

MOLOKAI PLANNING COMMISSION
REGULAR MINUTES
MARCH 28, 2018

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

A. CALL TO ORDER

The regular meeting of the Molokai Planning Commission was called to order by Chairperson Lori Buchanan at approximately 11:05 a.m., Wednesday, March 28, 2018, at the Mitchell Pauole Center, 90 Ainoa St., Kaunakakai, Molokai.

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

Chair Buchanan: Good after -- oh, good morning, everyone. Aloha and welcome to the March 28, 2018 meeting of the Molokai Planning Commission. We'd like to call this meeting to order. And on our agenda today, I first wanted to ask if Commissioners had any request amending the agenda today? And if not, then they'll be no changes to the agenda, and so we'll go straight into item A, oh, I did Call to Order, and then item B. Hang on a second. We're going to go into item B for public testimony, and it's at the discretion of the Chair, for public testimony, it's usually three minutes, and if you have more, you can come back to conclude, but if -- if your testimony has to do with an agenda item, I would suggest and encourage you to wait till the item comes up. Usually this time of public testimony is for people who won't be able to stay for the agenda item or have issues other than what's the agenda that are not up for discussion but you can testify as a member of public, and you can always petition the Chair to come back at a later time as well to open public testimony again if -- if the need arises. So with that, I would like to take this time to open public testimony if there's any members in the public that has to testify right now, this would be your opportunity, just come up to the mike and state your name for the record. Oh, hard time hear.

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. Mahina Poepoe: My name is Mahina Poepoe.

Chair Buchanan: Aloha, Mahina.

Ms. Poepoe: This isn't necessarily about an agenda item so I didn't know if I should say it now or later, but I just wanted to kind of clarify a few things about taxes, about -- about short-term rental stuff. The taxes that are collected from the short-term rentals, the TAT and GET, don't directly come back to the community in that way that what is collected is

guaranteed to come back. In regards to west end in particular, water and roads are private so no amount of taxes would help to render those issues. How much actually comes back is dependent on how much is collected, who our elected officials are at the time, I think it goes to the State, the State gives it to the counties, and then the counties disburses it through the budget. And then I see the use of short-term rentals for parties, graduations, sports teams being used as an angle to promote them as a way that they help locals, but something important to remember is that the capacity is three bedrooms, I believe, and six max capacity, and when canoe teams, sports teams, families travel, they travel with more than six people unless the kids are coming alone without coaches or chaperones, it's -- those are -- that's just something important to remember. I had a friend who had a wedding in 2016, her family stayed in a vacation rental, a 3-bedroom, and they had more than 12 people sleeping on the porch, in the yard, which is -- they had to -- that's what they had to do, but it's really easy to go over capacity with those types of occupancies. And then I read the thing in the newspaper about supporting the 5% tax and one thing that it said is that the Commission has no basis for the denials of -- the denials that they're making, but another thing is that it implies that the denying of short-term rentals are directly denying children access to educational programs that are so desperately needed. That's not true. That's just not true. And it uses our children as a leverage to push the misinformation and to try and get support from the community. There is a way to push the pro-vacation rental in an honest way. You can do that, but they chose not to, so I was offended by that. And that's all for now. Thank you.

Chair Buchanan: Thank you, Mahina. Any questions by Commissioners for the testifier? Seeing none, thank you, Mahina. Anyone else in the public wishing to testify at this time? Okay, seeing none, we going close public testimony, and then we're going to move into item C, Resolutions Thanking Outgoing Members William Buchanan and John Sprinzel. Thank you for your service. I going miss you guys. All you get is one lei.

C. RESOLUTIONS THANKING OUTGOING MEMBERS – WILLIAM BUCHANAN and JOHN SPRINZEL

Mr. Yoshida: Madam Chair, again, it comes that time of the year when we thank our two outgoing Members, William Buchanan - Uncle Billy and John Sprinzel, for their service on this Commission as their terms end on March 31, 2018. So we have a Resolution from the Commission, first, for William Buchanan.

Whereas, William Buchanan has served the County of Maui since April 2013 as a member of the Molokai Planning Commission; and

Whereas, Mr. Buchanan has served with distinction and has performed his duties in the highest professional manner with the Molokai Planning Commission; and

Whereas, Mr. Buchanan's term expires as of March 31, 2018; now, therefore,

Be it resolved that the Molokai Planning Commission hereby commends Mr. Buchanan for his dedication and untiring public service to the people of Maui County, especially the people of Molokai, and expresses their sincere appreciation for Mr. Buchanan's services and extends their best wishes in his future endeavors; and

Furthermore, be it resolved that copies of this Resolution be transmitted to the Honorable Alan M. Arakawa, Mayor of the County of Maui; and the Honorable Mike White, Council Chair of the Maui County Council.

Mr. Yoshida: Thank you, Uncle Billy. So if you can sign the Resolution. I guess Uncle Billy also gets a letter, congratulatory letter from the Mayor and a certificate of appreciation, suitable for framing, from the Mayor in this nicely -- nice County of Maui folder, so we present that to Uncle Billy. The next person we'd like to recognize is John Sprinzel. John is kinda like the relief pitcher, you know, he kinda comes in the middle of the term, I guess he's filling out the rest of the term for Wiliama Akutagawa, so he's -- but we really thank John who has -- he's kinda been through this before as a member of the Planning Commission, and also as a member and chair of the Urban Design Review Board, and also as a member of the Molokai Citizens Advisory Committee, but again, we have a Resolution for John Sprinzel stating that:

Whereas, John Sprinzel has served the County of Maui since January 2018 as a member of the Molokai Planning Commission; and

Whereas, Mr. Sprinzel served as Vice-Chairperson for the Molokai Planning Commission from January 2018 to March 2018; and

Whereas, Mr. Sprinzel's term expires as of March 31, 2018; and

Whereas, Mr. Sprinzel has served with distinction and has performed his duties in the highest professional manner with the Molokai Planning Commission; now, therefore,

Be it resolved that the Molokai Planning Commission hereby commends Mr. Sprinzel for his dedication and untiring public service to the people of Maui County, especially the people of Molokai, and expresses their sincere appreciation for Mr. Sprinzel's services and extends their best wishes in his future endeavors; and

Furthermore, be it resolved that copies of this Resolution be transmitted to the Honorable Alan M. Arakawa, Mayor of the County of Maui; and the Honorable Mike White, Council Chair of the Maui County Council.

Mr. Yoshida: So if the Members can sign the Resolution for John Sprinzel.

Mr. Sprinzel: Thank you, Clayton.

Mr. Yoshida: And, likewise, we have a congratulatory letter from the Mayor, a certificate, suitable for framing, in a nicely logo -- with the County of Maui logo on the folder, so congratulations, John.

Mr. Sprinzel: Thank you, Clayton, and thank you, Chair and Commissioners. You'll notice this was a short-term rental so I thank you all.

Chair Buchanan: Okay, thank you. Very nice -- very nice -- that was very nice. Thank you very much. I really do appreciate your guys' service, and I know our community does as well. So we are going to move right along into item D, which is Unfinished Business, it is the Pamela Hamamoto, followed by Stephen Pillar, and what I need to do right now is I'm going to ask to go into executive session, and the reason for going into executive session is there was an executive session called during the time that these two agenda items were being heard, and we have a Commissioner, a new Commissioner, Commissioner Espaniola, who was not privy to the information within the executive session, that -- there's no record of that on Akaku for her to watch, and there's no written record of that for her to read, and so it's going to be a very short recess -- executive session to bring her up to speed as to what transpired during that time, and I think this is an appropriate time to do that, before we jump into -- into this because then she'll know what was said. Okay?

Ms. Oana: Excuse me, Chair, I just want to put on the record that the purpose of the executive session is to consult with the Commission's attorney with regard to the Commission's powers, duties, and liabilities pursuant to HRS 92-5(a)(4).

Chair Buchanan: Yep, I agree, so do we need a motion? Do I have a motion to --

Mr. Pele: So moved.

Chair Buchanan: Okay.

Mr. Poepoe: Second.

Chair Buchanan: Okay, it's been moved and second. All in favor? No, none oppose? Okay. We'll be right back.

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

VOTED: that the Commission enter into executive session to consult with the Commission's attorney with regard to the

Commission's powers, duties, and liabilities, pursuant to HRS 92-5(a)(4).

(Assenting - L. Buchanan, W. Buchanan, L. Espaniola, L. Lasua, J. Pele, L. Poepoe, J. Sprinzel)
(Excused - C. Adolpho, X. Bicoy)

The Commission entered into Executive Session from 11:18 a.m. to 11:21 a.m.

The meeting was reconvened at 11:23 a.m.

Chair Buchanan: Aloha, everyone. We'd like to reconvene the March 28, 2018 meeting. Thank you very much. See, wasn't that bad. So we're on item D, Unfinished Business, item no. 1.

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

D. UNFINISHED BUSINESS

- 1. PAMELA HAMAMOTO requesting a State Land Use Commission Special Permit to operate the Hamamoto Hale Short-Term Rental Home, a three-bedroom short-term rental home, located in the State Agricultural District at 4800 Pohakuloa Road, TMK: (2) 5-1-008:035, Kaluakoi, Island of Molokai. (SUP2 2017/0004) (S. Lopez)**

The public hearing began at the June 28, 2017 meeting and the public hearing was closed at the August 9, 2017 meeting. The matter was deferred to the August 23, 2017 meeting but the Commission lost quorum at the August 23, 2017 meeting soon after the meeting was called to order and the meeting had to be canceled. The matter was scheduled for the September 13, 2017 meeting but the Commission lost quorum at its September 13, 2017 meeting soon after the meeting was called to order and meeting had to be canceled. The matter was scheduled for the November 8, 2017 meeting and the Commission voted to deny the State Land Use Commission Special Permit at the November 8, 2017 meeting.

MR. LUIGI MANERA, agent for applicant PAMELA HAMAMOTO submitting a Motion for Reconsideration by letter dated December 4, 2017 on the Molokai Planning Commission's denial of the above application at its November 8, 2017 meeting. (This matter was deferred at the January 10, 2018 meeting.) (Matter was scheduled for

the January 24, 2018 meeting but the meeting was canceled due to lack of quorum). The matter was scheduled for the February 28, 2018 meeting and the Commission voted to grant the Motion and set the matter for further hearing and discussion on March 28, 2018.) (S. Lopez):

The Commission may take action on the reconsidered application.

Chair Buchanan: So that is what we're doing right now under Unfinished Business, no. 1, so I guess it would be up to staff and to -- for Mr. Manera now to -- hang on, Sybil. Commission, would it be your guys purview to hear public testimony first or jump right into the Motion for Reconsideration on this? First? Okay, we're going to take public testimony first on this item, so anyone wishing to testify on the Motion for Reconsideration for Pamela Hamamoto on the SUP2 permit, please state your name for the record. After public testimony, we're going to go into hearing from the applicant and staff. Okay. So anyone in the public wishing to testify?

Ms. Mahina Poepoe. Mahina Poepoe again. Can I testify for both at the same time since my testimony is exact -- pretty much exactly the same for both?

Chair Buchanan: In the interest of time, sure.

Ms. Poepoe: Okay.

Chair Buchanan: Okay.

Ms. Poepoe: When I, first, specifically, for Hamamoto, I'll say like that is specifically for that. I'm going to probably say a lot of things that I've said before that there are unreasonable burdens on public agencies. The roads are bad; they are not publicly maintained; they continue to deteriorate with no indication for future repairs. I do cite the draft plan for fire and police because I think that it is the most up to date information and a call to either agency could verify what I'm about to say. Police issue state there's a lack of response capabilities to the outer reaches of east and west ends. West end. Fire issue state that there is a lack of coverage -- will be a lack of coverage if west end's future growth occurs. A growth in population whether full-time or transient does in turn increase the burden. If you look at County Title 19, comprehensive zoning provisions, it says that timeliness of development should be encouraged to happen in conjunction with the provision of public services, such as fire, police, water, and sewage. And at this point in time, the availability of these services are insufficient. As far as Parks Department, they service public right-of-ways and the park. That service will not cease or expand as the result of the decision. Unusual conditions have not arisen. There are properly zoned

hotels and condos available within proximity. There's no proof provided that a demand exist aside from opinion. There is no proof that what is currently available is not sufficient. I did try last time to provide some sort of proof that the daily average has gone down, and I brought the printed out graphs from the tourism authority to give to you guys for you to look over to try to provide something. The land is suitable for permitted uses. Even if it is in a less desirable soil area, there are a list of uses for different soil types and qualities. Alternative uses might be like for really bad soil maybe like a solar or a wind-generation type of thing, raised beds, stuff like that. And about the farm plans. I have a farm plan application to give you too just so you can know what a -- if you don't know what a farm plan is supposed to be. All it requires is a map of the -- besides it requires a copy of the deed, notarized unilateral agreement, and a map of the parcel drawn on a sheet of paper, not necessarily to scale, showing approximate acres to be planted, and a written description of the types of plants or animals intended to be propagated. That's the farm plan. Oh, and then in the application, I didn't anywhere that said that there was actually an inspection of the site. I saw that it said that it has been verified to be accepted and implemented, but I didn't see like actual like so and so inspected it on this day and found this and this was their findings. So that's the farm plan. The site is not suitable for the intended use. The land is agricultural. The intended use is commercial non-ag that has not demonstrated a connection to a primary ag use. In the case of the Hamamotos, because they have the soil report that says that agriculture is not suitable, well then, in that case, is a farm dwelling suitable if -- if the farm dwellings are supposed to be to aid the farmer in living on the farm? If you can't farm, should you have a dwelling? Was just a thought. The intended use is pseudo ag use, which in our community plan asks for protection against. And then I can define "commercial" for you if you want to, under the MoPC, the County Code and the United States Code and the dictionary if -- I have it all written if you want me to define it. Negative social impacts have been expressed here and are evident in the minutes from various Commission meetings. Lost sense of community; feeling unwelcome or uncomfortable at beaches that front some of these properties are a couple of examples, but if somebody were to go back through the minutes, you could site probably hours of testimony. Visitors will spend regardless of where they stay on the same things. They need to eat. They need to fuel their cars. They need to buy a plane ticket to get here. Those are not exclusive results of short-term rental. And then just to read the intents of ag, under the County Code, it's to reduce land use conflicts arising from encroachment of non-ag uses in ag areas; mitigate rising property values of farm lands to make agricultural use more economically feasible; and discourage developing or subdividing lands within the agriculture district for residential uses thereby preserving ag lands and allowing proper planning of land use and infrastructure development. That's all. Thank you. And I have these things.

Chair Buchanan: The last portion you just read about reducing -- where did you get that from?

Ms. Poepoe: About what? Oh --

Chair Buchanan: The County.

Ms. Poepoe: The Municipal Code, Chapter 19.30, agriculture zoning for the County. Those are just three of the things I found to be most applicable, some things didn't, and to save time, I didn't write those down.

Chair Buchanan: Okay. Thank you, Mahina. Commissioners, any questions for the testifier on the testimony you guys heard? No? I just wanted to say that I glad you brought up the farm plan. I am familiar with the farm plan. I glad that you actually brought a copy of it today so -- and I also am glad you brought up the soil report stuff, so thank you for your testimony.

Ms. Poepoe: Thank you.

Chair Buchanan: Anyone else in the public wishing to testify on the Motion for Reconsideration on the Pamela Hamamoto? Okay. Anyone else wanting to testify? You like testify? We go bring the da kine to you. Hang on. Hang on. Thank you, Sybil. I appreciate that for the kupuna.

Ms. Judy Caparida: Okay, aloha -- aloha, board. Thank you, Jesus, for a brand new day. I really -- this was a long time. This was in 1917 so I remember me saying that because ag was for ag. Agriculture was for agriculture. Residence was for residence. And business was for business. That's the way Molokai is. But now have so much changes, so much changes, and they don't really follow up. They say a lot of stuff. It's easy to talk. But did you go and follow up on whatever they do? It's not really what they -- the plan was. The plan always changing and that's why we get into a lot problems because you say one thing and then they do another thing. So this is why I'm really concerned about because in Honolulu and Maui, that's a big thing. Short-term is so expensive that they moving their rentals where our families cannot rent anymore. Isn't that sad? And they talk about kids. If you love 'em, then you wouldn't be doing that. That's what's the problem. The problem is everybody is thinking about them. Eh, let me tell you, bruddah, you no can take nothing with you.

Chair Buchanan: Judy, address us.

Ms. Caparida: Oh, I'm sorry.

Chair Buchanan: Thank you.

Ms. Caparida: You cannot take nothing with you. That's what I needed to say because everybody's doing what they wanna do, but you know what? Our plan for Molokai, what is the plan? What is our plan? Everybody is doing everybody else's plan. But what would we ask for? We live here. Born and raised here. So why -- why we have to make changes? I don't think so. There's a lot of things that's going on that is not right in our community, and all of you supposed to be taking care of us. What is our needs? What is our children's needs? Everybody talk about children, but you know what? They like the money, but they don't do what they say they was going to do. So you know what? I feel really bad. I'm blessed. I no need anything. God blesses me. But you know what? You can see the future of ours. The future of our children. They get everything fast, but the thing is that nothing is worth living for if you not going to take your time and do it so that they can live. I really sad. My grandson say to me, "Gram, in Honolulu, so much problems with short-terms." He said, "Mom, I see you on top da kine now. I see that in the paper." And I say to him, "Yeah." He said, "You know what, Mom? A lot of them going homeless." And you can see Molokai going homeless? I don't think so. I don't think so. All the homeless is coming over here. And where are they? They in the bushes. Some days you come outside there in -- you go sit inside by the prayer table, and you would see them. It's really sad. It's really sad. We don't need it here on Molokai. So I needed to say that. She said it all 'cause she can talk the way she talk. I talk the way I talk because I live the life. See, talking and living is different because she get the education. But you know when you live the life, you get more education because you know what that keeps you. So, anyway, that's all I wanted to say for now. Okay. Thank you.

Chair Buchanan: Okay. Thank you, Judy. Any questions for the testifier? We're sitting -- no, go ahead. Thank you, Judy. We sitting here and we realizing -- I'm realizing something that members of the public walked in without the beginning of the meeting and may not know what is going on, so we just -- just talking with the Vice-Chair that maybe it would be better if the staff gave their report, and Mr. Manera presented his case, and then we took public testimony, but if -- but maybe by a show of hands, who wanted to testify on this maybe after hearing the staff report? Raise your hand? One, two, three, four. Okay, you like testify now? Okay, so if you wanna testify now, fine, and if you wanna sit and wait and hear the staff report and Mr. Manera's presentation, then I can close public testimony and open up the -- okay, but you can go ahead 'cause you wasn't here earlier.

Mr. Hanohano Naehu: Thank you.

Chair Buchanan: Thank you.

Mr. Naehu: And what I saying --

Chair Buchanan: Your name for the record? Who you? Did I miss that?

Mr. Naehua: Hanohano Naehu, aka the paniolo prince, aka jedi master sunshine. This, what we talking about, is not a singular project, but that's the tip of the spear or the portion of it that if it goes through, a few will benefit and a lot of people will suffer. How you know? This is old news. This is the okole end of the old era. And because of our planet's health and the way we treat environment, this time -- this type of thinking and economy needs to die because we can make a better future, make jobs for -- for our place and our kids of making our environment better. There's a lot of people that say no to this idea and have no plan or no answer in rebuttal, but since 2000, aloha aina, and loving the environment, taking care of this place that we live, and having that as the priority has taken away a lot of the anger and the vengeance from these people that are not from here that come here to treat the environment as property, almost like they pimping 'em, and I love -- we love our environment, our island, our culture, and our place so much that I will not be okay with anybody treating our home in such a manner. Prices go up. Everything going the wrong way. This is so obvious and so old news, I mean this is, to me, it's not even a conversation and no even need testimony or a plan because they is like all the others. We no like 'em. We no need 'em. And if you was living here long time, you should know already how sorry, how thankful, how gracious you should be to this place and its people for being so nice to you. So again, this is not about hate, this is about love for place, and if you look around, we need better ideas, we need better plans. This is old and obvious it's the wrong way. So mahalo though for you guys listening and coming up with answers, you know, but, yeah, this is -- this is done. This is old news. I said that about five time, yeah? There's so much better ways to make money, make economy, and make a better future. So much better ways. And if you guys cannot figure 'em out, come to Keawanui and we can da kine show you guys how. Thank you.

Chair Buchanan: Okay, hang on, Hano. Hang on. Commissioners, any questions for the testifier? If not, Hano, I heard you talking generalistic. Would this testimony also be for suffice for the second because they're both almost the same permit, like Mahina had said on the record?

Mr. Naehu: Yeah. I think, Aunty, you hit it on the point, like this -- this is not something like, oh, I don't like the people that are doing this, I no like anybody doing this. I just love this place more and, yeah, any issue that is similar that treats our island not like our mama, not like one goddess, and not taking care of her, you need to quit doing what you doing. Pau already.

Chair Buchanan: Okay, thank you.

Mr. Naehu: Thank you.

Chair Buchanan: So unless somebody has a burning desire to testify right now, I'm going to close public testimony. I'm going to ask Planner Lopez to give the report, and then after her report and Mr. Manera's case, then we're going to open public testimony. Thank you. Okay, go ahead, Commissioner Poepoe.

Mr. Poepoe: I would like to address the potential conflict of interest with one of the -- the testifier being my wife, Mahina Poepoe, and if any other Commissioners have issues with me continuing on.

Chair Buchanan: Commissioners, does anybody have an issue with the disclosure by Mr. Poepoe on his wife being a testifier? No. I don't see any. None. You have any financial gain from -- from the two projects before us today?

Mr. Poepoe: I actually lose money coming here to -- I have no financial gain from any of these projects.

Chair Buchanan: Thank you. Thank you. You know what? It's a -- thank you, Commissioner Poepoe, for that disclosure because we might as well just ask all the Commissioners if they do have any disclosures they need to make and it would be inclusive of both items that's under Unfinished Business, any disclosures? Okay, seeing none. Thank you very much. Planner Lopez?

