spits out are not as convenient. What I would like to do is to sort the permits by permit type and by date because --

Chair Buchanan: Okay, okay.

Mr. Hart: Currently, it's sorted by TMK, that's pretty difficult, you know --

Chair Buchanan: Right.

Mr. Hart: And nobody -- very few people can organize that in their heads so, anyway, that's the goal, but we need to work with our ITS and any experts that we have in the Department on that system to try and figure out a different way of running the reports because, right now, it's just a simple all reports and so we're still working on how to figure out how to do that, but we're -- it's something we would like to have done.

Chair Buchanan: The only reason why I ask is 'cause we get inquiries and I don't know what to tell 'em on how to search for the current short-term home rental permitted properties on Molokai.

Mr. Hart: So there is a way, I'll just briefly explain it, anybody can go into Kiva system and you can search by - let me just look real quick to tell you the correct -- if you type in in the permit type STMO and then the percent sign, it will bring 'em all up, or you can go STMO and then the year and then the percent sign, and it'll bring all of 'em up. But if we sort it by permit number, it won't need to be on a separate page because it'll just be one of the pages, all in a row, will be all the pending applications for any use type. So that's a goal that I'm working on with staff but we have some -- I have some learning to do. Anyway, that's that item.

Chair Buchanan: Okay, thank you very much. I appreciate the effort for you folks. Okay.

**2. Closed Molokai Applications Report generated by the Planning Department with the December 11, 2019 Agenda Packet (Appendix-B)**

Mr. Hart: Okay, the next item we have is item E.2., which is the closed applications, that's a shorter list, but it's provided for you there. If you have any comments or questions, we're available.

Chair Buchanan: I sorry. I don't have a question for the closed list, but I do have one for the open list that I missed. On page 5 of 6, the Maud Hill Schroll, not the gazebo, but the wetland, the SMX, what is that?

Ms. Lopez: So the SMA --

Chair Buchanan: The Pukoo Wetland.

Ms. Lopez: Pukoo Wetlands, so that is the property that the Lot B property.

Chair Buchanan: Yeah.

Ms. Lopez: So they are coming in for an SMA assessment application to do Pukoo Wetlands, so they just submitted it, and it's under the Department's review as we speak.

Chair Buchanan: What there a request for service because of the current management actions of cutting all of the trees down?

Ms. Lopez: Yes. There was two request for services that was provided --

Chair Buchanan: Two request for service.

Ms. Lopez: By the neighboring properties.

Chair Buchanan: Okay. Did a report on those RFSs come back yet to the people who requested? No?

Ms. Lopez: So the Department just received this application November 26<sup>th</sup>, at the end of November --

Chair Buchanan: Okay.

Ms. Lopez: So --

Chair Buchanan: Alright.

Ms. Lopez: We -- yeah, so we're just starting to look into that review.

Chair Buchanan: Okay, thank you very much. Just asking. Okay, no questions on the closed. Thank you. So item 3.

### **3. Agenda Items for the January 8, 2020 meeting**

Mr. Hart: Thank you, Chair. The next item that we have is the agenda for January 8, 2020. We currently have no items, and I do wanna clarify that I think that some of the research that was asked for for this last application probably can't be done in time for this next agenda, so just to clarify that for the Commission.

**F. NEXT SCHEDULED REGULAR MEETING DATE: JANUARY 8, 2020**

Chair Buchanan: Okay. Thank you. Anything on the next meeting date? No? Set for January 8<sup>th</sup>.

Mr. Hart: No items.

Chair Buchanan: Okay.

Mr. Hart: No items.

Chair Buchanan: Except we no more items right now. Okay.

Mr. Hart: Yeah.

**G. ADJOURNMENT**

Chair Buchanan: So might be canceled then vacation. So we into item G, Adjournment, and if there's no more questions by the Commission, then we stand adjourned. Thank you very much.

Mr. Hart: Thank you.

**The meeting was adjourned at approximately 12:45 p.m.**

Submitted by,

SUZETTE ESMERALDA  
Secretary to Boards & Commissions II

**RECORD OF ATTENDANCE:**

**Present:**

Lori Buchanan, Chairperson  
Laakea Poepoe, Vice-Chairperson  
Julie-Ann Bicoy  
Leonora Espaniola  
William Moore  
John Pele  
John Sprinzel

**Absent:**

John Perez, III

**Excused:**

Bridget Mowat

**Others:**

Jordan Hart, Deputy Director, Department of Planning

Sybil Lopez, Staff Planner, Molokai, Current Division, Department of Planning

Stephanie Chen, Deputy Corporation Counsel, Department of the Corporation Counsel

Mimi Desjardins, Deputy Corporation Counsel, Department of the Corporation Counsel

Suzette Esmeralda, Secretary to Boards & Commissions II, Current Division, Department of Planning