Ms. Lopez: Thank you, Chair. My name is Sybil Lopez, I'm the project planner for this project, both Mr. Hamamoto -- Mrs. Pamela Hamamoto. The matter arises from an application for a State Land Use Commission special permit. It was filed on March 3, 2017 by the consultant, Luigi Manera, who's present today, and I'll turn the time over to him after I'm done with the short, brief explanation, on behalf of Mrs. Pamela Hamamoto. So the applicant is requesting the State special land use permit to allow a short-term rental home operation called the "Hamamoto Hale" for which our local people know Dixie Maru Beach, it's located adjacent to the Dixie Maru Beach, on the west side of Molokai in the Papohaku Ranchland Subdivisions. The applicant is proposing a three-bedroom short-term rental home in a two-story farm dwelling on 5.004 acre parcel. The short-term rental home will occupy 2,722 square feet of living area, which is made of wood, a presidential shake asphalt shingle roof on a pole house design post foundation. The existing farm dwelling is comprised of a proposed three short-term home rental bedrooms in a four-bedroom home with a den, a living room, dining area, and a kitchen that overlooks the Dixie Maru Beach in the Papohaku Ranchland Subdivision in the Kaluakoi Ahupua`a of West Molokai. The land use designations are State land use district ag and

conservation, Molokai Community Plan ag, agriculture, County zoning is ag. Other areas, there's a portion of the property is in the special management area, and the flood zones are VE and X. Surrounding uses include east side would be more ag lots, south side is the beach side, west and north would be more ag residential lots.

So the Commission did see the -- this particular project and did deny the project. I just wanted to read from the Chapter 303, of the Molokai Planning Commission Rules relating to Special Uses in State Ag and Rural Districts, which is located in 12-308-8, it explains the decisions and order, 12-303-9 explains the notice of hearing and the review of the decision, and 12-303-10 talks about appeal, and so I would like to turn the time over to Mr. Luigi Manera, he requested, as what the Chair said, in December 4th of 2017, a letter to -- of reconsideration of the Molokai Planning Commission's vote of the denial, so without any further ado, oh, I'm sorry, Mr. Robert Stephenson is on behalf of Architectural Drafting and Services, and he'll be speaking on behalf of the consultant and the applicant. Thank you.

Chair Buchanan: Real fast, anybody have questions for Planner Lopez at this time? No? Thank you. Thank you, Sybil.

Mr. Robert Stephenson: Aloha, Chair, Vice-Chair, and Commissioners.

Chair Buchanan: Aloha.

Mr. Stephenson: My name is Robert Stephenson, and I'll be presenting the information today. I know that we passed this information out at a previous meeting but just in case you don't have it with you, we'll pass this same information out again today so everyone has a copy. There's eight copies here so I think we'll have one extra for staff. So the office of Luigi Manera asked, and the applicant asked for a request for reconsideration because of the reasons that were used, the findings of fact, the conclusions of law that were used to initially deny the permit, the applicant and its consultant did not have the opportunity to respond to them because they were presented that day at the meeting. So what we have done is taken those findings of fact and conclusions of law and actually these are the responses to those findings of facts and conclusion of law, and we'll go through each one of these one-by-one to explain how they are either incorrect, they are misrepresenting, or they are irrelevant.

So we'd like to start with the first item that was used to deny this permit in its initial submission. It says, this was finding of fact and conclusion of law that was submitted, it says in -- "Is it in the SMA? If yes, it is a development." Well, the project, a portion of the property is within the SMA boundary, but it is not a development because, at a minimum, a development requires the construction of improvements on a property, and there are

no improvements associated with this application. All the improvements on the property are existing and in place and there will be no change to any of the structures, or infrastructure, or physical properties of the residence.

When it comes to the issue of a commercial use, the next finding of fact and conclusion of law that was presented, it states that it is a commercial use as designed in the Molokai Planning Commission rules 12-303-3 and, hence, a "principle use" and inconsistent with primary use of agriculture. And our response to that is although the proposed use may vaguely and broadly fall under commercial use, as defined in Molokai Planning Commission rules 12-303-3, it is not a principle use. The proposed use is for the short-term residential use of the existing farm dwelling, which is the accessory use of the property. And we'd also like to point out, and keep in mind that commercial use is not a disqualification or a means by which to qualify, so commercial use in this capacity is not applicable as a reason to deny nor is it a requirement or an absence of commercial use a requirement to approve the permit.

So if we look at the evaluation guidelines, the first evaluation guideline in Chapter 12-306 -- pardon me, 12-303-6, evaluation guidelines, it says, "The use is contrary to the objectives of Chapter 205 and 205A, Hawaii Revised Statutes, and the rules of the Molokai Planning Commission objectives, which are to preserve, protect, and encourage the development and preservation of lands in the State for those uses to which they are best suited in the interest of public health and welfare of the people of the State of Hawaii. The proposed use may have harmful effects on the environment, coastline and, thus, are contrary," and this comes from the -- well, I believe this is a -- this is a statement that said the proposed use may have harmful effects on the environment, coastline and, thus, are contrary. And this statement above is broad and vague, and it claims that the proposed use may have harmful effects on the environment and coastline, but it doesn't list any specifics, so in order to find a conclusion or a finding of fact, a finding of fact would be very difficult to find here because there's no specific finding and there's no specific conclusion, and there are no specific harmful effects listed nor are there any credible identification on how this specifically may be harmful, so it's curious how you can have a finding of fact and a conclusion without any specific facts or conclusions that were cited so it is our position that this statement doesn't find any conclusive harm.

The next bullet point that was listed on the initial denial that was used as a finding of fact and conclusion of law to deny the permit, it says, "Any commercial use, public, or facility on lands in the State agricultural or rural district shall be subject to the requirements, procedures, and guidelines of 205-6. It is a commercial use." So our response is if it is in fact a commercial use, then, yes, absolutely, it is subject to the requirements of 205-6, which is what this application is specifically fulfilling that requirement. So a commercial use must comply with 205-6, which means it must come before the Molokai Planning

Commission, so this is going through the process to fulfill that requirement, so this is not a finding of fact or conclusion of law that could be used to deny the permit nor is it a requirement to demonstrate the absence of this to approve the permit.

The next point that was used to deny the permit, it says, "The use adversely impacts surrounding properties, increase the tax base, inadvertently up-zones, spot zones, and is inconsistent with the Molokai Community Plan." In a conversation with the County of Maui Real Property Tax Division, Luigi Manera specifically had this conversation that the use on a property would not in any way affect the tax liability of the surrounding properties. So it's interesting, we hear that short-term rentals will increase taxes on surrounding properties, but, from the County of Maui tax office, they've stated that it specifically will not. They also stated the only thing that would affect the tax liability of a neighboring property would be the sale of a comparable property thereby affecting the comparable assessed value or if there was a specific tax classification activity on the neighboring property. So nothing about this tax -- about this application will affect the tax liability of neighboring properties.

The next point in response to this point that was presented, it says here, "This will, in fact, increase the tax base to the County providing a greater tax revenue to provide the County services to the neighboring properties." So it's quite the opposite. So the increase in real property tax goes from residential up to the hotel classification, which is a higher tax rate, so that increased tax will go to the County and the County is able to use that to benefit all of the neighboring properties, including all the properties on the island, through the upgrade and maintenance of infrastructure, police, fire, and all the County services that we receive here on Molokai. There will also be increase in the transient accommodation taxes collected, which Maui County directly receives a share from the State which in turn provides more revenue to the County to provide County services to the neighboring properties, the neighborhood, and the entire island, so the -- it is contrary to the above statement. Also, in response to this statement, there is no inadvertent up-zoning because there is no change in zoning associated with this application, so that -- that point would be a point that would be curious to how there could be up-zoning when there is no zoning associated with this application. And again, there is no spot zoning as there is no change in zoning associated with this application. The application, in fact, is consistent with the current and proposed draft of the Molokai Community Plan, and the above statement does not specifically point out any inconsistencies. So we find it difficult that that could be used as a finding of fact or conclusion of law when, again, there are no findings of fact, there are no facts in the finding, and the conclusions in the finding are incorrect.

The next point that was used to deny the application was it says here, "The use would burden public agencies. The need for emergency services to respond to tourist-types of activities. Many tourists have drowned at Papohaku Beach." That, in fact, is true.

"Infrastructure antiquated, roads in bad shape, privately owned, private water system, fire suppression, and police response." So for this to be a finding of fact and a conclusion of law, again, there is no statistical data to support this point. There is no proposed intensification of use associated with the application, therefore, it would not unreasonably burden public agencies. So the house is actually permitted, it's a four-bedroom house, so if it were occupied full-time as a residence, then it would actually be a -- a lower intensification of use using it for short-term rentals because it would be restricted to three bedrooms. Additionally, the proposed use for the property at an anticipated occupancy rate of about 38% would be a reduction of impact compared to if the dwelling were to be occupied full-time under its currently entitled use. If we keep in mind, on the west end of Molokai, Ke Nani Kai there are 120 condominium units, the Ke Puhi Beach Villas, there's 156 units, and at Paniolo Hale, there are 70 units, so there are a total of 346 existing condominium units in the Kaluakoi Resort area with an average capacity of four occupants per unit, the existing capacity is 1,384 people. There are 85 existing homes in the Kaluakoi Resort area with an average capacity of six occupants per unit, and the existing capacity is 255 people. If you add those numbers, the total existing housing capacity is 1,639, which is currently being served by the public services and infrastructure, both County of Maui and private -- privately by Molokai Ranch. This application is proposing the use of the property for six people, which, keep in mind, is already permitted to be used by at least eight people. This would be a proposed addition of zero people above what is already permitted and entitled. So if you were to add the six-person capacity, which is already permitted, it would amount to a .003% increase in the population density on the west end of Molokai. So given that specific data and the absence of any specific data in the point that was used to deny the application, our response is that there -- that point is not something that should be used to deny the application because it doesn't have any data and it is not true.

So let's go on to the next bullet point that was used to deny the application, which is 12-303-6b. Conditions, trends have arisen since district boundaries were drawn. There's substantial evidence of adverse impacts by short-term rental home types of uses Statewide, and it lists 12-303-62, (5), we wasn't able to understand what that meant in the context of this -- of this statement, it says, "Resort zoning are in close proximity and allows for the special use being requested for and in the community plan." So this statement apparently mislabeled and appears to reference 12-303-6d. There's no description of the adverse impacts claimed above only a statement to that effect. So again, the findings of fact, there are absent any fact and there are absent any conclusions. In fact, this has previously been addressed in the reply to the State Land Use Commission dated April 18, 2017, if we can look below, it says, "Unusual conditions, trends, and needs have arisen since the district boundaries and rules were established. In evaluating the conditions, trends, and needs, the following aspects shall be considered if applicable." The analysis of that is conditions. Since the district boundary rules were established,

there has been a loss of over 200 hotel rooms for our island guests to utilize overnight accommodations. So that's a statistical condition that has happened. Trends. So we look at a trend. In 2014, the State of Hawaii Legislature amended Chapter 205A to allow Maui County to allow short-term rentals on agriculturally zoned land subject to the requirements of Maui County short-term rental house permit process. There's also an established trend of short-term rentals utilizing properties other than traditional hotel properties, including condominiums, apartment homes, and single-family homes to accommodate the needs of family and group guests. So that's a trend, a specific trend that's identifiable and exist. And needs. There's a small and limited number of available bedrooms on the island for short-term rentals with no larger hotel infrastructure and capacity to absorb any increase in visitors to the island thereby limiting the number of overnight visitors. The County of Maui short-term rental home permit process was enacted in order to accomplish this in a way that is consistent with all applicable State and County regulations, and to ensure that these operations provide a safe well-regulated environment for short-term rental guests. So those have -- those have addressed that comment.

The next bullet point that we'd like to address, it says, "12-303-2(4), Applicant has not demonstrated public demand for the market. It's hearsay as hearsay or anecdotal." Well, the applicant has indeed demonstrated public demand for the market. This, and many other properties, were operating as vacation rentals before the laws governing vacation rentals came into effect clearly demonstrating public demand and a market. And as all of us know, and the Commission Members, individually, have stated, that there are numerous illegal short-term rentals on the island, so that clearly demonstrates that there is a demand for that type of activity. This comment has previously been addressed in the reply to the State Land Use Commission dated April 18, 2017. So the analysis is the market and public demand for the proposed use is strong. This is evidenced by the large number of unpermitted short-term rental operators in Maui County and, in fact, here on Molokai, as identified by several people in this room both from the County, on the Commission, and the general public. In order to allow homeowners to come into compliance, the County of Maui enacted the current short-term rental home law and has provided a process by which homeowners could become compliant and legally permitted operators. So the State changed the law to allow the counties to allow short-term rental homes on agricultural land, and the County of Maui enacted a law that allows short-term rental home applications to move forward and be permitted on agricultural land. So our response to that comment is that we have demonstrated the public demand and that's verifiable.

The next bullet point: 12-303-2(6), the applicant has not demonstrated or proven the economic and/or social benefits of the use to the community. It's actually the reverse. The above statement is false. A general understanding of economic principles would help

make this more well understood. Increased visitor activity comes with an increase in economic activity, not only economic activity for the spending, but for support staff, for people who work for these short-term rental homes, and, in fact, this has previously been addressed and replied to the State Land Use Commission, dated April 18, 2017, which you've previously received. The analysis -- the analysis is there's a positive economic and social benefit of the proposed use to the community as it will provide employment opportunities for housekeeping, home and yard maintenance, visitor spending at local stores, restaurants, gas stations, airlines, rental car companies, cultural tourism activities, and an increase in property tax revenue to the County of Maui, and an increase of transient accommodation tax to the State of Hawaii of which a portion is distributed to the County of Maui to help provide the critical public infrastructure and safety services to our island community. So again, there's a clear benefit to the community.

The next bullet point says, "2-303-2(e), the land upon which the proposed use is sought is unsuited for the permitted uses within the district." And, in fact, I think this was misunderstood by the author of the findings of facts and conclusions of law that states that the land where the proposed use is sought is unsuited for permitted uses within the district, and that's actually true. It is. It is because this has been previously addressed to the State Land Use Commission. For this application, it was demonstrated by the applicant and approved by the County of Maui that the soil types, as determined by the USDA NRCS, and the absence of available agricultural water create conditions whereby all but a small portion of the property is unsuitable for agricultural use. So it's important to note that this criteria by which to approve says that you may use this criteria to approve if the land where the proposed use is sought is unsuited for the permitted use within the district. So if the land is unsuitable for agriculture, and agriculture is the permitted use within the district, then that condition is favorable to the application. This County of Maui -- the County of Maui determined that the small portion of usable land is in compliance with the implemented farm plan requirement and that the rest of the land is unsuitable for cultivation.

The next bullet point we'd like to address says, "The applicant has not successfully submitted the following concise statement of the applicant's interest and reasons for the special permit, provided facts, views, arguments, maps, plans and other relevant data." This statement is incorrect and it's false because the applicant indeed submitted everything described above in that statement.

The next bullet point we'd like to address says, "The applicant has not conveyed the length of time the special use is needed. Special use permits should be for a period of time for which the use is needed and should not be used as a substitute for real zoning needs, hence, spot zoning, up-zoning. SUP should not be indefinite, example, Manae Goods and Grinds is adverse to the community plans." In fact, this statement is incorrect.

The applicant has requested that the length of time be the same as that of the short-term rental home permit, whatever the final time period has been determined. So the short-term rental permit can be granted for up to three years for an initial period, and up to one-year renewals, and in the application, it was requested that that short -- that, pardon me, the State Land Use Commission special use permit be the same length of time as the short-term rental home permit. And another interesting point that needs to be brought up is the applicant is not before the Commission to approve or deny the short-term rental home permit. The application and the applicant is before the Commission for a State Land Use Commission special use permit, which would allow the short-term rental use on agricultural land. The short-term rental use would be administratively approved. So there's been some conflation of some of the requirements by previous testimony that are applicable short-term rental home permits, but not applicable to State Land Use Commission special use permits, although they are closely related, they're two separate permits.

And that concludes our response to the list of items that were submitted as findings of fact and conclusions of law to deny the short-term rental home permit initially, and it is our position that the findings of fact and conclusions of law that were submitted were, as described, either incorrect, not applicable, or misleading. Thank you.

Chair Buchanan: Thank you, Mr. Stephenson. Commissioners, questions for Mr. Stephenson on behalf --

Mr. Pele: Are we going to be hearing from Ms. Hamamoto today?

Mr. Stephenson: The Hamamoto family, after careful review of the last meeting, they decided not to be here today because they felt that their presence would likely not affect the outcome of the Commission's decision and --

Mr. Pele: Just curious because when Luigi asked for this extension, it was specifically --

Mr. Stephenson: Yes.

Mr. Pele: Asking us that he screwed up, they couldn't be here and they wanna be here, and just wondering if that was a lie at that time or --

Mr. Stephenson: No, in fact --

Mr. Pele: You know, what changed between him -- his testimony -- 'cause it was an important factor in my decision --

Mr. Stephenson: Absolutely.

Mr. Pele: When he said, oh, I screwed up, the Hamamotos want to be here, can we change it to March 28, this and that, and I just wanna know if that was a -- a lie.

Mr. Stephenson: Thank you for the question. That's a great question and I apologize for not bringing it up at the beginning. In fact, the thing that changed it was the last Molokai Planning Commission that denied the State Land Use Commission special use permit for a home that had gone several years through the process in order to get a proper conservation plan, and go through that entire process; it was analyzed that that was most likely a more favorable application that would have had an easier time to gain the Commission's approval and being that this application did not have many of the merits of what we had determined may have been a more favorable application, then the homeowner decided that their presence here would most likely not affect the outcome and thought it would be best if they did not come.

Mr. Pele: Okay, thanks. Just a few other questions. You reference, on your first page, the County providing greater tax revenue and the transient accommodation taxes collected, and you specifically say the services, those monies will be distributed for the neighboring properties. I just wanna know how you guys come to the conclusion that the dollars collected, since it is into a general fund, and if you have any kind of information for me of exactly how much revenue from those houses projected will be guaranteed to come back to the island of Molokai specifically for the neighboring properties as listed in your rebuttal.

Mr. Stephenson: That's a -- that's a great question. Thank you. So the transient accommodation taxes is collected by the State of Hawaii and each county mayor enters into an agreement with the State of Hawaii and they come up with an agreement of how of the transient accommodation tax will come back to the county, and the amount that comes back, it changes every year based upon the agreements and the actual dollars, but the money does come back to the County, and the County uses it for infrastructure improvements, so it won't only benefit the neighboring properties, it will benefit all of the properties and all the people here on Molokai.

Mr. Pele: But it's safe to say there's a general -- a general fund, those monies go into a general fund for the County of Maui.

Mr. Stephenson: That's correct.

Mr. Pele: And here on Molokai, we can all relate to the fact that monies don't always funnel to our island from the County budget. Is that a true -- would I be truthful in saying that or not truthful in saying that?

Mr. Stephenson: Well, of course, and there's so many nuances in there. The general -- the general concept is greater tax revenue means a bigger pot; the bigger pot means that there'll be more opportunities to fill the holes that come about to serve the community.

Mr. Pele: Okay. Next question is I see on your second page, I think it's the second page, on your needs analysis, by the way, Paniolo Hale has 77 units, not 70.

Mr. Stephenson: Thank you. Thank you for that correction.

Mr. Pele: When you say there's a small limited number of available bedrooms on the island for short-term rentals, what kind of information did you gather from that same -- that you just told us in the previous portion of this page that there are 356 existing condominium units, and I'm -- I'm only talking, off the top of my head, I know that I manage Paniolo Hale and there's rental units in there that are not always full, and I would consider them -- I consider them homes, so I just trying to derive, when you talk about the need factor, sometimes -- I think I have 17 or 18 units that rent right now, and I don't ever think I've seen 17 or 18 units, in my specific condominium, full, so I'm just trying to determine where the numbers came from as far as -- as the need factor for this analysis.

Mr. Stephenson: Well, the need factor -- so which specific --

Mr. Pele: Well, you said there's a small and limited number of available bedrooms on island for short-term rentals --

Mr. Stephenson: Yes.

Mr. Pele: With no -- so if I'm taking this right, you're telling me that this is a necessity for accommodations, this application, when I'm saying that sometimes I -- I'm trying -- I have a different view and it could be just my personal view because I'm so integrated in Paniolo Hale and I know the nuances of the rentals there, but I don't see, for instance, where I work, full all the time, so when you say there's a need, I know there's a need, but there's also units available right now where I work so --

Mr. Stephenson: Sure, and I -- I think that could be easily explained by we all know the - the nature of short-term rentals or any type of vacation rentals, it's seasonal and it's cyclical. There have been times where, personally, I've tried to accommodate family members, or friends and guests, and there have been no rentals on the island, zero, so

at those particular times, there's a need, and the small amount of homes that are being used for short-term rentals help to supplement that need. To do a quantifiable day-by-day data based analysis is something that I don't think would be realistic, it may be able to be done, it would be quite lengthy and quite costly, but I think the general idea is if there are so many homes that are being occupied as unpermitted illegal short-term vacation rentals, then there really is a need, otherwise, they wouldn't be occupied as unpermitted short-term vacation rentals.

Mr. Pele: Okay, and this last one I'm trying to --

Mr. Stephenson: Sure.

Mr. Pele: And I might not have enough knowledge on this but, on the following page, you talk about unsuitable permitted uses, and I noticed on a few of the applications that have come through, you guys talk about -- oh, I'm sorry, there's mention of agricultural water, which -- which means it's un-farmable. I believe that they bought those lots knowing that there's no agricultural water there so it might be cost prohibitive for them to farm, but I think they knew that when they bought it that there was no ag water down there so they're going to have to pay for potable water to farm, so I just wondering -- I just see that the unavailability of ag water and I just don't know how it ties into the whole bearing 'cause we all know there's no ag water down there, they knew it when they bought the lots, they knew it when they zoned the development, so to say it's un-farmable because there's no ag water, I think it's cost prohibitive might be a better term when we're talking about water, specifically water.

Mr. Stephenson: Right. And for this application that we're specifically talking about, the land is unsuited for -- all we can do is speak to this application, the land, as determined by the National Resource Conservation Service, NRCS, has determined that the land is unsuitable for agricultural use even if it's irrigated.

Mr. Pele: Except for the small portion. How -- how big was the small portion?

Mr. Stephenson: I would say -- what would you say the small portion that -- that has the -- the trees and the vegetation? Yeah, about a -- about a half-acre out of a five-acre.

Mr. Pele: Oh, half-acre can produce a lot of food. Okay, that's all. Thank you.

Mr. Stephenson: You bet. Thanks, John.

Chair Buchanan: Thank you, Commissioner Pele. Good questions. Any other questions for Mr. Stephenson, Commissioners? Commissioner Sprinzel, question?

Mr. Sprinzel: Aloha. Thank you for your half-hour lecture. There are a lot of items on here I could argue with you about, but the one that is most in my mind is you say this is consistent with the proposed draft of the Molokai Community Plan. Now, Lori, myself, and you were on the community plan gang, and I never heard a single word in favor of vacation rentals nor did you I'm sure.

Mr. Stephenson: Well, actually, in the current draft of the community plan, it talks about limiting short-term rentals to the east end of Molokai, and it also talks about keeping the resort area on the west end of Molokai and --

Mr. Sprinzel: But the general conclusion was nobody on the island was in favor of vacation rentals.

Mr. Stephenson: No, that wasn't my recollection at all, and I don't think there's any documentation to support that, but I'd be happy to -- to entertain that if it -- if it could be presented.

Mr. Sprinzel: No, I don't need entertaining, I'm just pointing out that there was a terrific opposition to vacation rentals --

Mr. Stephenson: And I --

Mr. Sprinzel: Even if you feel there wasn't.

Mr. Stephenson: I seem to recall there was a significant amount of support as well. Thank you.

Chair Buchanan: Thank you. Commissioners, any questions for the testifier?
Commissioner Poepoe.

Mr. Poepoe: Do you think it will be possible to conduct any farming on the subject property?

Mr. Stephenson: Based upon the soil types, the soil report said it was unsuitable, and it has a bunch of different land classifications that was in the soil report that was presented to you folks, so I'm not a professional agronomist, I can't answer that question, but I can go by the professionals who compiled the report for us and determined that it was unsuitable for agricultural use. So I apologize, I can't personally answer that question. I don't have the subject matter expertise to do so.

Chair Buchanan: Commissioner Espaniola.

Ms. Espaniola: So if they were going to farm, what would they be farming? If they're intention were to farm because they knew it was ag lot, what -- do you know what they were going to be farming?

Mr. Stephenson: I really don't know because that decision was made most likely by the original landowner and the -- and the parcel has changed hands at least one time, maybe more than one, I'm not quite sure, and so I wouldn't be able to guess what the intended use was on someone else's transaction. I don't have that information.

Ms. Espaniola: Okay. Thank you.

Chair Buchanan: Any -- Commissioner Lasua.

Mr. Lasua: Yeah, Rob, based on your analysis of all this and on the applicant's submitting the application, I'm assuming that the application that went through satisfied everything that was submitted?

Mr. Stephenson: That is correct.

Mr. Lasua: Okay.

Mr. Stephenson: To our -- to our understanding, it met all the requirements and the merits of the application were fulfilled.

Mr. Lasua: And so based on your testimony that everything that you gave made that application suffice for our decision?

Mr. Stephenson: That is correct and, in fact, if you look at the original recommendation from the Planning Department, the Planning Department recommended approval based upon the information that was submitted to the Planning Department, so there's a very vigorous review process where the information, the submittals go forth to the Planning Department, they make sure that everything is in order before they bring it before the Commission, and they, in fact, made a recommendation to approve to the Commission, so the views of the professionals in the industry, who have dozens, if not combined hundreds of years of subject matter knowledge and expertise in this field, they felt, at least by their recommendation, that this application had met all the merits.

Mr. Lasua: Okay, thank you. Another question on the comment -- comment that Mr. Sprinzel made, now was that on the last CPAC that was discussed as far as the Molokai planning community -- I mean the plan, community plan?

Mr. Stephenson: The Community Plan Advisory Committee?

Mr. Lasua: Yeah.

Mr. Stephenson: I -- I seem to recall that there was -- it was about split, half-way down the middle, between opposition to short-term rentals and support for short-term rentals, and in the text of the draft that the Community Plan Advisory Committee submitted to the Molokai Planning Commission for review, there was only one thing that mentioned a restriction and that would be to restrict the short-term rental homes on the east end of Molokai to a maximum of, I believe, five.

Mr. Lasua: And was that on the current plan that's in process now, or is it still with the Council?

Mr. Stephenson: It's still in the -- it's still -- that draft is still with the County Council at this moment.

Mr. Lasua: Okay, thank you.

Mr. Stephenson: You're welcome. Thank you.

Chair Buchanan: Thank you. Commissioners, any more questions for the testifier? If not, I lost one, but I do have a few questions, and thank you for your testimony -- presentation. I wanted to go over the -- the application and some stuff that you presented on the record today, and I wanted to say that, and I don't know if the public has a copy of it, but in the original application docket, you did provide a copy of a letter dated July 21, 2016, it's from the Department of Planning, it's addressed to Mr. Luigi Manera, the subject is Farm Plan 20150050, for the property located at 4800 Pohakuloa Road, Mauna Loa, Molokai, TMK: 2-5-1-008, which is the Pamela Hamamoto, and it says that, and I quote, "We have received a copy of your recorded unilateral agreement and declaration for construction of a farm dwelling. We have also verified," and I don't know how they verified it, and that would be consistent with the testimony we heard earlier about how is this verified or did anybody do an inspection to see that it was indeed completed, but it says, "We have also verified that your farm plan has been implemented." And it's signed by John S. Rapacz, so that was in July 21, 2016. Attached to that or following that, you submitted a USDA NRCS Custom Soil Resource Report for the Island of Molokai, Hawaii, and you've eluded to that a few times saying that this report states that the parcel in

question for the SUP2 is unsuitable for ag, and so I wanted to know exactly where in this report it states that.

Mr. Stephenson: If you look at the conclusions on the original report, if you look at the soil types associated with the property, it states that it is -- it has a letter and a number, and I apologize, I don't have that report right in front of me, but it states that the soil types associated with the property are unsuitable for agricultural production.

Chair Buchanan: Okay, well, you cited the report, which is a -- and I wanted to know if Pamela Hamamoto did this custom report, paid for it, and asked for it from NRCS because under the island of Molokai, Hawaii, you do have Hamamoto Dixie Maru, you've also put that Hamamoto Dixie Maru into several other headings within this report from NRCS, but I couldn't determine that indeed Ms. Pamela Hamamoto had paid for this nor could I find any specific information for the TMK to say exactly what soil type it was nor did I not find any information that it was unsuitable so --

Mr. Stephenson: Well, first of all, if I could reply, it might be able to make this a little bit more simple, so let's backup because you've got several things that are --

Chair Buchanan: I'm just talking about the NRCS report --

Mr. Stephenson: But --

Chair Buchanan: Which you keep on saying is a basis --

Mr. Stephenson: So --

Chair Buchanan: For substantiating --

Mr. Stephenson: Yes, and pardon me. I'll explain.

Chair Buchanan: That the use that it's zoned for is unsuitable.

Mr. Stephenson: Yes.

Chair Buchanan: That's all I asking.

Mr. Stephenson: Oh, pardon me. There was a question --

Chair Buchanan: For ag.

Mr. Stephenson: There was a question before though and I'd like to address that so we -- so we understand or are very clear because there's some very clear lines here that need to be understood. The first part that you said was there's a letter from the County of Maui that says: We have received your application to construct a farm dwelling, and it also says that we have verified your farm plan has been implemented. Much of what the County work does is they do boilerplate templates and so I suppose, although I'm not certain, I suppose that that was a boilerplate template where the language may have been left in a template. As far as the approval of the farm plan, it was explained to us that although the land is unsuitable, the portion that was planted had fulfilled the requirements to determine that a farm plan had been implemented. But I think the most important part to recognize here is the implementation of a farm plan is not a requirement for the State Land Use Commission special use permit. It is solely a requirement for the short-term rental home permit for an -- for an application on agricultural land, so it's not a requirement of the State Land Use Commission special use permit, and the only thing before us today is the State land commission special use permit.

Chair Buchanan: You need to get a special use permit in order to get a permit for short-term home rental.

Mr. Stephenson: That is correct, but the Molokai Planning Commission is not authoritative body for the short-term rental home permit, only the State Land Use Commission special use permit, so I want to make sure that there's a very -- very clear delineation of responsibility for that. So the second thing is you want to define --

Chair Buchanan: Yes, we understand. I mean I understand.

Mr. Stephenson: Okay. So the implementation of the farm plan or the language in the letter of the farm plan is not pertinent to this discussion right now because the short-term rental home permit, which the requirement is to have an implemented farm plan, is not before you right now.

Chair Buchanan: But you made it part of your testimony and your rebuttal.

Mr. Stephenson: Yes, but it's not -- but it's not -- it's not a requirement, it's not under the authority, I use it as an explanation. Now --

Chair Buchanan: You're using it as rebuttal for findings of facts and conclusions of law.

Mr. Stephenson: Right.

Chair Buchanan: So I'm responding to that.

Mr. Stephenson: Okay, thank you. So if you'd like me to come over, and I don't know if you'd like to take a recess, and I can come over, and I could point out exactly in the document where it indicates that the soil types associated with the property incompatible with agricultural use. I'm happy to do that. It's at your discretion. The other question is the -- you say that you can't find any information on the soil types, there is a --

Chair Buchanan: No, that's not what I said. I said for this particular property, because you included the NRCS report --

Mr. Stephenson: Yes.

Chair Buchanan: Clearly stating within that report, on page 1, page 17, two times, page 22, and page 30, of the NRCS report, you inserted, and I believe your inserted on your own, Hamamoto Dixie Maru, and that would -- it was -- I believe it was deceiving --

Mr. Stephenson: Pardon me. I would like to address that because that's an inaccurate statement. So the USDA NRCS has a website. What happens is the USDA NRCS, they go around at different intervals and they assess the soils, the soil types for all of the soil in the United States of America. If you go to the USDA NRCS website, there is a soil resource tool by which you can identify the boundaries of a piece of property whether it be by TMK, visual, landmarks, or whatever it is, and you can identify those boundaries, and then you select that as a point of interest through their online system, then it says would you like to generate a soil resource report for the soil types that are known to be associated with this property, within these boundaries, and you select the different soil types, you select all the information to compile your report; then it asks you if you would like to place a name on the report that is generated that you can associate with the area of interest that is on -- for the soils that you are trying to get a soil report for. So we would take exception that there was any deception here. There was nothing inserted. This is all done and anyone can do it for any soil type through the NRCS USDA website. So I can appreciate the concern, but it's certainly not the case as you described.

Chair Buchanan: Then you should have had a disclaimer pointing out that because if somebody picks up this report, and they look at it, and they see, on five different areas, that you inserted Hamamoto Dixie Maru --

Mr. Stephenson: Pardon me. I'd just like to correct that that no one inserted anything anywhere. That was a function --

Chair Buchanan: So who did then?

Mr. Stephenson: That was a function of the USDA NRCS.

Chair Buchanan: However, in this report, again, I do not see any reference to the TMK, to the particular area, nor do I see any proof that anybody came out there, did a soil sample and the soil test, and it's also -- I'm just saying that, on the record, you said it was unsuited, and I don't -- I'm just refuting that, okay.

Mr. Stephenson: Okay. Thank you. So no one came out to the property for this particular report, but the NRC -- the USDA NRCS, they document, they compile, and they have the data on the types of soil associated with properties all throughout the United States.

Chair Buchanan: Okay.

Mr. Stephenson: And those soil properties remain consistent for periods of time that they determine the intervals by which they come back and reassess those soil types, so it's a known soil, it's a known soil type, it's a known area, it's an identified area, there's a map that shows the area, there's an area of interest; it was all generated through an official United States Government website. So the thought that there's any deception here is confusing because it mostly certainly wasn't the intent and it absolutely was not the practice.

Chair Buchanan: I just think it's funny that -- that they would zone an area ag if it was inappropriate according to the Federal Government, but I wanted to -- I'm being asked to take public testimony, but since you bought up the farm plan, who signed the farm plan? I know it was accepted by the County, I just read the letter dated 2016, but for Pamela Hamamoto, who actually signed this farm plan application?

Mr. Stephenson: I don't have it in front of me but since you do, if you'd -- you'd like to share that, that'd be fine.

Chair Buchanan: No, I don't have it. What I did was I went to the website and I downloaded my own --

Mr. Stephenson: Okay. I'm not --

Chair Buchanan: Because it's stated in the application that -- that you do have one because it has to put all the people who own or have interest in the property.

Mr. Stephenson: I'm sorry. Does it have to have all the people?

Chair Buchanan: Yeah.

Mr. Stephenson: Or just --

Chair Buchanan: No.

Mr. Stephenson: Or just one of?

Chair Buchanan: No. It doesn't state that.

Mr. Stephenson: Okay, well --

Chair Buchanan: So --

Mr. Stephenson: What I would -- what I would do is -- that was -- that'd be a great question for the County of Maui, Department of Planning, as it relates to the short-term rental home permit but since that's not before us today, I think that that would be a question better suited offline for the Planning Department.

Chair Buchanan: Okay, well, I think it's pertinent because we're talking about a special use permit, we're talking about a State law that was delegated to this planning body 'cause it's less than 15 acres, so we are compliant to the Land Use Commission rules, State ag rules as well as the Maui County rules, it's not just one or the other, there's a plethora of all types of rules that this is subjected to and criteria we use in making our determination, but I still wanna go back to the farm plan because, right away, on the first page of the farm plan that was handed in by the Hamamotos, right, it says, source of legal authority, Article 11, State Constitution, Hawaii Revised Statute, it's Chapter 205, Maui County Code, Chapter 19.30A, which is the ag district, that's what we talking about, so you fill out this application, which you have to attach your farm plan, you put in your criteria, Planning Director makes his decisions, but the most awesome thing in all of this actually is, after the farm plan application, and it's called the "unilateral" and it's in the application on page 3 so --

Mr. Stephenson: Yes, it's called the -- called the "unilateral agreement."

Chair Buchanan: Okay. So I'm assuming since you got the letter that it was received and that -- that your farm plan was already in operation, and it's on no.5, on page 3, of the application for your SUP2, and the unilateral agreement is a legal document signed by the person who fills out the application for their ag district --

Mr. Stephenson: And recorded with the Bureau of Conveyances.

Chair Buchanan: Okay. Are you aware what it says?

Mr. Stephenson: Generally. If there were specific requirements, I'd have to look at them. It's not before me. But since you have it there, I would be delighted for you to edify me.

Chair Buchanan: Well, after reading it, I was pretty aghast at actually that somebody would sign this and then actually be looking to -- to stray from what they sign, the agreement, a legal document, and it says: Whereas the parcel is located within the County's ag zoning district and are within the State's ag district, and whereas the State Land Use Law, Chapter 205, Hawaii Revised Statutes, does not authorize residential dwellings or residential use as a permitted use in the State ag district unless the dwelling is a farm dwelling, hence, the application for a farm application and dwelling, and whereas farm dwelling is defined in Section 205-4.5, Hawaii Revised Statutes, as single-family dwelling located and used in connection with a farm including clusters of single-family farm dwellings permitted within ag parks developed by the State or where agricultural activity provides income to the family occupying the dwelling, and whereas Section 19.04.040, Maui County Code, defines farm as a lot on which the majority of the land is used for and the predominant activity is agriculture and/or agriculture land conservation, which this permit is zoned, ag conservation, whereas Section 19.30A.010, Maui County Code, provides that among the purposes of the agricultural zoning district is to -- and then it goes about this is -- this is -- this is the buyer beware part of this agreement, notify the public that the lands within the ag district are used for ag purposes. Owners, residents, other users of such property, neighboring properties may be subjected to inconvenience and discomfort and the possibility of injury or property health arising from normal and accepted ag practices and operations. Such normal and accepted ag practices and operations include, but are not limited to, noise, odor, dust, operation machinery including aircraft, storage, disposal of manure, and that's what it says, owners, occupants, prepared -- owners, occupants, users of such property or neighboring property shall be prepared to accept such inconveniences, discomfort, possibility of injury from normal ag operations, and whereas declarant, the person who sign this, has agreed to execute this agreement in consideration of the issuance of a building permit subject to compliance with all other County, State, Federal requirements, and, therefore, the person who own this, signed it, the declarant, hereby makes the following declaration, nobody forced anybody to sign this, they signed it, that this declaration is made pursuant to provisions of Chapter 19.30A, Maui County Code, Chapter 205, Hawaii Revised Statutes, relating to the use of lands designated for agricultural purposes; that the declarant has submitted a farm plan to the Director of Planning; that the declarant has been informed that the farm plan have been approved by the Director, hence the letter of 2016; that the declarant shall submit an amendment to said farm plan and obtain the Director's approval of the amendment whereas the parcel is located within the County ag zone district or within the State ag district. No. Sorry. Wrong paper. Prior to changing the activities or uses upon

the property if changes are inconsistent with the farm plan. Did Mrs. Hamamoto submit an amendment to the Planning Director that she plans to amend and change the activities of the use of her property?

Mr. Stephenson: No, she didn't because the use of the property hasn't changed. The primary use of the property is agriculture, and the accessory use is for residential dwelling and --

Chair Buchanan: The declarant shall submit an amendment to said farm plan and obtain the Director's approval of the amendment prior to changing the activities. So I just letting you know you gotta do that prior to change if you get one permit.

Mr. Stephenson: The activities of the primary use?

Chair Buchanan: Of a ag --

Mr. Stephenson: Of the ag use?

Chair Buchanan: Of the ag.

Mr. Stephenson: Right.

Chair Buchanan: And no. 5, the declarant shall comply with all provisions of the farm plan and any of all amendments to the farm plan. The declarant understands and acknowledges that failure to implement the farm plan may constitute a violation of Chapter 205, Hawaii Revised Statutes, and/or Chapter 19.30A, Maui County Code, and/or a breach of this agreement. She signed it. No. 7, the declarant represents and covenants that the dwelling shall be a single-family dwelling located on and used in connection with a farm and shall be a use that is accessory to the principle use of agriculture and/or agriculture conservation in accordance with the farm plan; that the declarant covenants, yeah, promises, it's a legal binding contract and deed, the declarant covenants and agrees to maintain the parcel in accordance with this agreement and acknowledges and agrees that the failure to implement the farm plan in a timely manner shall constitute grounds for the County to revoke or suspend building permits issued and to not issue permits for new structures on the parcel. And the County -- it goes on to say that the County shall have the right to enforce this agreement in all conditions and thereto appropriate action, lawsuit, inequity against the declarant --

Mr. Stephenson: Yes, and that's why we're here is because all of those things, yes, they are true, they are in compliance with the farm plan for the principle use of the property,

which is deemed suitable for agriculture, and so the property, the home, the homeowner, they are -- they are all in compliance. That's exactly why we're here.

Chair Buchanan: So you know the intent of where all this came from years go?

Mr. Stephenson: Yes.

Chair Buchanan: Are you familiar with the intent of who wrote this and why they wrote 'em? Let me finish item 12.

Mr. Stephenson: Sure. Thank you.

Chair Buchanan: That the conditions imposed are reasonable and rationally relate to the objective of preserving public health, safety, and general welfare, such as conditions, fulfill the need for preservation, protection, and conservation of the agricultural land resource of the County and of the State of Hawaii, which we -- you subjected to -- to this and that's why we're hearing it. Now, anytime I see stuff in bold, in one legal document, that means it's really important, so in bold it says: And it is expressly understood and agreed that until released in writing by the County of Maui covenants, conditions and restrictions set forth in this agreement shall run with the land. To me, that's in perpetuity. So anybody who buy the property has already agreed to this. It's a disclosure, okay? And it says, so right there I wrote: Oh, buyer beware. You heard -- I heard testimony earlier from this Commission Members. Buyer beware. They ask you to sign one paper on top of that saying that you know all of these things. So when I read this, my feelings was kinda hurt to be honest because it's a legal document. It's an agreement saying that I understand I buying ag land, I understand, I understand that the principle use and the purpose is for ag, but yet now everybody doesn't want to do that. How do you rectify that? So I wanted to state this on the record because, most of the time, nobody actually looks at the documents. You needed a break?

Mr. Stephenson: So that's something that should be brought up with the County of Maui and the authority to approve the farm plans and determine whether or not that requirement has been met is the Department of Planning of which it was, and we followed the rules of the County of Maui to get to this point, and that is actually not what's before us today. The requirement of a farm plan isn't before us today.

Chair Buchanan: No, but the -- the ag -- the use of ag is. The suitability for ag is in question here. It is. It's -- it's the baseline primary issue. You said --

Mr. Stephenson: The suitability for ag? I'm sorry. The USDA NRCS has determined that the soil types associated with the property are unsuitable for agricultural cultivation, so I'm -- I'm a bit confused.

Chair Buchanan: So you going show me that during one break?

Mr. Stephenson: I'd be -- I'd be delighted to.

Chair Buchanan: Okay, so we going recess, and everybody can go bathroom, and then we going come back. Okay, this -- we're in recess, eight minutes.

(A recess was called at 12:52 p.m., and the meeting reconvened at 1:08 p.m.)

Chair Buchanan: We're going to come back to our meeting. Thank you very much. So during the break, we did go over the NRCS report and my question to the applicant was that statements had been made on the record that the land was unsuited for ag activity; during the break, the applicant showed me on page 10 of the Customs Soil Resource Report that -- that it says very stony land eroded so -- and then there's other symbols that indicate that it's not the best suited or what I'm just going to say on the record that there is nowhere within the document in question that says the land is unsuited for agriculture as stated on the record, and that's all I wanted to say. So, Planner Lopez, you requested to state something on the record.

Ms. Lopez: Thank you, Chair. Sybil Lopez. I just wanted to clarify the application process so that you guys are aware of how it operates. It is -- it comes straight from the Planning Department. We do have different divisions and so, specifically, the farm plan goes to our Zoning and Enforcement Administration Division, and so that -- the farm plan is specifically for a short-term rental home permit, so I just reading out from the short-term rental home application checklist and how it's designed to operate, so additional documents are required if property is located with the State land use ag district, so they have to come in with a completed State Land Use Commission special permit, which it's before you, and implemented farm plan is required for the State special use permit. For parcels with existing farm plans, a farm plan implementation inspection be arranged by calling the Zoning and Enforcement, which we call "ZAED," of the Department of Planning, and agency transmittals for the State Land Use Commission special use permit. And so what you actually read, the unilateral agreement, it -- that must be signed and part of their application for a farm plan, so they cannot be approved unless that is signed and that the applicant/owner is well aware of all what they're subjected to in the unilateral agreement, and we do have that on file and recorded in their -- with Zoning. As far as inspection goes, it's all with ZAED, and they do come to the property and inspect. I -- I'm not the inspector so I cannot let you know what checklist or how they go about verifying

it, but the July 2016 letter that you did read from the Planning Administrator, which is John Rapacz, he is verifying that it is an implemented farm plan, and I wanted to make that distinct that it is only for the State special use permit if you are applying for short-term rental because you are going to see another State special permit in front of you shortly and it has nothing to do with short-term rentals, and so I just kinda wanted to make the distinction because they do not require an implemented farm plan. Part of the requirement is that they -- that the owner is well aware that they need a implemented farm plan if they want to operate short-term rentals. So I'm not -- and under the -- so under the ag district Maui County Code 19.30A.060, under special uses, describes all of the special uses in ag district that has to come to get a State special permit, such as this, and so I can disclose to you that you will be seeing the neighborhood store and it is a State special permit that it does not require a farm plan versus the short-term rental requires that farm plan and they have to have a unilateral agreement signed with the County of Maui that they are subjected to do. You're correct.

Ms. Oana: Thank you, Ms. Lopez, for that, and I just want to further clarify for the Commission, with regard to a special use permit, which is before you today, I handed out to you when the meeting first started, the Molokai Planning Commission rules, Chapter 303, Rules Relating to Special Uses in the State Agricultural and Rural District, on page 303-4, that is the application contents that are required to be submitted to the Department of the Planning for a special use permit, so that is what is I believe only required to be submitted, so I just wanted to show that to you, and then further show you on the next page, page 303-6, that's the evaluation guidelines for either approving or denying a special use permit in the ag district; further, I also handed out to you the HRS with regard to special permit, and stapled to the HRS and the page after that is the Hawaii Administrative Rules regarding special permits, it starts at 15-15-95 at the bottom of page 76 and continues on to page 77 and 78, but in particular, on page 77, at the bottom, section C, the certain unusual and reasonable uses within the ag districts other than those for which the district is classified may be permitted, the following guidelines are established in determining the unusual and reasonable use, those are the guidelines. If you compare that with your Molokai rules, it is essentially the same. So I just wanted to clarify, Sybil had said that this application doesn't need a farm plan, okay. You agree with her. The contents, the application contents as stated in the Molokai rules is the only thing, I think, required by Planning to get this application before you, and then the guidelines are stated where I just showed you in the Molokai rules and then the HAR. Thank you, Chair.

Ms. Lopez: Sorry, can I add? Sorry. Just on page 4 and page 5 of the Department's report, under reviewing agencies, you will notice that they did get notified, the agency transmittals did go through the Department of Finance Real Property Division, Maui Police Department, Office of Planning, State Office of Planning, and State Land Use

Commission, and the reason why you see no 'cause at the time, that was back in May, so was back in May or April so -- of last year and nobody had comments, and so I know moving forward, I know one of the request from the Commission was that even though they stated no comment, you would want to see the letter, but this was last year so just kinda wanna let you know that the State Land Use Commission are -- is aware. However, just so you know, if it's more than 15 acres of what is being used, then it'll be bumped up to the State Land Use Commission and wouldn't be seen in front of the Commission. Thank you.

Chair Buchanan: Thank you very much. I can go on too long so my Vice-Chair, I going miss him because he telling me open public testimony and be quiet, and so, Commissioners, you guys get any questions? We can come back and ask questions of staff and the applicant, but Vice-Chair is encouraging me to open public testimony, so we're going to open public testimony at this time. Come up, state your name for the record. If you get more than three minutes of testimony, you can come back.

Mr. Ua Ritte: Okay, Ua Ritte. I just like oppose this permit. I no like go over everything again for what -- but I oppose 'em because of what Mahina said and Aunt Judy said, so thank you.

Chair Buchanan: Okay, thank you, Ua. Any questions for the testifier? Seeing none, anyone else in the public wishing to testify on this application? Come up and state your name for the record.

Mr. Walter Ritte: Yeah, aloha. My name is Walter Ritte, and I am in strong opposition to what's going on right here in this hearing. It's kind of weird that how long all of this has taken and I expected today, when they came back, that they were going to have this really huge reasons why you guys should change your mind, you know, something drastic going happen, therefore, you need to change your mind, but all we heard was opinions, you know, and I was writing down some of those opinions that 205-6 does not apply because this is not a commercial use, so that's his opinion, you know. So what kind of use is this? He says, well, this is -- it's not the principle use. Oh, it's not the principle use. Oh no, it's an accessory use. Oh, it's an accessory use. And on and on and on about how his opinions -- so I'm thinking why are we coming before this body with all these legal opinions about what really is going down. Maybe he should just take his medicine from here, from people who see something that they don't want for their community, and maybe take all his opinions that this poor guy's paying these guys over here for represent them and come up with opinions and make us sit here for hours while they getting paid and we all not getting paid, supposed to be home taking care our yards and watching our kids, but we have to confront these kinda guys, but it's the way that they make their living so we have to excuse that. So the other word that got to me was "trend." This is a trend. If you go

on Maui, it's such a trend that it's totally out of control. I mean nobody knows who the hell is doing these things and they don't have enough guys to go and fix it. It's a huge mess. That's the trend I see that we're putting ourselves and getting into this mill. And if you really wanna see the trend, like I go to Oahu once or twice a week and I have to stay in Kaimuki, so I get up in the morning, and when I started going there, it was like two years ago, going to Kaimuki all the time, and we get up in the morning and you judge by the traffic what time you gotta get up to where you gotta be, and it's -- and everybody's got their phones, and it's a big deal the traffic thing. It governs your whole life. Recently, we get up, and we cannot even get out of the driveway. The whole road is all these cars coming down all the different 6th Avenue, 7th Avenue, Kaimuki Avenue, and I go, wow, what the hell happened? And the driver told me, it's called "monster homes." Monster homes. Last week, if you were watching television and saw the city county council trying to deal with this thing called "monster homes," we not just dealing with this kine small little things right now, that's why the incubator egg, the trend is going to be monster homes. That's what -- so we, Molokai, we have no excuse. We can see where this is going by looking at Maui. We can see where this is going by looking at Oahu. We have that -- that ability to do that. So your position to take by saying, eh, we don't want this for Molokai. The East End Policy Statement, I was there when that policy statement was being made. It was being made because of the threat of tourism to Molokai. That's what that whole thing was all about. And in there, there's not supposed to be any tourist related activities on East Molokai. It was supposed to be on West Molokai. So then you go to West Molokai, and then now we have agricultural lots. So now they want to turn agricultural lots into tourism. We already designated certain places for hotels and stuff that never really went well on Molokai. So I'm strongly against this and I really appreciate what you guys did, and I haven't heard nothing today that should be making you change your position; in fact, what I've heard today from some of this stuff, and I cannot mention 'em all, but I wrote down a whole bunch of stuff that it just, you know, like who is this guy talking? You know, I don't think I would pay him. So my three minutes are up, I know, I can see you grabbing your mike over there, but please don't change your position. If they got all these opinions, let 'em take it to a judge or something.

Chair Buchanan: Thank you. Any questions for the testifier, Commissioners? Okay, seeing none, thank you. Next testifier.

Ms. Loretta Ritte: Aloha. My name is Loretta Ritte.

Chair Buchanan: Aloha.

Ms. Ritte: Aloha. You know, it's really hard to come up here and testify 'cause there's a lot of emotion to the whole subject, but I'm against it. I don't want to see this to be reconsidered or brought up again. And the reasons was there were some things that

were said that really hurt my na`au, words like "trends." How far do we go with the trends, you know? Do we go to the point where there's going to be another one and another one until all those houses down there that's supposed to be ag lands become vacation rentals? The other word was "seasonal," that people cannot come here because sometimes there are no places. Well, if there's no place, then there's no place. You cannot come, you know. If the season is full, that's it, because I was talking to a person who is a -- they're snowbirds and they come to Molokai, and we came to the place where we were talking about ownership of land, so I asked him: Do you have a house here? And they said: No. We don't believe in buying land here because we know this land belongs to the people. And then we came to the subject of permits for vacation rentals and bed and breakfasts, and so I said: Well, you know, the community, local community, opposes most of the permitting, and his response was: But then I won't be able to come. And I went: Well, we can't build or make a vacation rental or bed and breakfast for every person who wants to come here. We're a small island and we have limited space, limited resources, and we want to keep Molokai Molokai. So no to that. And the other one was economy. That was public demand. Public demand was the other one. The demand is coming from outside, okay. People are wanting to come to Molokai. You know when you have something that is special to you, you don't show everybody your treasures. Okay, you keep that for your personal self. When people come to a place, it's like they think they have the right to everywhere, every inch that is considered sometimes sacred to the people of this land, and I'm specifically talking about Hawaiians, and we have a kuleana to protect those places, so public demand, you know. So those are some the concerns that I have and that's why I agree with Mahina and her mana'o, and Aunty Judy, and I say no. Mahalo.

Chair Buchanan: Thank you, Loretta. Any questions for the testifier? That was awesome. Thank you, Loretta. Anyone else in the public wishing to testify on this subject? I see movement. Thank you.

Ms. Poepoe: Mahina Poepoe again. I have new and/or additional information. This is a tomato plant -- four tomato plants growing in soil taken from just outside the property line of the Hamamoto residence between the parking lot, the parking spaces and their property line, and this is about a month old, so agriculture is definitely possible, cost prohibitive, probably yes, but not impossible, and maybe I wanted to actually give this to the owners but they're not here today because it wasn't worth their time to be here, but maybe I'll grow it and keep bringing it back. So it was never actually said what the principle use is. Agriculture. It was said that agriculture is the principle use for the property, but what is the agriculture specifically, that wasn't defined. Accessory needs to be proven subordinate to a principle use, and I -- I didn't see that principle use being proven today. A lot of these applications say -- seem copy and pasted from each other - say no environmental impacts are expected, and similar things. I can say yes,

environmental impacts are expected without either side providing any kind of proof to back up their claims. My word is worth just as much as theirs in their application. A more fair thing to say is that the environmental impacts are still unsure; that nobody's sure what they'll be. And the illegals prove demand that illegals do not prove demand. It proves that there are a lot of illegals, but without providing a record of occupancy, who knows if they're even occupied or for how long they're occupied or there's -- that's an unsubstantiated claim without proven evidence. Yeah. I guess that's all. I wanted to show you my plant.

Chair Buchanan: Thank you, Mahina. Is there any questions for the testifier? It's a awesome looking plant by the way. I might take it home. Nah.

Ms. Poepoe: I also planted tomatoes in black gold organic potting soil and these actually look a lot better than those. Yeah.

Chair Buchanan: Okay, thank you. Any -- Aunty Judy, hang on, hang on.

Ms. Caparida: Aloha again. I'm so thankful that, you know, I could be here. Thank the Lord for all his blessings. Anyway, you know I, for myself, you know, when you love Molokai, you take everything that God has to offer us, and a lot of times people got so much ideas of how they can do it without even knowing that it's going to mess up. You know, a lot of people, you don't have no follow up. Everybody say this, and they say that, and that's why it doesn't last. They run bankrupt. The ranch is out of business why? Because we always say something and we don't fulfill it, and that's what's so special about Molokai. If you love whatever get over here, you contented, wow. You don't need nothing else. You get your family. You know, you thank Jesus for all our neighbors. You know, when you move over here, you're part of us. That's the way we was raised. So I just wanted to let you know agriculture, we was brought up was where you plant. All the families come together, they plant. There were 16 of us and all of us had bananas, papayas, all over, like an orchard. And you know what? Hunting. Go fishing. That was our life. It was so hard to tell people what's so simple yet works, and what all these big things that's coming here is hurting because we don't have the money. There's no money for us guys to produce what your ideas are, and so that's why I'm looking at this and I say we was brought up agriculture, then you get business. Business is way over here. Down here you get all the business over here. And then you got residence. That's where you live. That's where family lives. They getting business all in their family home. So you know I just wanted to let you know that if you thank the Lord for everything you got, then you rich. You no need to do all these kinda stuff, but I need to just explain for myself because love of Molokai and love of all the families here on the island. Thank you.

Chair Buchanan: Thank you, Judy. Any Commissioners, questions for the testifier? Okay, seeing none, thank you very much. Anyone else in the public wishing to testify on this matter? If not, I'm -- we'll close public testimony, and then, Commissioners, anybody have questions more from staff? I can ask staff to come up and read the recommendations and if, during that time, you guys get questions -- oh. Hang on.

Ms. Lopez: I think the Commission has to take action on the reconsidered application for denial.

Chair Buchanan: Okay, hang on.

Ms. Lopez: So there's no recommendation.

Chair Buchanan: But I wanted to ask the applicant at this time if they wanna respond to any testimony or any new testimony that was given or anything we discussed. Okay. So that's a negative response from the applicant is not choosing, okay, to respond. Okay, so I'm sorry, Planner Lopez, for cutting you off. Please continue what you was saying. We can focus.

Ms. Lopez: The Commission may take on the reconsidered application of denial, so I don't know if you want it to be read, but it's a reconsideration if you wanna go back on the action of denial on the applicant unless you wanna hear the recommendation from the Department. It's actually your call.

Chair Buchanan: Yeah, I -- does anybody -- any Commissioners feel the need? I don't, personally. No? Okay. We no need. So anymore discussion? Okay, if not, I do have discussion and wanted Commissioners also to probably take action. What I wanted to do is - too many papers - I wanted to amend the findings of facts and conclusions of law of the November 8, 2017 meeting, and ascertain a motion to accept amended findings of facts and conclusions of law, and I will read what those may be, as taken into consideration testimony again that we've heard -- hang on.

Okay, sorry. I gotta make sure we do everything legal. I'm not going to, again, question the applicant although I had several more questions about the -- because I think it's -- it's just moot and I don't want to delay action on this and subsequent applications, so in reading the findings of facts and conclusions of law, I wanted to ascertain this Commission to move on the amended findings, and I'll read them.

According to the Department's report, there are already five permitted short-term rental homes and one grandfathered transient vacation rental home that are operating within the State ag district located in the Papohaku Ranchland Subdivision in the Kaluakoi

Ahupua`a of West Molokai, one being the Perrell Ranch, which is located directly across the street from the applicant. There are also three hotels, Paniolo Hale, Ke Nani Kai, and Kepuhi Kaluakoi Villas, with a total of 369 units, and that might be debatable by a few units as we've heard on the record, located in the Kaluakoi Ahupua`a of West Molokai. There has been no evidence that these places are ever at max capacity. We heard testimony in adverse.

There has been no evidence that there is a need for more transient accommodations in this area, therefore, there are sufficient properties in the area which allow comparable uses and the applicant has not demonstrated the need for the proposed use. There has been no evidence, and this is in correlation to about the public market public demand, there has been no evidence presented about the market or public demand for the proposed use, therefore, the applicant has not demonstrated the need for the proposed use.

The Molokai Community Plan, under the Objectives and Policies for Land Use, state, no. 4: Discourage developing agriculturally or subdividing designated lands for gentlemen estates or pseudo agricultural uses in which the residence would be the primary use and any non-intrusive agricultural activities would be secondary. Further, no. 13: Support special permits in the State ag and rural districts only to, no. 1, accommodate limited commercial, public and quasi-public uses servicing the immediate communities in areas such as Pukoo, Ualapue, and Kamalo, which are relatively remote from urban areas, and, no. 2, permit a public facility use, such as a sanitary landfill, sewage treatment plant, or utility installation, whose location is determined by technical considerations. No. 3, allow a use which is clearly accessory and subordinate to a principle agricultural use on the property. And, no. 4, permit extractive industries, such as quarry operations, which do not adversely affect the environment in a permanent way and do not adversely affect nearby agricultural uses, and Exhibit 5, to the Director's report, there is a map of the farm plan which shows existing monkey pod trees, existing palm trees, existing kiawe trees, and existing scrub brush in two areas. It also shows a large section of existing grass surrounding the dwelling and turnaround for the driveway. This does not show a principle agricultural use on the property, therefore, we find -- therefore, I found, and we find that the short-term home rental will be the primary use on the property and the farming activities would be secondary, and the farming -- we also find that the proposed use is inconsistent with the current Molokai Community Plan, as stated, and therefore conclude that the site is unsuited for the proposed use.

Besides just blanket statements in the Department's report, no real evidence was presented that the proposed use is anticipated to bring an increase in visitors to the island of Molokai, and no real evidence was presented that they would hire local people for the maintenance and housekeeping services. Further although the report stated that the

short-term home rental visitors would patronize the local restaurants, grocery stores, shops, and other businesses, even without a short-term home rental, the visitors would still patronize those same places, therefore, we find that no evidence was presented to show any economic or social benefit to the community and we, therefore, conclude that the need for this proposed use has not arisen since the district boundaries and rules were established.

So if I can have a motion to accept that -- wait a minute. Oh, I forgot. Sorry, I get one more addition to that 'cause I have too many papers, and I'm leading off where we, therefore, conclude that the need for this proposed use has not arisen since the district boundaries and rules were established, and although a soils report was included in the Department's report, which classified the soil on the parcel as very stony eroded, no evidence has been presented that the land is unsuited for the uses permitted within the district. There has been absolutely no evidence that the agricultural activities listed in HRS 205-4.5 cannot be done as a primary use on the property, therefore, we conclude that the Commission cannot make a determination based on the evidence provided and that the land is -- that the land is unsuited for the permitted uses within the district. I'd like a motion to amend the findings of facts and conclusions of law as stated.

Mr. Pele: So moved.

Chair Buchanan: Oh, hang on.

Ms. Oana: Okay, so you're -- I'm sorry, Chair, so you're asking to amend the findings of fact, conclusions of law made at the November 8, 2017 meeting?

Chair Buchanan: Yes.

Mr. Pele: Okay, I -- I --

Chair Buchanan: Wait.

Ms. Oana: Let me just think about this real quick.

Chair Buchanan: I cannot do that.

Ms. Oana: Are you wanting to keep anything in the prior findings and conclusions or --

Chair Buchanan: Replace. I would like to replace.

Ms. Oana: Okay, then I would suggest maybe a motion to set aside --

Chair Buchanan: Okay.

Ms. Oana: The findings of fact, conclusions of law, decision and order made at the November 8, 2017 meeting and adopt the findings of fact, conclusions of law, and decision and order as you've just stated.

Chair Buchanan: I sorry. I thought I said that in the beginning.

Ms. Oana: Sorry.

Chair Buchanan: So, as stated by counsel, that was my intent in the beginning, a motion to set aside the findings of facts, conclusions of law at the November 18 -- November 17, 2018.

Mr. Pele: Shall I just moved or you want me to --

Chair Buchanan: No.

Mr. Pele: Actually say a motion?

Chair Buchanan: That's fine. No.

Mr. Pele: I move. So moved.

Chair Buchanan: Do I have a second?

Mr. Sprinzel: Second, but I regret that this applicant the next one have virtually stated they will do it anyway, and I regret that we don't have a good police system to control illegal rentals, and I second the motion.

Chair Buchanan: Okay, the motion was made, there was a second, I going assume the other was discussion before we -- we are now in discussion.

Mr. Pele: Yeah, I think the most important thing that you stated in your motion is that word for me "unsuitable" is the key. If you look at 12-303-6, it's -- it uses the word "unsuited" for the permitted use, and that report that was given to us, nowhere in it does it say unsuitable. It says rocky, it says whatever it says, but it does not say unsuitable for farming 'cause I know for a fact you can grow tomatoes in that soil.

Chair Buchanan: Discussion on the motion to set aside the findings of facts of the November meeting 2017?

Mr. Lasua: Yeah, Chair, in regards to -- to what the unsuitable is, are we experts to know what unsuitable is as far as the ag land is concerned? Although it doesn't say that in there and you have examples coming up with plants that can grow there or even plants that -- you know, when you say "ag lots," it's not just what you grow, it's everything, your grass, your trees, everything is considered ag, so now when you amend this area and say it's unsuitable, so that means that you can't grow anything completely in there, but as the applicant is there to apply for something other than agricultural, and they're asking for a State land use permit, I'm going to vote the other way in regards to that. Thank you.

Chair Buchanan: Thank you, Commissioner Lasua. Corp. Counsel?

Ms. Oana: Chair, did you want me to read the HRS with regard to what are the uses permitted within the district or no need?

Chair Buchanan: Sure. Go ahead.

Ms. Oana: Okay, there's a lot. Okay, I just wanted to let you guys know HRS 205-4.5, it does state the permissible uses within the ag districts. If anybody wants to take a recess and come and look at this, you know, you can ask the Chair.

Chair Buchanan: Thank you, Corporation Counsel. I actually downloaded it too last night. It's kinda cool. It does say permissible uses and nowhere does it say what the application is for. So is there anymore discussion on the motion? And the motion is just to amend, yeah? That's what the motion is for to amend -- to set aside the findings of facts and conclusions of law of the -- and adopt the ones that I read into the record, so that's what the motion is for just to be clear. Okay, so the motion before us right now is to set aside the findings of facts and conclusions of law in the November 8, 2017 meeting and to replace them with what I read into the record just a little while ago and I asked for a motion to accept that. So that's all we voting on right now is just amending the record. Is that clear? Everybody clear? Okay. So all those in favor raise your right hand. Okay, one, two, three, four, five. Okay, accepted. All oppose, raise your right hand. Same symbol. Let the record that we have two descending votes. Thank you.

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

VOTED: to set aside the findings of fact, conclusions of law, and decision and order adopted at the November 8, 2017 meeting

and adopt the findings of fact, conclusions of law, and decision and order presented at this meeting.

**(Assenting - L. Buchanan, L. Espaniola, J. Pele, L. Poepoe, J. Sprinzel)
(Dissenting - W. Buchanan, L. Lasua)
(Excused - C. Adolpho, X. Bicoy)**

Chair Buchanan: Okay, so now the floor is open for another motion to deny, defer -- wait. Hang on. Hang on. Okay, sorry for the side -- I think really literally and so I wanted to do one motion at a time and I don't want my Commissioners to -- to feel like they -- they not informed and they never do something that they never clearly understand what was going on. So now that we amended the findings of facts and conclusions of law, I will entertain a motion to -- to oppose -- I mean to uphold the denial or to permit, under the reconsideration, motion for reconsideration, or something.

Mr. Pele: I move that we deny the permit based on these amendments of findings of facts and conclusions of law that we just voted on.

Chair Buchanan: Thank you. Do I have a second?

Mr. Sprinzel: Second.

Chair Buchanan: Okay, it's been moved and seconded. It's open for discussion. Commissioners, any discussion on the motion to uphold the denial for reconsideration on the permit? No? Okay, I will be voting in the affirmative on that based on testimony today and in the past. Okay, I'm going to call for the -- Planner Lopez?

Ms. Lopez: Just for -- sorry, just for clarification 'cause I gotta write the denial so I know what the motion is. The motion is to uphold the denial for a reconsideration on the said permit?

Ms. Oana: No. The motion I believe is the motion is to uphold the denial of the permit.

Ms. Lopez: Okay. Thank you.

Chair Buchanan: I know, so confusing, yeah? I know. I know it's confusing. That is the motion on the floor, there's been a second, there's been no discussion by Commissioners on the motion so I'm going to call for the motion. All those in favor of the motion, raise your right hand. All those opposed, raise your right hand. Okay, motion passed. Permit -- motion to uphold the denial is passed.

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

VOTED: to uphold the denial of the request by Pamela Hamamoto for a State Land Use Commission Special Permit to operate the Hamamoto Hale Short-Term Rental Home based on the findings of fact, conclusions of law, and decision and order presented and adopted at this meeting.

(Assenting - L. Buchanan, L. Espaniola, J. Pele, L. Poepoe, J. Sprinzel)
(Dissenting - W. Buchanan, L. Lasua)
(Excused - C. Adolpho, X. Bicoy)

Ms. Lopez: Thank you. Staff will prepare the report.

Chair Buchanan: Okay, thank you very much. Anybody needs a break? Okay, I was checking if anybody needed a break, if not, we're going to move right into item no. 2, under Unfinished Business, and instead of reading everything, I can just have the Planner, you wanna just come and -- so I no need read everything again.

- 2. STEPHEN PILLAR requesting a State Land Use Commission Special Permit in order to operate the Pa Loa Hale, a three bedroom short-term rental home, located in the State Agricultural District at 891 Pa Loa Loop, TMK: (2) 5-1-006:033, Kaluakoi, Island of Molokai. (SUP2 2017/0001) (S. Lopez)**

The public hearing began at the June 28, 2017 meeting and the public hearing was closed at the August 9, 2017 meeting. The matter was deferred to the August 23, 2017 meeting, but the Commission lost quorum soon after the meeting was called to order and the meeting had to be canceled. The matter was scheduled for the September 13, 2017 meeting, but the Commission lost quorum soon after the meeting was called to order and the meeting had to be canceled. The matter was scheduled for the November 8, 2017 meeting and the Commission voted to deny the State Land Use Commission Special Permit at the November 8, 2017 meeting.

MR. LUIGI MANERA, agent for applicant STEPHEN PILLAR submitting a Motion for Reconsideration by letter dated December 4, 2017 on the Molokai Planning Commission's denial of the above application at its November 8, 2017 meeting. (This matter was deferred at the January 10, 2018 meeting.) (This matter was scheduled for the January 24,

2018 meeting, but the meeting was canceled due to lack of quorum. The matter was scheduled for the February 28, 2018 meeting and the Commission granted the Motion and set the matter for further hearing and discussion on March 28, 2018.) (S. Lopez):

The Commission may take action on the reconsidered application.

Ms. Lopez: So the matter of the application of Mr. Stephen Pillar requesting a State Land Use Commission special permit in order to operate a short-term rental home in the State agricultural district on approximately 5.37 acres of land located at 891 Pa Loa Loop, TMK: 2-5-1-006, on parcel 33, located in the Papohaku Ranchland Subdivision in Kaluakoi, island of Molokai, and this matter arises back in -- actually, the State special -- the State Land Use Commission special permit was filed by the consultant, Luigi Manera, on behalf of Mr. Stephen Pillar, on January 18, 2017.

The public hearing began at the June 28, 2017 meeting, and the public hearing was closed at the August 9, 2017 meeting. The matter was deferred to the August 23, 2017 meeting, but the Commission lost quorum soon after the meeting was called to order and the meeting had to be canceled. The matter was scheduled for the September 13, 2017 meeting, but the Commission lost quorum soon after the meeting was called to order and the meeting had to be canceled. So the matter was scheduled for the November 8, 2017 meeting, and the Commission voted to deny the State Land Use Commission special permit at the November 8, 2017 meeting.

So the applicant is proposing a three-bedroom short-term rental home in a farm dwelling on a 5.73-acre parcel. The short-term rental home will occupy 2,769 square-foot of living area, which is made up of wood construction and composite shingle roofing on a concrete slab foundation. The existing short-term rental home proposed dwelling is comprised of three short-term rental home bedrooms with a living room, a dining area, and a kitchen situated in the Papohaku Ranchland Subdivision. The State land use district is ag and conservation; Molokai Community Plan is agriculture; County zoning is agriculture; and other is a portion of that property is in special management area. Flood zoning is AX. East, you got the east surrounding uses would be ag and undeveloped lands. Southside you got the beach. West and north is both agricultural residential undeveloped lands.

I would like to turn the time over to our consultant, the consultant on the project is Mr. Luigi Manera. Thank you.

Chair Buchanan: Thank you.

Mr. Manera: Hi, Ms. Chair, Member of the Commission. Luigi Manera for Mr. Steve Pillar. One correction about what Sybil said. This is not an SMA. It's not. Not this one.

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

Mr. Manera: No, it's okay. Now, I wanna make -- I mean, if it's possible, since this is the same like Rob did, it's the same writing, it's the same response. I mean I don't want to put everybody go through this again. I don't think it's fair. I do wanna make couple notes about Mr. Pele, when he say I probably lie when I say about Hamamoto to be present and a miscommunication. Well, the County told me the wrong day, 28th of March. I never come up with that. That was the County of Maui tell me the wrong date. I wanna make that clear. I didn't lie to -- to anybody. And, second, to Mr. Sprinzel, I don't think anybody ever say of this meeting that Hamamoto and Pillar they're going to go ahead and rent illegally. I don't think so unless I hear something, maybe I never heard something, but I wanna make that that's absolutely something I never heard in this room. I don't know, maybe -- maybe misunderstood. And that's it for me. So I prefer if you -- we move ahead with this and vote like you normally do. That's fine.

Chair Buchanan: Commissioners, you guys have any response? You wanna --

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

Chair Buchanan: No. What -- for the testifier.

Mr. Poepoe: Is -- are the applicant -- applicants here today?

Mr. Manera: Excuse me?

Mr. Poepoe: Is Mr. Pillar here today at this meeting?

Mr. Manera: No.

Mr. Poepoe: Okay.

Mr. Manea: No he's not.

Mr. Pele: Only thing I have to say is I didn't say you lied. I asked you if it was a lie. You specifically requested this date --

Mr. Manera: Yes.

Mr. Pele: And I believe you said you screwed up.

Mr. Manera: No.

Mr. Pele: When you testified that day.

Mr. Manera: No. What happened today I say I have the wrong information from the Planning Department, it happened to be two -- two same day, the 28th --

Mr. Pele: Right.

Mr. Manera: Of February and March is the same Wednesday.

Mr. Pele: But you did say they were going to be here today, correct?

Mr. Manera: Today? Yes.

Mr. Pele: You did, right?

Mr. Manera: Yes.

Mr. Pele: And are they here today?

Mr. Manera: No.

Mr. Pele: No. I didn't think so.

Mr. Manera: The reason --

Mr. Pele: That's all I was asking.

Mr. Manera: No, no.

Mr. Pele: Why they weren't here. I really wanted to hear from them that's why.

Mr. Manera: No, no.

Mr. Pele: That's why I voted in favor of having this --

Mr. Manera: I was hoping they all was over here today.

Mr. Pele: So I apologize but that's what I thought was going to happen.

Mr. Manera: Okay.

Chair Buchanan: Okay, thank you, Commissioner Pele. Anybody opposed to as Mr. Manera has testified that everything is basically the same in what we've heard and he does not desire to further, I not going say "waste your time," but need to reiterate what was already spoken on the record in the previous case, anybody feels -- 'cause I'm okay with -- with this, accepting that as stated? Okay I -- Commissioner? I mean Corporation Counsel?

Ms. Oana: Chair, I'd just like for the Commission to acknowledge the handout that Mr. Manera passed out to everybody.

Chair Buchanan: Thank you. That's why she here. So I did wanna acknowledge on the record that Mr. Manera did hand out basically the same paper that was handed out during the Hamamoto application reconsideration. Nobody has issues with the need to read it again. Thank you. So if anybody doesn't have any burning questions right now for Mr. Manera, I'm going to open -- I'm going to open for public testimony, and then we can come back. Okay, seeing none, thank you, Mr. Manera. Anyone in the public wishing to testify on this matter, please come up, state your name for the record. This is a separate matter so you can testify again. It's a different application. Thank you.

Mr. Ritte: Aloha, my name is Walter Ritte, and I live in Hoolehua. We're talking no. 2, and I just wanna say a couple things. One I talked about earlier was a trend, what are we setting ourselves up for in the future, and I talked about these monster homes, that it's happening Oahu and they're having a really hard time to control these monster homes. The other thing that's happening, the trend that's happening is homelessness. What are we doing that's going to impact our future? And if we look at Maui and Oahu, we can see what happened. The cost for rentals are so high that ordinary people are becoming homeless. Affordable housing - there's no such thing. So a lot of this can be linked back to what we're talking about today. It started innocently, people saying, oh, I can make side money, but then the impacts. You have to know the impact. The impacts is that our children and our children's children will not be able to afford housing, so it's a really really serious impact that we talking about. Yep, that's my phone ringing. So thank you.

Chair Buchanan: Thank you for the phone. Any questions for the testifier 'cause he gotta answer his phone? Supposed to shut 'em off. Okay, thank you. Seeing none, anyone else in the public wishing to testify? Thank you. State your name for the record.

Ms. Poepoe: Mahina Poepoe. So in -- in regard to the fact or the assumption that illegal or if you don't get your permit, they're going to rent illegally, I agree, basing that on the message paid for by Architectural Drafting Services, Luigi Manera. In it, there's a statement that says, "When permits are denied, no matter what, those who rent without a permit will continue to rent illegally just as they have for decades." So it's not saying that they absolutely will, but it's kinda saying like we're ready to -- even on Maui with the real estate groups, that is one of their points too is that denying applications fuels the black market, so it's kinda saying that we are prepared to operate illegally regardless, but it doesn't, you know, it doesn't mean that the absolutely will but -- oh, I guess that's basically all, but I know we're done with Hamamoto, but when I actually saw their property, I saw a house in the middle of a daisy field or dandelions and it was really green and growing so I try to observe the properties, so I just wanted to share that even though it's done. That's all. Thank you.

Chair Buchanan: Thank you, Mahina. Any questions for the testifier?

Mr. Sprinzel: That's where I -- that's where I got the hint that they were going to do it. Thank you.

Chair Buchanan: Okay, thank you. Anyone else in the public wishing to testify on this motion for reconsideration? Okay, seeing none, I'm going to close public testimony. Commissioner Espaniola.

Ms. Espaniola: I'd like to say something. The article that went out really personalizes our intent when we make decisions, and I believe that we try our best to apply the applications to the law, and so we're making our decisions based on that, so there's an implication there for us that we're denying for our own personal reasons and I'd really like to say that that's really not the case. We have -- we do our own studies and we apply what we believe based on testimonies and based on the law that's before us to make those decisions, so I hope, you know, those that bring their applications don't take it personal when it's -- when there's an opposition or opposed to the -- to the application for approval or denial. That's all I wanted to say. Thank you.

Chair Buchanan: Okay, thank you very much for saying that. I'm sorry. I need to -- I going start making one template of procedural matters. Mr. Manera, do you want to respond to any testimony that you heard for this matter today? No?

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

Chair Buchanan: Okay. Hang on. Awesome.

Mr. Manera: Hi. Luigi Manera. In respond of the article I put in the paper, well, I think is -- was my opinion to express what we should be doing instead deny everything. Every time is no, no, no, no. For something everybody doing illegal for the past 30 years. Some of those home, they been doing this for 30 years, and you guys know, including you, Mahina. You can talk so much about that, and you probably rented too, part of your family. So trust me. I got a name of a lot of people renting those houses. Now, instead deny it, what those people do? You think -- you really think these guys they just forget about it? I don't think so. They've been doing what they been doing for 30 years and there's no way you can control this. They do it on Maui because they don't want to be legal, and the County of Maui don't do nothing about it. You cannot enforce this whether we like it or not. I thought was a good idea to put a -- a tax and get the money for whatever, high school, any school, or whatever. That was just a suggestion. That's all. Thank you.

Chair Buchanan: Thank you, Mr. Manera. Commissioner Poepoe, you have a question for the testifier?

Mr. Poepoe: I get one question for staff actually.

Chair Buchanan: Oh, okay. Thank you.

Mr. Poepoe: So, in the previous testimony, it was stated that you cannot enforce these illegal rentals. Is that true?

Ms. Lopez: And thank you, Commissioner Poepoe, for that question. I think it's like a two-edged sword, and so the reason why I say that is, right now, actually Council passed a budget, about \$80,000, to hire a third-party, which the Department is going through right now, bid proposals on hiring a third-party to go and -- go after, I think, more on a technological side because a lot of them goes on the websites, Airbnb and all of those website advertising, and so Council did pass to have this budget in place for enforcement to help them track down these. Yeah, so far some of the reports does indicate that there are about 10,000 illegal short-term rentals in Maui County alone. Thinking of 10,000 illegal rentals, short-term rentals, just Maui County alone, and just Maui County alone, you have 56,000 tourists that comes to Maui County, so I don't know. You do the math. But so Council, your Council, just set aside some monies to help with enforcement on tracking, yeah, and we -- we are short-staffed. If you look at the numbers that I just gave you, 'cause I think, I don't wanna throw the number, but maybe four or five inspectors just in the enforcement division that does the whole County of Maui, and we only have one that -- not -- she doesn't focus only on Molokai, but she has Molokai, she has Kihei, and I think she has West Maui alone, or I think they split up the West Maui, but so she's not

only -- she's one that does these number of districts including Molokai, and so that's where -- that's how I can answer.

Mr. Pele: Can I ask you, so if -- if a -- you take RFIs from the public right?

Ms. Lopez: Yes. Yes, we do, and you can be anonymous.

Mr. Pele: Okay, so how does that -- walk me through the -- so if somebody is on it, we have a -- from the public and they do an RFI, it still has to go through the inspectors? I mean how is that handled when somebody calls and say, hey, listen, this is what I found out, blah, blah, blah?

Ms. Lopez: Well, you had an example presented to you your last meeting when one of the testifiers did say that she put in a -- what we call it is an "RFS," a request for service --

Mr. Pele: Oh, RFS -- yeah.

Ms. Lopez: And the applicant didn't get it until the day before. I mean it only got issued, what, the day before his public hearing, and so when he heard about it, he never received it in writing, and I know the testifier said it took six months for enforcement, four to six months, for enforcement to come.

Mr. Pele: So we're looking at a four -- if public -- public gets involved?

Ms. Lopez: And so that's like a give and take 'cause I'm not -- huh?

Mr. Pele: If public gets involved, it's like a four to six-month window?

Ms. Lopez: That -- it's up -- anybody can. Anybody from the public can go on our website, maucounty.gov, and it's public that anybody can put in a complaint which we call a "request for service," and it kinda goes down the chainage of linking on who actually on the bottom of the inspectors would be the one to be assigned to that one, one service, and be able to start enforcement, like I think the last Commission meeting, she stated she had those numerous five, and all of them was on the west side, and I, you know, they're still going through the process. As far as I know, the notice of warning just got out recently to that one. So I mean you can do the math on that on how time, and like I said, it's just one inspector.

Mr. Pele: So I mean so if I call, it could be realistic that no notification will be filed for six months?

Ms. Lopez: It may take up to six months.

Mr. Pele: Okay.

Ms. Lopez: That I cannot really put a number to that one. But, yeah, you know, can you please tell your Council Member we need for inspectors?

Chair Buchanan: No, we need more socially-conscience people.

Ms. Lopez: Yeah.

Chair Buchanan: Not more inspectors.

Ms. Lopez: More enforcement.

Chair Buchanan: You know, I -- you know this issue is one sore spot for me. I glad we having it because I think it's really disrespectful to the culture. I really do. We live on one island and you hear we get limited resources. When I decided to sit on this Commission with everybody else, you know, we had to take one oath of office, so we have to swear, just like how you went swear in that unilateral agreement that you went sign, yeah, you went attest and solemnly swear and affirm or covenant, or whatever you did. I just was going through my papers and I found 'em and I thought was funny 'cause this is what it says: So I do solemnly swear or affirm that I will support and defend the Constitution of the United States and the Constitution of the State of Hawaii, and I will faithfully discharge my duties as a member on the Molokai Planning Commission, for the County of Maui, State of Hawaii, to the best of my ability. That's what it says. So when my husband tell me lose money because I sit on the commissions like this and I -- and I in disagreement with people who come to my island, this is my island, I am a Native Hawaiian, born and raised here, five generations, I -- I look and I participate in government to protect my interest as a Native Hawaiian because, as a Native Hawaiian, Constitution of the State of Hawaii, I have rights and privileges that are distinguishable from the general public, but nobody's defending me. I gotta defend myself. So I spend countless hours going over government law, Federal, State, and County Government laws finding out who going help me as a Native Hawaiian protect my culture. So when people come in my -- in -- in direct opposition of not only laws because, you know what? What we went through today was just the tip of the iceberg because get so much criteria, multiple overlaying laws, Land Use Commission, Molokai Planning Commission, County Ordinance and Charter, and they all get mushed together, and then you go cherry pick out of all those rules and regulations what you like to justify your position when your position should be I'm a guest here. If I not one Native Hawaiian, if I wasn't born and raised on Molokai, and this not my

island, I should at least have the decency to respect the community and the culture instead of trying to change it and put one round peg in one square hole, whatever. So that kine stuff really hurt my feelings. So I trying to keep my composure, but I have a duty to this community. I went swear that I was going take care my community. As a Native Hawaiian, my kuleana, whether it's the Kumulipo, whatever, I have to take care of the 'aina, and so I hope people respect that, and if you no can understand that, at least respect that, okay, 'cause I respect you as one person, just respect that. I no like even go into what I call the "trump stuff," yeah, innuendoes and hearsay that are totally unfactual. I'm a process person. I no just say stuff if I no can base that and validate my causes. So we all took that oath. We not nefarious in what we do. Some of us spend more time poring over governmental laws and regulations, and so we going fix this. This Commission going fix this. In the next year or however more going take for us to fix it, we going fix 'em. I make that commitment to fix all the pukas that we get right now. So thank you.

Ms. Lopez: Thank you.

Chair Buchanan: I thank my Commissioners for that discussion. I really do. I appreciate that. I appreciate testimony, and I even appreciate the applicants. Thank you. Anymore Commission Members? We still never make a motion. Corporation Counsel, you have anything else before I call for one -- wait. I going do the same thing we did in the previous motion. I going ask to set aside the findings of facts and conclusions of law of the November 7, 2018 meeting for this reconsideration of this motion.

Ms. Lopez: Clarify - November 8, Chair.

Chair Buchanan: Oh, November 8. Too many stuff going on. Thank you. Appreciate that, Sybil. Corporation Counsel, do I have to read it all again? Everything is the same. I don't see any -- hang on. Hang on. I lost it.

Ms. Oana: Yes, Chair, please state your, I guess, new findings of fact, conclusions of law.

Chair Buchanan: Okay, bear with me again. I'm looking for a motion to set aside the findings of fact, conclusions of law of the November 2017 meeting, and to replace with the following findings of facts and conclusions of law, and I think would be helpful, at least for the public and people watching on Akaku, which I've had to get used to to, I'm going to read where I'm getting all this from, so - Corporation Counsel is looking ...(inaudible)... so application states unusual conditions, trends, and needs have not arisen since the district boundaries and rules were established. In evaluating conditions, trends, and needs, the following aspects shall be considered and -- and this is where I'm getting my

findings of fact and my conclusions of law because it asks you consider a lot of things, the proximity of use to other properties, and we find that it's, you know, it's in close proximity. And the availability of other properties which are zoned to allow, we've already establish that -- that has been -- that there are other properties.

And, no. 3, the proximity of the use to other properties with comparable uses in the community plan district. And according to the Department's report, there are already five permitted short-term rental homes, and one grandfathered transient vacation rental home that are operating within the State ag district located at Papohaku Ranchlands Subdivision in the Kaluakoi Ahupua`a of West Molokai. There are also three hotels: Paniolo Hale, 77 units; Ke Nani Kai, 120 units; and Kepuhi Kaluakoi Villas, 172 units, with a total of 369 units located in the Kaluakoi Ahupua`a of West Molokai, which some are used for transient vacation rentals. There has been no evidence that these places are ever at max capacity. There has been no evidence that there's a need for more transient accommodation in this area, therefore, there are sufficient properties in the area which allow comparable uses and the applicant has not demonstrated the need for the proposed use.

No. 4, the market or public demand for the use as demonstrated by the applicant. There has been no evidence presented about the market or public demand for the proposed use, therefore, the applicant has not demonstrated the need for the proposed use.

The suitability of the site for the intended use. The Molokai Community Plan, under Objectives and Policies for Land Use state, no. 4: Discourage developing agriculture or subdividing designated lands for gentlemen estates or pseudo agricultural uses in which the residence would be the primary use and any non-intrusive ag activities, agricultural activities, would be secondary. Further, no. 13: Support special permits in the State agriculture and rural districts only to accommodate limited commercial, public and quasi-public uses servicing the immediate community areas such as Pukoo, Ualapue, and Kamalo, which are relatively remote from urban areas; no. 2: Permit a public facility use, such as a sanitary landfill, sewage treatment plant, or utility installation whose location is determined by technical considerations; no. 3: Allow use which is clearly accessory and subordinate to a principle agricultural use on the property; and no. 4: Permit extractive industries, such as quarry operations, do not adversely affect the environment in a permanent way and do not adversely affect nearby agricultural uses. In Exhibit 5, to the Director's report, there is a map for farm plan, which shows coconut, which shows large section of seashore paspalum surrounding the back of the dwelling, and dragon fruit, and citrus trees, and coconut trees, this does not show a principle agricultural use on the property, therefore, we find that the short-term home rental will be the primary use on the property and the farming activities would be secondary. We also find that the proposed

use is inconsistent with the current Molokai Community Plan, as stated, and, therefore, conclude that the site is unsuited for the proposed use. Hang on.

The economic and/or social benefits of the use to the community. Besides just blanket statements in the Department's report, no real evidence was presented that the proposed use is anticipated to bring in an increase in visitors to the island of Molokai, no real evidence was presented that they would hire local people for the maintenance and housekeeping service; further, although the report stated that the STHR visitors would patronize the local restaurants, grocery stores, shops, and other businesses, even without the short-term home rental, the visitors would still patronize those same places, therefore, we find that no evidence was presented to show any economic or social benefit to the community. We, therefore, conclude that the need for this proposed use has not arisen since the district boundaries and rules were established.

No evidence has been presented that the land is unsuited for the uses permitted within the district. There has been absolutely no evidence that the agricultural activities listed in HRS 205-4.5 cannot be done as a primary use on the property, therefore, we conclude that the Commission cannot make a determination based on the evidence provided that the land is unsuited for the uses permitted within the district.

I looking for a motion to set aside the previous findings of facts, conclusions of law to be replaced with what I just read into the record. Do I have a motion? I sorry. I went talk too fast. Is there a motion on the floor to accept the findings of facts and conclusions of law as amended?

Mr. Pele: So moved.

Chair Buchanan: Okay. Do I have a second? Okay. It was moved by Commissioner Pele, and seconded by Commissioner Espaniola. Any discussion?

Mr. Pele: Yeah, Chairman, what was your last -- your last statement? We didn't -- we didn't talk about unsuitable. I don't see it in this application. My concern for the last application was that they used the word "unsuitable" for agriculture but we didn't add that in this one, right?

Chair Buchanan: No. I said no evidence has been presented that the land is unsuited for the uses permitted within the district.

Mr. Pele: Okay. Got it. Thank you.

Chair Buchanan: That's right out of code.

Mr. Lasua: Madam Chair, on the identification of the lot, you had mentioned the plants and stuff, so is it similar to the other property?

Chair Buchanan: No.

Mr. Lasua: Okay.

Chair Buchanan: It's different.

Mr. Lasua: So did you want to leave that in?

Chair Buchanan: Let me reiterate what that was. In Exhibit 5, to the Department's report, there is a map of the farm plan which shows coconut trees, citrus trees, and dragon fruit. It also shows a large section of seashore paspalum surrounding the back of the dwelling. It is different. So it's been moved and seconded to accept the conclusions -- findings of facts and conclusions of law and setting aside -- go ahead.

Ms. Oana: So just to confirm so everything's clear, this is a motion to set aside the finding of facts, conclusion of law, decision and order made at the November 8, 2017 meeting and replaced with the new findings of fact, conclusions of law that you just read?

Chair Buchanan: ...(inaudible - not speaking into the microphone)...

Ms. Oana: Thank you. I'm sorry.

Chair Buchanan: Anymore discussion on the motion? Okay, then I will call -- oh.

Mr. Lasua: Excuse me, Madam Chair? So I'm taking that you're leaving that part in where it describes the plants --

Chair Buchanan: Oh yeah. Yeah. Okay, anymore discussion? Okay, so we'll call for the motion to amend -- to set aside and replace. Okay, all those in favor, raise your right hand? Thank you. Unanimous. Motion carried.

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

VOTED: to set aside the findings of fact, conclusions of law, and decision and order adopted at the November 8, 2017 meeting

and replace it with the findings of fact, conclusions of law, and decision and order presented at this meeting.

**(Assenting - L. Buchanan, W. Buchanan; L. Espaniola, L. Lasua, J. Pele, L. Poepoe, J. Sprinzel)
(Excused - C. Adolpho, X. Bicoy)**

Chair Buchanan: Okay, now we'll be looking for a motion to uphold the denial of the permit or reconsider? Commissioner --

Mr. Poepoe: Motion to deny the permit.

Chair Buchanan: Okay, there's a motion on the floor to uphold the denial. There's a second by Commissioner Pele. Any discussion on the floor? Okay, seeing none, then we'll call for the motion. All those in favor to deny the reconsideration, denial, uphold the denial? Okay, all those opposed? Let the record show that motion is carried by five votes and descending votes of two votes, Commissioner Buchanan and Commissioner Lasua. Thank you, Commissioners.

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

VOTED: to uphold the denial of the request by Stephen Pillar for a State Land Use Commission Special Permit in order to operate the Pa Loa Hale Short-Term Rental Home based on the findings of fact, conclusions of law, and decision and order presented and adopted at this meeting.

**(Assenting - L. Buchanan, L. Espaniola, J. Pele, L. Poepoe, J. Sprinzel)
(Dissenting - W. Buchanan, L. Lasua)
(Excused - C. Adolpho, X. Bicoy)**

Chair Buchanan: Okay, anybody need a break now or we still going move on? I going miss my Vice-Chair. You better go reup. Okay. Let me find my agenda in this mess. Okay. Okay, we on to item E. How come this look different? Yeah. Okay. Alrighty. Item E, Communications:

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

E. COMMUNICATIONS

- 1. MS. MOANI MELCHER requesting a time extension on the Special Management Area Minor Permit to initiate construction of a 1,400**

square foot single-family residence in the County Rural District for property located adjacent to the Mapulehu Fish Pond at TMK: (2) 5-7-008: 037, Mapulehu, Island of Molokai. (SM6 2016/0002) (S. Lopez)

The Commission may take action on this request.

Chair Buchanan: Planner Lopez?

Ms. Lopez: Thank you, Madam Chair, Commissioners. The request for a time extension on a special management area minor permit for the -- miss -- the applicant filed a time extension on January 31, 2018 prior to the expiration of -- to meet her condition no. 5 in her May 4, 2016 approval letter, which states that the project shall be initiated by February 28, 2018 and shall be completed within the two year of said initiation. This was actually before the Commission back in February 12th of 2014, and April 14th of 2016 where the Molokai Planning Commission approved the new SMA minor permit. The old one in 2014 expired based on that standard condition no. 5, due to budget restraints, this was actually a Habitat for Humanity project, which I guess with FDA and whatnot, and it -- I guess it fell through, and so the applicant or the owner, Ms. Moani Melcher, came back and did a new minor permit to request for the construction of the 1400 square-foot single-family residence. The parcel is a total of 22,389 square-foot. The valuation of the construction of that home is \$160,000.00, and the reason for her requesting for a time extension is still budget, so now Habitat for Humanity is out, she has to raise that money on her own. I guess a percentage of 'em went through just the permitting phase. There were some cultural sites that the State Historic Preservations did find and they documented, such as a firepit, and so one of the standard conditions was, well, not standard, but one of the specific conditions was that a qualified archaeological monitor shall be present during those portions of the project which involves ground-altering disturbance in order to document any historic properties which may be encountered and to provide mitigation measures as necessary. So, the request is just to -- to have that time extension so she can get the monies. I mean her last resort is to sell it, but if you know Ms. Melcher, she's part of the Chow family that's been here for a very long time and who is the -- the mom was the librarian; that she really wants to keep it within the family but it's just financial hardships that if she cannot get the money and the, well, the extension, the time extension, and the time extension request to request until April 30th of 2020, so the request is to give her two more years, and she did say herself, if she cannot get it, this will be her last request for a time extension and she'll probably look into selling her property if she cannot find the financial means to build the home. So, that's all I have.

Chair Buchanan: Okay, thank you. I have a question. So, she's not -- the conditions will run with the time extension? The conditions of the permit will run with the extension, and it seems like this was fully vetted in 2014 as a SMA minor permit?

Ms. Lopez: Yes, and they -- it expired because of the --

Chair Buchanan: Right.

Ms. Lopez: They had to figure out the financing and so she had to come back with a brand-new application in 2016, and so this is actually a time extension for the 2016 approval that the Commission unanimously approved on.

Chair Buchanan: So, I have a question about the State Historic Preservation Division discoveries. Was that made prior to the 2016 or --

Ms. Lopez: Correct.

Chair Buchanan: After the 2016? Okay.

Ms. Lopez: Yeah, correct. So it was made it in the 2014, but in the 2016, she needed to come in to do a final report with the State Historic Preservation, which we have it all documented in the County of Maui, in our Department, that shows the -- the number, the site number, where the site is located, and how State Historic Preservation is recommending to mitigate and including this -- this specific condition of having an actual qualified archaeological monitor during ground disturbance will, hopefully, that in the event that historic resources including human skeletal remains are identified during the construction activities and that all work must cease immediately and DLNR State Historic Preservations will be immediately contacted and they'll be able to mitigate whatever necessary.

Chair Buchanan: Is this -- is this parcel on the shoreline?

Ms. Lopez: That -- that is why we're here 'cause it's in SMA.

Chair Buchanan: Okay, so it's in the SMA, but is it on the shoreline and would shoreline certification be affected?

Ms. Lopez: No. They have a, in the front of it, it has a fishpond so there's ocean, fishpond, I think there's two properties, and then this one is right next to the brother, I don't know, what is the brother's name, I forget, Ames, Dr. Ames Chow, so Ames Chow has the one east towards Halawa, and then she has the one in --

Chair Buchanan: And sewer is cesspool?

Ms. Lopez: No. She has to comply with the Department of Health regulations with all septic.

Chair Buchanan: Okay. 'Cause it's on a fishpond. Okay. I just wondering. Any questions, Commissioners? No? Go ahead.

Mr. Poepoe: I get one. So, we -- the conditions stand with the -- the extension and has any changes to policy been made to where it doesn't apply anymore?

Ms. Lopez: Good question, Commissioner. None at the moment, so as all standard conditions and specific conditions does still apply, is applicable to the approval unless the Commission, today, has any additional specific conditions that they would wanna add to this permit in order to be accepted and approved by the Commission.

Chair Buchanan: Thank you. Planner Lopez, what happens if conditions arise within the time extension that is pertinent or may be pertinent as added conditions to the existing permit?

Ms. Lopez: Sorry, can you give me an example of that so I can answer appropriately?

Chair Buchanan: Just I -- just -- just whatever. Because it's a SMA minor permit, and she is asking for an extension, conditions may change within that time that may need to be added, so say we discover hazardous waste, say we discover something else, could we still go back in and add to the conditions for the time extension or she would have to like accept? Good question, yeah?

Ms. Lopez: Yeah, very good question.

Chair Buchanan: Yeah, I know.

Ms. Lopez: No. Not necessarily. It wouldn't come back to the Commission unless you add a condition where you wanna have a compliance report, I'm just throwing that out there 'cause I -- I've seen minor reports with compliance reports, preliminary, post, final, just so that, you know, those could be presented during the time of construction, pre-construction, post-construction, during construction. I mean if you're alluding to that, that's just, it's not a recommendation, it's just a example.

Chair Buchanan: Yeah, Commissioner Pele.

Mr. Pele: What happens to a permit if we didn't do an extension and they sold the property or if it's written? Sorry, I didn't read.

Chair Buchanan: It goes away.

Mr. Pele: It goes away?

Chair Buchanan: Because it says there that construction or whatever should commence by so and so and be finished by so and so. I mean I think it's in there. We don't have the paperwork on this. So, if you don't commence and you don't finish in the time allotted, then you just -- the permit goes away.

Mr. Pele: But what if this -- what if -- what if she sells before 2020?

Ms. Lopez: It doesn't say that the -- the SMA is not transferable, so it doesn't say in the conditions --

Mr. Pele: Right.

Ms. Lopez: And so they've have been time where they -- the property sold within the given amount of the deadline and that that new owner could come in --

Mr. Pele: Builds an STRH and didn't come in front of us. I'm just -- I'm just asking the question if it's transferable.

Ms. Lopez: Well, just for the record, there's no STRH within the 500 feet of this --

Mr. Pele: Okay.

Chair Buchanan: Okay.

Ms. Lopez: So then -- then, therefore, it'll be administratively approved and you would never see that.

Mr. Pele: Yeah, so I'm just -- my question is is it transferable, the permit?

Ms. Lopez: Yes. Yes, it is because there's no condition stating that it's not unless Clayton has anything to add.

Chair Buchanan: That is -- that is an absolutely fantastic discovery and idea --

Ms. Lopez: Good question.

Chair Buchanan: Commissioner Pele. I appreciate that.

Ms. Lopez: I'll turn the time over to my boss.

Mr. Yoshida: I guess if there is a change in ownership, they would have to transfer the - the permit if -- like that's the issue we had with Friendly Market warehouse was that they had a permit to build the warehouse, the prior owner, but it expired so they had to, the new owner, although they were using the same plans as was previously approved, had to come in for a new SMA assessment.

Mr. Pele: No, my question is let's say we decide to waive and we grant the two-year extension, it's 2018, 2019 she says, ah, I can't do it 'cause her part of the testimony right now was -- she's financially strapped, she says you know what? I'm going to sell it but I'm going to sell it and look, I have a permit to build a 1400 square-foot house already in place, it might add more value to sale, I'm just making up things in mind, can she do that? Would she be able to say, hey, listen, I got this lot, not only do I have this lot, but I also have a permit for a year, you can build a 1400 square-foot home on it, what would happen if she did that? We approve it today, next year she sells the lot, is the permit still applicable to that lot, her -- her permit that we just extended for two years if we did it?

Mr. Yoshida: So, the project is not constructed --

Mr. Pele: Not constructed but she has till 2020 to construct it, right? We're giving her two years --

Mr. Yoshida: Right.

Mr. Pele: To construct it, she sells it in a year, she still has a year, is that transferable with the sale, the permit that she has in place if we were to waive or we were to allow her to have an extension? Is -- is her permit -- no? She can't?

Mr. Yoshida: I believe they would have to come back.

Mr. Pele: They would -- you believe or --

Mr. Yoshida: Yeah.

Mr. Pele: They would?

Mr. Yoshida: ...(inaudible)... the permit --

Mr. Pele: You gotta tell me, yeah, they would have to come back.

Mr. Yoshida: Yeah.

Mr. Pele: Okay. Thank you.

Mr. Sprinzel: Clayton, can we put a rider in saying that it's not transferable if we grant her an extension?

Mr. Pele: It looks like he's stuck.

Mr. Yoshida: Or if, well, if -- I guess the new owner could come in for a new permit, come in for a new permit, like --

Mr. Lasua: Clayton, wouldn't that be based on applicant then and not -- I mean if they come in for a permit, the applicant who comes in for the permit, and then she sells the property, that permit is only good for that applicant?

Mr. Yoshida: I mean it's in the -- yeah, it's in the name --

Mr. Lasua: Okay.

Mr. Yoshida: Of that applicant.

Mr. Lasua: So, if they sell it, then another applicant would have to come, or whoever bought it, would have to come in for another permit. They can't use the same permit if it's --

Chair Buchanan: So, we have the answer.

Ms. Oana: Chair, if I may read the rule, this is in your Molokai Planning Commission rules, Chapter 302, Special Management Area Rules, and you'll find it under 12-302-17, titled "Amendments to and determinations of permit terms, conditions, and time stipulations," in Section D, it says, "Unless otherwise specified in a permit condition, the Director may issue a written approval for a special management area use permit transfer if the permit holder submits a written request for a permit transfer to include the following: 1. Reasons for permit transfer, 2. Transferer's consent, 3. Notarized affidavit from transferee acknowledging the conditions established with the subject permit and agreement by transferee to comply with these conditions and any other information the Director deems necessary to review. The Director shall notify the Commission at the Commission's next regularly scheduled meeting of the issuance of any permit transfer

receipt of which shall be acknowledged by the Commission. Such notification shall include, but not be limited to, the aforementioned information provided to the Department and permit transfer approval letter. Nothing in this section shall prevent the Director from forwarding any permit transfer request to the Commission for consideration in accordance with the procedures set forth in this section.”

Mr. Pele: So, does that mean --

Ms. Oana: So, you can add a permit condition if you wanted to while you're doing this.

Mr. Pele: Yeah, that's -- we need to. We need to add it 'cause you're telling me that the Director can approve it if -- if he feels --

Chair Buchanan: Something else we gotta fix in our rules.

Ms. Oana: You can say no transfer at all, or you can say any request to transfer must be approved by the Commission.

Mr. Pele: Yeah, but we have to do that in our approval process? We have to put that in, right?

Ms. Oana: Yes, because Section D says, “Unless otherwise specified in a permit condition, the Director may issue written approval.”

Chair Buchanan: Okay. Anymore questions for staff? I going open for public testimony 'cause we never do that, yeah? Okay, sorry. Anybody in the public wishing to testify on this request for a time extension for Moani Melcher? None? Okay, seeing none, we going close public testimony. So, let's hear a motion and then discussion.

Ms. Lopez: Would you wanna --

Chair Buchanan: Staff recommendation.

Ms. Lopez: Staff to read the recommendation? Okay. Thank you. Recommendation. So, pursuant to the aforementioned, the Department recommends approval of the SMA minor permit time extension subject to the following conditions: That the new single-family residence shall be made according to the figures A-1, A-2, A-3 descriptions within the application submitted on March 16, 2016 and representations made to the Department prepared by Thomas E. Hackett and Architectural Drafting Service. The BMPs, number two, the BMPs shall be implemented to ensure water quality and marine resources are protected. Construction during adverse weather conditions shall be

curtailed to minimize a potential for adverse water quality impacts. Number three, that a qualified archaeological monitor shall be present during those portions of the project which involves ground-altering disturbance in order to document any historic properties which may be encountered and to provide mitigation measures as necessary. Oh, in the event that historic resources including human skeletal remains are identified during the construction activities, please cease all work in the immediate vicinity of the find, protect the find from additional disturbance, and immediately contact the DLNR State Historic Preservation Division on Maui. That the applicant shall comply with all of the DLNR State Historic Preservation Division requirements as indicated in their letter dated November 21, 2013. That the project shall be initiated by April 30th of 2020 and shall be completed within one year said of initiation. That full compliance with all other applicable governmental requirements shall be rendered.

In consideration of the foregoing, the Department recommends that the Commission adopt the Department's memorandum to the Commission for the March -- sorry, wrong date - March 28. Sorry, wrong date. So, instead of March 14th, March 28th meeting as a findings of fact, conclusions of law, and decisions and order and authorize the Director to transmit said written decisions and order on behalf of the Commission. Thank you.

Chair Buchanan: Thank you. Any questions for Planner? If not, oh.

Ms. Lopez: ...(inaudible)... question.

Chair Buchanan: If not, Chair will entertain a motion.

Mr. Sprinzel: Motion to extend with all those conditions and the condition that they can't sale on --

Chair Buchanan: Transfer. Okay. Wait.

Mr. Sprinzel: Does that make sense?

Chair Buchanan: No. Can you -- can you restate your motion?

Mr. Sprinzel: Yes, to extend the time as suggested with all the restrictions that you read out and in addition that it can't be sold on with Planning permission, the land.

Chair Buchanan: Okay. Not transfer.

Ms. Oana: Okay, just to clarify. It was a motion to extend with the conditions that Sybil just read with the added condition that the permit is not transferable?

Mr. Sprinzel: That's it.

Chair Buchanan: The SMA minor permit is not transferable.

Ms. Lopez: Period?

Chair Buchanan: Period.

Ms. Lopez: Okay.

Chair Buchanan: I never hear any other motion.

Mr. Sprinzel: Which kinda means it has to come back to the Planning Commission.

Chair Buchanan: Yeah, but so --

Mr. Sprinzel: But we don't have to state that.

Chair Buchanan: So -- so, there's a motion. Is there a second so we can open up for discussion?

Mr. Lasua: Second.

Chair Buchanan: Okay. Motion been made. Seconded. Open for discussion, Commissioners.

Ms. Lopez: ...(inaudible)... second?

Chair Buchanan: Yeah. Commissioner Lasua second, let the record show. There's a member in the public waving their hand in the back. You missed public testimony? Commissioners, you guys get any discussion on the motion? Can we accept -- it's in my discretion to accept public testimony when we in the middle of a motion?

Mr. Oana: It's probably not ...(inaudible)...

Chair Buchanan: Not a great idea? Okay. So, discussion on the motion. I like that period after the non-transferable 'cause I'm just thinking that -- that when you have a permit waiting, that it automatically increases the value of your land. If you don't just have bare land, if you have bare land and it has entitlements, that it automatically increases the value of the property, so it's a great idea though.

Mr. Sprinzel: I would have no objection to a public comment.

Chair Buchanan: Okay. So --

Ms. Lopez: Chair, can I just read what I have so I know I got it correctly --

Chair Buchanan: Okay, that's correct.

Ms. Lopez: Because it'll be a condition. So it'll be -- so there's six total standard -- so there's six total conditions, so what I'm hearing that the Vice-Chair did the seventh, so the seventh condition shall be that the permit shall not be transferred period. Okay.

Chair Buchanan: Hang on.

Ms. Oana: Let's say the permit shall be non-transferable.

Ms. Lopez: Okay. Thank you for that clarification.

Chair Buchanan: Okay, so we still in discussion, we never make any voting, but I see there's a member of the public wishing to testify, is it going to be pertinent to our voting that we doing right now?

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

Chair Buchanan: Okay. Wait. Hang on. 'Cause the Vice-Chair is not opposed to having a member of the public testify at this time. Is anybody else opposed? Okay, hurry up. Hurry up. State your name for the record. Hurry up. Nah, I no mean to rude and crude. I apologize.

Mr. Ritte: Yeah, my name is Walter Ritte, and I didn't realize where the property was, but it's adjacent to a fishpond so, for me, that's a really critical thing because I visited this fishpond and I've seen what -- what they doing there, and what they do there is they add soil into the fishpond so I think that the boundaries of the fishpond need to be really well established so they don't keep putting fill into the fishpond and start claiming the lands in the fishpond, and they also driving their tractors on the wall and stuff over there, and they doing some really bad things with that fishpond, so I'm really concerned if we can put something in there to protect that fishpond, I think that would be really useful.

Chair Buchanan: Thank you. Any Commissioners have questions for the testifier? I no have questions for the testifier, but I do have a comment. This is another big issue and

puka within the law for fishponds because in case the members of the public don't know, a fishpond is treated like land, and even though it's a body of water, it's treated -- it has a separate tax map key and -- and its own rules, and I'm assuming it's even governed maybe by OCCL, so, excuse me, OCCL is the Office of Coastal and Conservation Lands, under the Department of Land and Natural Resources, so you can see how that different layer -- it's -- it's out of the purview of this except to this permit was already reviewed as an SMA permit, and the conditions in that permit are on top of the regular best management practices by the County, that's how come I asked if this was on the shoreline because I already knew it was on -- on the fishpond and we've seen what affluent, and that's why I asked about the sewer, yeah, if was cesspool and if the water was going be directly put back into the ground because we know the affluent is going to affect the PH levels and then you going see this algae blooms and growth, so, you know, that all aside, I think it's great that we not transferring this, I know it's family trust properties, other than petitioning the State of Hawaii, which we've done at the leg. every year to protect fishponds and to work on the rules for fishponds, that would be my only input. I don't see how we can rectify the project at this time anymore. Vice-Chair, we losing our Commissioners 'cause we never take a break. Wait. Wait. We going to -- I was going call for the vote but my Commissioner is gone, so I wanna take a five-minute recess if nobody is in opposition to that, and then we'll come back and call for the vote.

Ms. Oana: Five-minutes ...(inaudible)...

Ms. Lopez: You do have quorum, Chair.

Chair Buchanan: Yeah, five minutes. I beg your pardon?

Ms. Lopez: I just said you -- you do have quorum to continue, but it's up to you.

Chair Buchanan: I do have quorum but, you know, that's our fault for not taking a break.

Ms. Lopez: Okay.

Chair Buchanan: So, only five-minute break. Poor thing, we all going be staring. Don't stare. Don't stare. Okay, my Vice-Chair, who I'm going to miss dearly, the slave-driver over here, okay, so we're going to call for the vote. Does anyone need to reiterate the motion on the floor? It's to extend the time, SMA minor permit, non-transferable for Ms. Moani Melcher with the Department's conditions and the added non-transference of the SMA minor permit. Any discussion?

Mr. Poepoe: I get one question.

Chair Buchanan: Commissioner Poepoe.

Mr. Poepoe: Just for my understanding, would -- would the -- would the subject property be -- I just thinking if they going be allowed to backfill at all any -- any much on top of their property if they're allowed to do so.

Ms. Lopez: No. That --

Mr. Poepoe: Okay.

Ms. Lopez: That you are in SMA so you're subject to the SMA rules.

Mr. Poepoe: Okay.

Ms. Lopez: And if it's on the shoreline, you're subject to the Molokai Planning Commission --

Mr. Poepoe: Okay.

Ms. Lopez: Shoreline rules.

Mr. Poepoe: Yeah, just for make that clear that you not allowed to backfill.

Chair Buchanan: ...(inaudible)...

Mr. Poepoe: Oh, sorry, sorry. No.

Chair Buchanan: Our Corporation Counsel always bothering me. Nah, no. I sorry. Go ahead.

Ms. Lopez: Did I answer your question?

Mr. Poepoe: Yeah.

Ms. Lopez: Thank you.

Mr. Poepoe: That went satisfy my question.

Chair Buchanan: Okay, anymore questions for staff? If not, I'd like to call for a vote on the motion. All those in favor, raise your right hand. The vote is unanimous. Thank you very much.

It has been moved by Commissioner John Sprinzel, seconded by Commissioner Lawrence Lasua, then

VOTED: to approve the request of Ms. Moani Melcher for a time extension on the Special Management Area Minor Permit with conditions as presented, and add condition no. 7 that the Special Management Area Minor Permit shall be non-transferable.

(Assenting - L. Buchanan, W. Buchanan, L. Espaniola, L. Lasua, J. Pele, L. Poepoe, J. Sprinzel)
(Excused - C. Adolpho, X. Bicoy)

Ms. Lopez: Thank you.

Chair Buchanan: Very quickly, I --

Mr. Sprinzel: A five-minute break.

Chair Buchanan: Now you like go on break. Okay. Now we going have a five-minute break and finish up. Okay, thank you.

(A recess was called at 2:56 p.m., and the meeting reconvened at 3:01 p.m.)

Chair Buchanan: Aloha. Thank you. We going reconvene this meeting of the March 28, 2018 Molokai Planning Commission. So, before we get to the Director's Report, I just wanted to ask each Commission Member, because I should have done it earlier, and I didn't, so I just wanted to confirm with all the Commissioners, regarding the Hamamoto and Pillar matters, that you all reviewed the minutes and the Akaku videos on all the previous meetings with regard to those two items. Anyone not -- as well as all the meeting materials that we had. Let the record show that Commissioners have acknowledged that they have reviewed.

Mr. Lasua: Yes.

Chair Buchanan: Yes. Okay. Thank you very much. And we moving on to the Director's Report. Right? Wait. Oh, we never vote? We did, yeah, vote on item E, Communications, no. 1, Ms. Moani Melcher. We did that. We voted to extend. Okay. So, now we are Director's Report, item no. 1.

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

F. DIRECTOR'S REPORT

1. **MR. WILLIAM SPENCE, Planning Director, notifying the Commission pursuant to the provisions of Section 12-302-13.1(a) of the Molokai Planning Commission's Special Management Area Rules that the following proposed 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. **MR. LUIGI MANERA on behalf of G&B MOLOKAI PROPERTIES submitting a Special Management Area Assessment (SMX) application to remodel an existing retail building located in the B-CT Country Town Business District at 61 Ala Malama Street, TMK: (2) 5-3-002: 095, Kaunakakai, Island of Molokai. (SMX 2018/0065) (Valuation: \$150,000) (S. Lopez)**

The Commission may act to waive or not waive its review.

Mr. Yoshida: Thank you, Madam Chair. Mr. Manera is here if you have any questions.

Mr. Sprinzel: Which is G&B?

Chair Buchanan: Okay, no, he going -- he just -- Vice-Chair is asking me which is G&B, so he wanted to know. Fish and Dive. So, they changed the name. Thank you very much. That was going to be my question. So, remodel an existing retail building. Okay, you going make presentation or no need?

Mr. Manera: No problem. Can do whatever. The building is there. Just interior remodel ...(inaudible)...

Chair Buchanan: I think I would like a little bit more information.

Mr. Manera: Sure.

Chair Buchanan: If that's okay, and the information can come from staff or -- you know, 'cause if we don't have any information, I'm going to encourage my Commissioners to not waive from now on. I might as well just say that and state that on the record that if we don't have anything like this, and this is great, thank you, Mr. Manera, I appreciate this, we don't know what we doing, so I'm not going to be inclined to waive any review from

here out if there's absolutely nothing. So, thank you very much. Mr. Manera, you wanna --

Mr. Manera: Sure.

Chair Buchanan: Just do one quick --

Mr. Manera: Yes.

Chair Buchanan: Thank you.

Mr. Manera: Hi. Chairperson, Members of the Commission, Luigi Manera. This is -- is the old Fish and Dive, and the owner, they sitting over here on the -- in the room, mister -- Grace and Brad Ellis, and we're going to remodel 4,000 square-foot -- 4,000 square feet of building, basically, the main remodel would be the roof, replace the roof because it leaks enormously. We going to be repaint in the building all WH and LS. We're going to replace some of the window, the broken, some of the door, some of the siding; basically, exterior work, and we're going to install one wall on the interior of the building to divide the space all for just about \$150,000 worth, and that's basically it.

Chair Buchanan: Commissioners, any -- any questions? Commissioner Sprinzel?

Mr. Sprinzel: Chair? Luigi, are we turning this into two showrooms, two shops?

Mr. Manera: Three.

Mr. Sprinzel: Three.

Mr. Manera: There was two. We're going to make 'em three.

Chair Buchanan: Plumbing. You adding multiple --

Mr. Manera: Yeah. We add some plumbing.

Chair Buchanan: Okay.

Mr. Manera: One bathroom. Actually, yeah, one bathroom, and the other tenant, a potential tenant, he want to have like what they call a "cold kitchen," so we have to install a sink. It's like -- he's non-cooking, you know, sandwich and stuff like that.

Chair Buchanan: Is the footprint of the existing building changing?

Mr. Manera: No.

Chair Buchanan: Okay. It looks beautiful.

Mr. Manera: Nice picture. Nice color.

Chair Buchanan: I mean, you know, we all know that -- and it looks like it's complying with the business country town and it's been reviewed?

Mr. Manera: Yes.

Chair Buchanan: Okay.

Mr. Manera: I think --

Ms. Lopez: I can answer that.

Chair Buchanan: Okay.

Ms. Lopez: So, they -- they concurrently submitted with the SMA a country town business application. It'll be administratively approved. We are adding certain conditions to be -- so that they can comply with the Kaunakakai Design Guidelines, such as signage, that they would have to come in for a comprehensive signage plan to do the building identification sign and those hanging signs for the tenants, so that would be added unto the CTB application, and not in the SMA, because it'll -- it's design guidelines.

Mr. Sprinzel: But all we're doing is considering waiving the review under our SMA rules.

Ms. Lopez: Correct. On the SMA. Yes.

Chair Buchanan: You going have any -- oh, go ahead, Commissioner Pele.

Mr. Pele: You made a comment about a perspective tenant wanting a cold kitchen, so you already have people moving -- that want to move into that space?

Mr. Manera: Yes.

Mr. Pele: That's awesome.

Chair Buchanan: Okay, Mr. Manera, you doing any excavation of more than two feet outside what is already previously excavated for plumbing?

Mr. Manera: No. It's all there.

Chair Buchanan: Okay. Thank you. If there's no more questions from Commissioners, since it is on the agenda, anyone wishing to testify on this matter from the public? Now's your opportunity. Okay. Thank you.

Ms. Poepoe: Mahina Poepoe.

Chair Buchanan: Thank you.

Ms. Poepoe: I just wanted to -- it feels good to be able to testify in support of something.

Chair Buchanan: Awesome.

Ms. Poepoe: So, I'm really happy to see that somebody is going to do something with that space. As a business-owner in town, I'm really -- I love our space but I know that the buildings are like falling apart and they could all really use -- a lot of them could use renovations, so I just wanted to support whatever. This feels good. Thank you.

Chair Buchanan: Thank you. Anyone else? You have question, Commissioner Pele? Okay. Okay, thank you very much. Anyone else in the public wishing to testify? Aunt Judy?

Ms. Caparida: I no need that.

Chair Buchanan: You no need that? Okay.

Ms. Caparida: I agree with her 'cause it's beautiful ...(inaudible - not speaking into the microphone)...

Chair Buchanan: Okay. It is. For the record, that was Judy Caparida in support. Okay, thank you. Anyone else in the public wishing to testify? Come up. State your name for the record. No? Okay. Thank you. So, yeah, I'm -- I'm happy that it's going to be renovated, and it's really nice to support something great. Feels good. So, I'll entertain a motion.

Mr. Pele: I move that we waive the review of this project.

Mr. Lasua: Second.

Chair Buchanan: Okay, it's been moved and seconded to waive review of this project. I will be voting in affirmative and the reason why is that the initial footprint of the project has not changed, interior renovation and other types of renovations, you know, it's easy to waive, so I'm really happy with that. So, with that, we'll call for the vote. All those in favor of waiving the review, raise your right hand. Let the record show the vote is unanimous. Motion carried.

It has been moved by Commissioner John Pele, seconded by Commissioner Lawrence Lasua, then

VOTED: to waive its review of item F.1.a.

(Assenting - L. Buchanan, W. Buchanan, L. Espaniola, L. Lasua, J. Pele, L. Poepoe, J. Sprinzel)
(Excused - C. Adolpho, X. Bicoy)

Chair Buchanan: Thank you. Cannot wait. Awesome. Thank you, Mr. Manera, and the owner of the G&B Properties. Okay, item b:

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

- b. MRS. ISHAY HONOKAUPU submitting a Special Management Area Assessment (SMX) application to operate a 178 sq. ft. lunch wagon located at the central Kaunakakai Country Town Business District at 465 Mohala Street, TMK: (2)5-3-002: 087, Kaunakakai, Island of Molokai. (SMX 2018//0086) (Valuation: \$25,000) (S. Lopez)**

The Commission may act to waive or not waive its review.

Chair Buchanan: I no think I saw one lunch wagon before. Awesome. Staff.

Ms. Lopez: So, as I explain a little about the project -- hi, I'm Sybil Lopez, the Molokai Planner assigned to this project. You guys can review while I talk. Basically, what you're looking at is before the -- before the applicant comes on, this is Yoshinagas, so Yoshinagas was the old Bobo's Auto Service that is right now currently Imports is right next door, and you do have a lot of information in the packet that I just passed out to you, and so we -- it's pretty centralized, right across Kanemitsu Bakery, and that empty space is what we're looking at, so that empty space and Yoshinagas, where Bobo's Auto was, the proposal is to put a lunch wagon on there, and the reason why they came in for SMA,

'cause usually food trucks is considered a motor vehicle where it's temporary and you can move on and off the property wherefore you would not need an SMA because it's temporary, the request is to have this stationary, so it'll be no permanently affixed but where they don't -- because they're coming all the way from Hoolehua, they don't wanna lug it everyday and just -- just have it on property, so there's no ground disturbance, nothing that they going permanently have it as stationary, they're just going to put a motor vehicle on the property, a five feet overhang will come from the top of the lunch wagon, nothing -- anything affixed to the ground would be maybe concrete foundation or whatnot. They will have small gravel, just the gravel covering just to make sure that the gravel holds the dust but not -- not -- I guess not more than the 40 square feet or the hundred square feet that is allotted. If you look at the -- the site plan where the customer parking is, so because it'll be stationary, consider that a restaurant, and as far as parking, 19.36.A, states that if you are -- you have to have at least three parking spaces designated, and for every one per -- one parking stall per hundred square feet, so they do have a total of four parking stalls located on the side of that existing building, which they will have nothing in the existing building, so there's no use that will come out of the existing building, everything will come out of that lunch wagon, and so it'll be affixed in the front, as you can see the pictures, and so it'll be on the side building of the Imports, and I actually wanna turn the time over to the applicant herself, Ishay, and she can let you -- give you more description on the project itself, so Mrs. Ishay Honokaupu. I hope I said that correctly. Thank you. You can state your name for the record.

Ms. Honokaupu: Aloha. And I'd like to begin by thanking you all for coming here today and staying so long. My name is Ishay Honokaupu and I was born and raised here on Molokai. If you don't know me, my parents are Yama and Caroline Kaholoaa. If you have any questions on what is going to be happening for this proposal, I am glad to answer any questions. Thank you and thank you for your time.

Chair Buchanan: Thank you, Ishay, and I applaud your entrepreneurship. I like when Molokai people try to open businesses. I -- I have a question, don't go too far, because this one is a little bit more difficult for me to waive, and I going to explain why, and depending on what is represented on the record today, there might just be that. Planner Lopez, what was the reason for having the parking needed?

Ms. Lopez: To fulfill Chapter 19.36.A, which is the parking requirement if you having something affixed, which is -- so it's non-temporary versus temporary use, because the lunch wagon will be non-temporary, meaning stationary, that -- that would put the -- the Department consider that as a restaurant or food establishment in 19.36.A, which considers a requirement of three parking stalls at a minimum and every space -- so if you look at this, their site plan, they actually do have like a sitting area, which is ten-by-ten, so it's a hundred square-foot, so then she has a requirement of three parking space and

with the addition of the fourth parking to accommodate the hundred square-foot of sitting space, which would probably be like a planter and a sitting -- like a bench.

Chair Buchanan: So, the parking spaces depicted in the floor plan is -- this is going to be right next to the Mini Mart?

Ms. Honokaupu: Yes.

Chair Buchanan: Yeah.

Ms. Lopez: Correct. Still on the property, so it'll be on the Mini Mart side. And we did go down and measure, and according to what -- and we did do an agency transmittal to the Department of Public Works, and so Public Works Engineer is aware of our situation where we actually located this 'cause we had -- they actually sat down with Public Works to say how come we cannot have it here, and, you know, Public Works had their own comment saying that you cannot have parking on here because the ingress and egress of coming onto that property --

Chair Buchanan: I -- okay.

Ms. Lopez: And so, the only possible parking would be right here that'll be designated.

Chair Buchanan: Okay, so that was my ingress and egress question --

Ms. Lopez: Yes.

Chair Buchanan: And the reason why is we just approved the permit for the Thomas Trade Center for the hotel, and the hotel's ingress and egress is off of Ala Malama Avenue and exiting at Mohala Street, and so if we -- if we take that exit off of Mohala Street, and you have additional parking now in an area that is already congested because we -- we see the Mini Mart has parking as well as the restaurant facility there, and the ingress and egress of Taki's Store and Ace Hardware, and people now I think illegally parking on the Mohala Street sideways where the proposed project is to occur, you have the setback of the corner lot, yeah, what does it say in the County rules if I leave tires on my -- on my lunch wagon as opposed to taking the tires off?

Ms. Lopez: Can you repeat?

Chair Buchanan: Okay, so, because this is an affixed lunch wagon, as -- as you -- you determining in 19.030 or whatever you -- which requires the addition of parking stalls and blah, blah, blah, blah. Now had that been just a traditional lunch wagon that was

removable, does -- like -- like when you do an easy up, so if you put up one easy up or you put one Matson container in the SMA, the rules say for one tent, you gotta take 'em down in 72 hours, but nobody ever does, okay, so what I trying to get at here is if this lunch wagon had -- was still in a condition that it could be removed, what does the law say about leaving a lunch wagon parked, like we see lunch wagons parked in other spaces in the SMA, what is the rules that say they can -- they gotta park and leave?

Ms. Lopez: They don't have to come in and have your purview and go and get an SMA permit, and they don't need -- they're not subject to the County permits, meaning they don't have to come in for an SMA --

Chair Buchanan: Okay.

Ms. Lopez: They're not subject --

Chair Buchanan: But do they have to move?

Ms. Lopez: Yes.

Chair Buchanan: Under the law?

Ms. Lopez: Unless -- yeah, they cannot be -- vendors park more than three days in one location, and does not move, will be considered a restaurant and we will need to follow Title 19.36.A parking code.

Chair Buchanan: Can you define "move?" Can you define "move?"

Ms. Lopez: Parked. It says, "parked."

Chair Buchanan: Okay. Can you -- so if I move it, and I come back and park it, what happens? No, I'm serious. I'm serious.

Ms. Lopez: Move it and park it in the same location?

Chair Buchanan: Yeah. Or maybe a foot away from the same location, or two feet away from the same location? Okay, I just asking. I'm being difficult. So, no, you know why? 'Cause when you're affixed and you adding stalls, you adding more -- more scrutiny of a project, and then if it's an affixed thing, the next thing I going ask you is what would sewer? What about the bathroom? If this is an establishment, what is required for them as a food establishment for bathroom facilities? They no have to have bathroom facilities?

Ms. Lopez: Good question.

Chair Buchanan: Okay.

Ms. Lopez: This is only an SMA so it's just the lunch wagon itself and providing parking in a limited parking area, which is Kaunakakai Town that we all know that is very limited with parking, and I glad that you brought up the Maluolu Place because that would be the egress of the -- the eight-room hotel, which is actually across of where the parking is, not directly, but indirectly across, and it actually -- what was considered by Public Works is because it continues the flow of the other market, which is Mini Mart, and they actually added, the Public Works, which you talking about the parking along side, they -- Public Works marked it for -- to add more parking stalls because they took away, if you noticed, two stalls across the street and moved the -- because they had to move the handicap more further down, and they created a bus stop because MEO bus stop comes right on the corner of Misaki's, and so that was the most recommended area for that. But in regards to your questions, it's not -- I mean, you got good questions. I just can't answer them because it's -- what they're doing is they already complied with what SMA review is and we only looking at -- at the structure, yeah, so that would come out of State and Department of Health. That's more of a State issue than a County unless -- I mean --

Chair Buchanan: Commissioner Sprinzel.

Mr. Sprinzel: Is your truck drivable?

Ms. Honokaupu: Yes.

Mr. Sprinzel: And, incidentally, sorry you had to wait four hours to get to you. And why on earth don't you just drive it off and on every four days or three days and have a chat with our parking wardens to make sure they know what's going on?

Ms. Honokaupu: Okay. Sure. Thank you.

Mr. Lasua: Madam Chair?

Chair Buchanan: Yes?

Mr. Lasua: Now, based on the application, it says TMK 2, or the Mohala, yeah, 5-3-002, so if you move your vehicle, as long as you're on that property, it's considered -- it's still going to be considered a lunch wagon, right?

Ms. Lopez: If -- if they would go in the public -- the County Public Works right-of-way, not necessarily.

Mr. Lasua: But they're on TMK, there's a TMK that identifies where she's going to be parking, right?

Ms. Lopez: Correct.

Mr. Lasua: Okay, as long as she's on that TMK, no matter where it is on that property, that's not -- it's not -- it's not going to create anything that the Maui County is going to make it invalid, right?

Ms. Lopez: No. That's why we're here today.

Mr. Lasua: Okay. But if she parks on the sidewalk, you know that walkway, between Yoshinaga and Misaki --

Ms. Lopez: Then they're not subject to any SMA rules or parking requirement.

Mr. Lasua: Okay, so I'm just trying to figure out like the question that Chair was asking, if she moves it, or even a little bit, it's still going to be on the same property?

Ms. Lopez: If he -- if she moves it outside of it, it'll be on County road and, therefore, if they -- a motor vehicle on County road, they don't constitute any -- any type of permit.

Mr. Lasua: Yeah, so I realize that, so I'm not sure what the Chair was asking whether she moves it off the property or move it within the property.

Chair Buchanan: Yeah. Thank you, Commissioner Lasua.

Ms. Lopez: Thank you. Just -- just to let you know, you are going to be seeing another food -- another SMA like this.

Chair Buchanan: I think it's great. So, Commissioner Lasua, you get --

Mr. Lasua: Yeah, so I'm trying to address what she was asking and I guess -- I guess as long as she's on the property, it's okay.

Ms. Lopez: So, you're asking for permission to operate or permission to -- if it's permissible wherever the -- the motor vehicle is whether it's on property or off property?

Mr. Lasua: I'm just trying to find out if -- if she parks on the property 'cause, right now, based on this design, her wagon would be right on the side of the Yoshinaga store.

Ms. Lopez: Correct. Imports.

Mr. Lasua: If she moves it to the left or to -- to the west or back, I mean that -- that doesn't violate anything, right?

Ms. Lopez: No. No, no, no.

Mr. Lasua: Okay. It's still on the property. That's what I'm trying to get at. And I'm not sure what the -- the Chair was asking 'cause she said if she moves it, then what, and I -- I'm assuming that she meant moving it off the property.

Ms. Lopez: That -- that was my assumption.

Mr. Lasua: Okay.

Ms. Lopez: Sorry, I made an assumption.

Mr. Lasua: Okay. Thank you.

Ms. Lopez: I should have asked more clear questions. Thank you for that clarification, Commission.

Chair Buchanan: I guess, Staff, then that might be conflicting State and County rules. So, the State rules would apply to the Department of Health rules for a food establishment. Is that where the whole thing about moving, not moving comes from?

Ms. Lopez: You mean from State? This is from -- this is from our County parking code, under Maui County Code 19.36.A. Regarding like sewer and whatnot, I don't know because the structure is so small, it's 178 square-foot, square footage, and so what it carries is just like a cold kitchen, prep kitchen, and selling out of a vehicle.

Chair Buchanan: Yeah. I just -- I wish we wouldn't have to deal with the whole parking issue right now, you know, because Mohala is -- is a street that's getting very congested that never used to be congested, that is getting congested, but that -- this property has come before the Planning Commission several times, every time the use change, it's been coming to us so -- and then the mitigation of hazardous waste by gasoline had already been mitigated and pau, and so I'm happy to waive review of one lunch wagon there, but I cannot see -- but if they affixing it and it's a permanent eating structure that

has parking regulation and then other conditions, you said zero sewer, yeah, so no bathroom, no nothing, nothing else has to be implemented as a food establishment?

Ms. Lopez: None.

Chair Buchanan: Commissioners?

Ms. Lopez: The disposal would be upon the -- the operators of the lunch wagon, so that will be a daily -- so it would be something on a daily basis.

Mr. Lasua: Sybil, based on the parking, which is -- I'm concerned about that too, now, what's the reason for having parking? Because it's considered a restaurant?

Ms. Lopez: It constitute as a food --

Mr. Lasua: Okay.

Ms. Lopez: Food and service establishment.

Mr. Lasua: Because it's considered a food establishment, does it also include the parking in town?

Ms. Lopez: No, that's why they had to provide their own parking, so they worked with Public Works to see if they could add, so Public Works could add, you know where they do the hot dog stand, and then add couple more stalls there, but they can't because this is what was designated as their ingress and egress, so they cannot block -- so, therefore, they cannot block their ingress and egress, and so because this already, before, prior was already -- the concrete is already there, so it exist, so it was already an existing parking structure anyway for the mechanics to go in and out of the station, so they -- they just recommended it to be over here because it's cleaner, the flow from Mini Mart to -- from one -- from one establishment to another it just -- it just looks cleaner to that and -- and involving the other - what is that called? Not vertical, but the horizontal -- parallel parking, so the parallel parking stall, so that wouldn't circumvent the parallel parking that's already exist that the Public Works put in there.

Mr. Lasua: So -- so, my question is does the parking have to be located on the property?

Ms. Lopez: Correct. Yes.

Mr. Lasua: It does.

Ms. Lopez: Because there is no other -- because it's a requirement when you add another food service establishment that they cannot flow from parking that already exist because it's something new adding on to -- on to the property and they would have to -- they do require --

Mr. Lasua: Okay.

Ms. Lopez: Parking stalls on property.

Mr. Lasua: Okay.

Chair Buchanan: Humbug, yeah? Commissioner Pele. I -- I don't know. 'Cause if it was just a lunch wagon, we good. Lunch wagon, you know. Get other lunch wagons in town that is pretty permanent but they still get tires on top so that's why I'm asking the question.

Ms. Lopez: Well, they're coming for SMAs as well.

Mr. Pele: Yeah, so that's why --

Ms. Lopez: ...(inaudible)... you're all -- it's all going to be coming before you. So, this will be the first of three to come or more.

Mr. Pele: I kinda like the idea that they have the parking on the property. That's kind of a good thing, if you ask me. I don't have any problems with it in Kaunakakai. It is Kaunakakai. I park in one stall and I walk the whole town and shop. Even though I own my own store, I shop in Kaunakakai. But I think it's a good thing to have the parking on - - it's regardless whether it has tires on, it's just for me, it's, you know, I guess they're saying if they move it ten feet to the left every three days, is that -- or do they have to move it off the property, I think that's what you guys are talking about, right? So, if I get it in and say, okay, it's here; ten feet over, now I've moved it for a day, so I'm -- I don't need to listen to any of the -- any of the rules? I don't see why we have to make them do that. I'm all for it man. More eateries is good to me. Sometimes I get tired of eating at the same place in town. I can only eat so many burgers from Molokai Burger.

Ms. Lopez: Thank you, Commissioner. Thank you, Commissioner. I mean if that is the idea to move, then they're not subject to SMA, and so then the applicant can, therefore, withdraw the application and there would not be anymore parking stalls. I mean, you know, that -- that's what you will be ...(inaudible)...

Mr. Pele: Well, we're not -- we're not deciding whether there's bathrooms needed. That's all DOH, right?

Ms. Lopez: Correct.

Mr. Pele: So, even though we approve this, DOH, that's still a hurdle they have to go over.

Ms. Lopez: Right.

Mr. Pele: They made us put another bathroom at the hotel that we don't own, but I had to do it.

Ms. Lopez: You're approving the structure and the --

Mr. Pele: Right.

Ms. Lopez: Stall.

Mr. Pele: So, yeah, that's just the structure. DOH is something they're going to have deal with on their own, which can be a nightmare. Believe me.

Ms. Honokaupu: We do have a support kitchen that we were -- we are going to be disposing of our sewage from the lunch wagon, which is required by the Department of Health.

Chair Buchanan: So, you cooking offsite and you bringing everything there?

Ms. Honokaupu: Yes. Which -- which has been approved by my support kitchen, and I have been working with Daniel to make sure I'm in the guidelines of the food department permits, Department of Health.

Chair Buchanan: Okay. Commissioner Sprinzel.

Mr. Sprinzel: And you're doing this five days a week?

Ms. Honokaupu: Yes.

Mr. Sprinzel: Well, I would still suggest you drive off the lot on Wednesday and on Friday night, then you wouldn't have any problems on this.

Ms. Honokaupu: Yeah, okay.

Mr. Sprinzel: Honestly.

Ms. Honokaupu: Yeah. Thank you.

Chair Buchanan: You know, it's difficult because this Commission is governed by Chapter 205, which is the special management area, within that area, there's a lot of criteria and impacts that you need to determine that's how come we gotta waive or not waive the review, that's how come I ask if there's going to be significant changes to footprint and stuff like that because then I already know the triggers of what going be problematic, and when you -- when you go from temporary to permanent, then you open up one whole other can of worms for review, and so I'm sitting here thinking of not making any rash decisions today because all I need is somebody else tell me you the one went go approve that, you know, now look, and so I'm already thinking because I do frequent Mohala Street and Mini Mart a lot and I always, under my breath, going, whoa, no more parking, you know, and then Misaki's is saying no part over here, this my parking space, and then everybody parking in Taki's and stuff like that. I like the -- I love the idea of having another food truck in town and -- and I haven't sorted out in my brain really the rules that is driving this accept permanent versus non-permanent. So, I just -- I really don't have one -- one comment at this time. I would have to probably, you know, for me, I cannot. I either going abstain or defer because, at one point in time, we had Kehau Pule came in for one SMA permit to use the old Kim's Garage, and I old enough to remember Kim's Garage 'cause I used to take hula from Aunty -- from Aunty inside there, but that was repurposed several times, and it became a car rental, and, at that point, the car rental started parking all kind junk cars on top of the parking lot and people started grumbling, and then started attracting rats and all kind stuff, so that's what I mean by you no think about cumulative or adverse impacts when you review one project. The thing I happy about is no more plumbing and no more sewer, so you no have to be digging, you no have to have State Historic Preservation Division, you know, all of this is -- is minimum as you can do, however, you are going to need to establish parking stalls now, yeah, then -- then the review would be, okay, what kind of parking stalls. She said gravel. Okay, I'm happy with the gravel 'cause we all know it's flooded, so that's just -- if -- if Mr. Kahaloaa wants to say something, go ahead and say something but -- and then Commissioner Pele. Help me out.

Mr. Kahaloaa: Molokai style. Aloha.

Chair Buchanan: Aloha.

Mr. Kahaloaa: My name is Yama Kahaloaa, and I listen to all this and, you know, you guys have good legal aspects about how it better our condition, but, you know, the lunch wagons, they all certified. We have a gray water tank on it that we have to dispose of it

every day, yeah. We have clean water. And the other thing is it's a grab and go, so it's not something where the people going come and park, and so it's just come, grab and with fast service, so if you talking about the parking situation, I think that we not going to create too much of a traffic there. Right now, where -- where all that cars park all the time where they do all that sales, that belong to Yoshinaga too, all the way up to the highway, yeah, so no where they going put no parking inside so people just gotta find a place, yeah, but we will try accommodate and whatever way is legal and accommodate the community and the business.

Mr. Pele: Oh, that was my question for Sybil. Right now, I mean we're talking about the lunch wagon but it's not like that area, I mean I buy laulau every Saturday from a tent parked right there, every Saturday, I no miss, I don't know the family who sell it, but I buy laulau there every Saturday on my way to the hotel. No miss. So, what's going to happen? We got shave ice over there, you got fish selling over there that's been going on for years and years and years, and I -- I just don't understand how we can say that now this is going to create all this congestion when there's -- somebody is selling there like every day, so what -- I mean are those people still going to be selling there or my understanding that now they're not going to be there? I mean I'm not really worried about them not being there, but I'm trying to make the point that there's people there every day for last ten years, and now we're talking about congestion? I mean like they're there. Shave ice, right? Kulolo. Laulau. Hot dog stand. I mean, they're there every day of every -- for the last ten years they've been there.

Mr. Kahaloaa: Okay, maybe I can answer that question.

Mr. Pele: No, but the thing is the congestion doesn't change. They're there. So, we keep -- we're saying that there's going to be congestion, I don't understand the congestion 'cause it's already there.

Mr. Kahaloaa: Okay, you know the good part about Molokai, and then, you know, we love all the Molokai people, so whatever they're going to sell, you know, we're going to be working with them as long we don't have a conflict they selling the same as we are 'cause we pay the lease, we have a lease agreement that we have to pay, you know, and we were talking about, you know, if people wanna sell, they can come into our establishment and sell, you know, laulau, so we all go hand-in-hand, but there's a liability, you know, insurance, yeah, which we have, but then going -- and they going create a lot of problems so -- but -- and I understand Molokai, most of them don't have a permit, you know, that's okay. We all have to make a living, yeah? And we can -- and, like I said, whoever sell, you know, whatever they wanna sell, eh, that's fine. We all can work together. And then you talk about parking, yeah, I think our establishment is a grab and

go, there won't be any parking. A lot of time when guys come, they buy laulau, they just grab and go too so they shouldn't park.

Mr. Pele: Yeah, Yama, don't get me wrong. I don't think you have to accommodate the people selling there. My point is that there have been people selling at that location for years and for years, every day, and traffic was never a problem that I see. Now, you gotta -- I mean, it could have been a problem, but they're still -- it still exist. It's not like it doesn't exist. You guys can't tell me that people don't sell stuff from that corner. I mean, so to use it as a reason, if she's going to have her own parking, I think it's great. I don't know. I don't -- I don't know.

Chair Buchanan: Commissioner Espaniola.

Ms. Espaniola: Yes, I think for the most part, I mean if we had our way, we'd just say go right ahead, but I think because of the -- the 205, the rules that we have to -- we're trying to find a way so that it doesn't prevent you or cause any feedback from, you know, repercussions on our part.

Mr. Pele: What is the 205 that we gotta be -- I mean, we gotta watch?

Ms. Espaniola: ...(inaudible)... the rules.

Ms. Lopez: Chapter 205A, HRS, that the reason why they came in, it's that -- because they're in special management area.

Mr. Pele: Yeah, but what --

Ms. Espaniola: Yes.

Mr. Pele: But what are we watching out for?

Ms. Espaniola: So, that's what I'm saying. If we can avoid -- I mean, that it's not going to be any repercussions to -- to the Planning Commission, I mean I -- I'd like to approve it and say go right ahead, but I mean I'm -- okay, so again --

Mr. Pele: I don't know. I'm lost.

Ms. Espaniola: So, we need to --

Chair Buchanan: So -- so, I going explain why I cannot waive, okay. The reason why is because if I waive a project, like we did with the Dennis Salas, and I still salty about that

one, 'cause I never ever want to waive a review of a new home in a special management area, never, but the reason is you cannot put a condition on a project that you waive, so already Sybil is here telling -- giving us the heads up that guess what? You get three more just like this coming in. We don't know where. But, if that other person come in and we find that, oh, you know what? No sound too good. I think you gotta come in for an SMA permit. The consistency no more 'cause they going say, oh, how come you went waive that one, and now I -- you not going waive me?

Mr. Pele: But aren't they individual? But is it -- wouldn't it be some specificity that -- that might be different that would cause us to not waive?

Chair Buchanan: But we don't know.

Mr. Pele: Well, that's the problem. We don't know. So, when you don't -- I just -- if I don't know, I can't just make up reasons.

Chair Buchanan: I agree with you. I agree with you. I totally agree with you, John, that I really want to see this happen. I do. There's a thing in the State law they call the "precautionary principle," and when you cannot determine impacts at this time, you ask that the permit either be denied because of precautionary principle, so it's to allow for unforeseen circumstance in the future. I not seeing one big issue with this except that, Ishay, my staff going be at your lunch wagon every day, they going pull right in in the front, they going take the first stall, okay, because they just waiting for one other food establishment, so all I saying is -- is if she does get a review, which not going be much more than this, the great thing is she can say, eh, I had one review. I get one SMA permit. I get one permit from the Department of Health. I'm all G. You know, I cannot deal with complaints. As for the people who park in front and sell food all day every day, all of that is complaint driven. All of that is illegal. Number one, let me tell you that. Okay, it's illegal. You cannot vendor off of the street of the County or the State of Hawaii without a vendor's license, so all of that is illegal. It's just complaint driven. That's part of our culture. We local, we support local. We no grumble. Maybe somebody else going grumble, but not us. So, that's just that. So, again, it's up to this Commission, you know, but I like -- I Ishay know that, and I like Yama know that because I total support this. I so happy for Ishay that she young, and she sitting here, and she willing to do business because it's so difficult. But I think if we -- I don't see how going be more cost, more erroneous cost-wise to -- Sybil, can you expound if she move forward to do -- if we no waive the SMA, what more that she has to comply with that she never already comply with?

Ms. Lopez: Nothing 'cause it's in compliance.

Chair Buchanan: There you go. Okay. I'm happy now. I am not -- I'm going to vote to not waive and everybody else can -- you guys can waive and override me because this going come back to us as a -- a minor SMA permit? No? Not?

Ms. Lopez: No.

Chair Buchanan: We just going --

Ms. Lopez: I mean, I don't -- I don't -- it depends what you -- so you can either not waive or waive the review.

Chair Buchanan: Okay.

Ms. Lopez: So, if you don't -- not waive the review, it's deferred or the not waive review is to request for the whole application to be seen as a minor -- as a report, then you decide whether you're going to still waive or you're going to add it as a minor report and as -- add added conditions, and the reason why we coming to you for an exemption is because there's no other added conditions to this SMA that we see or deem fit that this project needs so --

Chair Buchanan: Well, one added condition for me would be complaint driven. So, at the point where if the action -- if the -- if there are adverse or negative impacts by this new project in the TMK in town, then the condition -- then somebody would be able to -- the condition would be that based on complaints or complaint-driven or multiple complaints, that they would have to stop work and stop business, reevaluate the way they doing business, or if it has -- that would be probably about the only thing I can think of right now that would be a condition.

Ms. Lopez: Can you explain "adverse impacts?"

Chair Buchanan: Too congested, people not using the space as they supposed to, parking where they not supposed to park, staying too long, hanging out, too much people.

Mr. Pele: How -- how are we going to control complaint driven? I mean, it could just be -- they could just be another business owner --

Chair Buchanan: Same thing with short term --

Mr. Pele: Who just is jealous because more people buying plates from you than they buying from me so I going complain. I don't think that's --

Chair Buchanan: Yeah.

Mr. Pele: I don't know how you -- especially on this island. We no -- we no do the a`ama crab on this island, huh?

Chair Buchanan: No.

Mr. Pele: Yeah right.

Chair Buchanan: So, the short-term home rental is -- is -- it says, yeah, complaint driven would be something that would not renew your permit or cause you to not renew?

Mr. Pele: Yeah, but there's specificity in that complaint --

Chair Buchanan: Yeah.

Mr. Pele: On what you can complain -- here, you can -- parking, it could be parking, I don't understand, like their four stalls or they're parking by Misaki's and they're walking over? I just don't understand how a complaint driven -- I don't know how you mitigate just open complaint driven amendment or a stipulation or -- 'cause you can just have a complaint --

Chair Buchanan: So, Kaunakakai --

Mr. Pele: Just because somebody might not like them.

Chair Buchanan: Yeah.

Mr. Pele: Oh, I'm just gonna complain 'cause I no like the color of your hair.

Chair Buchanan: I agree. So, Kaunakakai is a historical town, okay. Because it's a historical town, it has a business country town overlay that protects the integrity of the historical look of the town. When you start to add dimensions to the town that change the character of the place, then -- then that's not a good thing to do and that's how come you get all these rules in place that tell you what color you can paint your building, that the façade you gotta put on gotta look like this and if not, then you get one variance, like the church. I mean, the Molokai Credit Union had to come in and they had to meet all the same criteria so they would look like everybody else in the historical --

Mr. Pele: ...(inaudible)... what about our -- that Saturday market, little Saigon right now on Molokai? Tents on sidewalks. I mean, I don't know how we address that.

Chair Buchanan: Yeah.

Mr. Pele: I mean, they just, you know.

Chair Buchanan: Temporary. Yeah, it's --

Mr. Pele: I don't know if temporary. It's been there kinda long but --

Chair Buchanan: And -- and the master plan, believe it or not, calls for it to move so --

Mr. Pele: Yeah. Yeah. Yeah. I hope it does move.

Chair Buchanan: It's a difficult one, John. I agree. Okay. Go ahead. We wasting time.

Ms. Oana: Chair, I just wanna kinda pull the Commission back to what we need to talk about, which is special management area exemption. I think Mr. Pele might have started asking questions about what are -- what are the objectives of the special management area, and so I just wanted to read those because I think it's very important to your determination here. So, in your Molokai rules, 12-302-10, special management area objectives and policies, A: The objectives and policies of this chapter shall be those set forth in Section 205A-2, HRS. So, when I go to that section, that's the Coastal Zone Management Program, objectives and policies, and I'm just going to start reading it, and it's long so you can cut me off when you're tired, A: The objectives and policies in this section shall apply to parts of this chapter; B: Objectives, 1: Recreational resources. Provide coastal recreational opportunities accessible to the public; 2: Historic resources. Protect, preserve, and where desirable restore those natural and manmade historic and prehistoric resources in the Coastal Zone Management Area that are significant in Hawaiian and American history and culture; 3, and these are still the objectives: Scenic and open space resources. Protect, preserve, and where desirable restore or improve the quality of coastal scenic and open space resources. We're still in the objectives. Coastal ecosystems. Protect valuable coastal ecosystems, including reefs, from disruption and minimize adverse impacts on all coastal ecosystems. Economic uses. Provide public or private facilities and improvements important to the State's economy in suitable locations; 6: Coastal hazards. Reduce hazard to life and property from tsunami, storm waves, stream flooding, erosion, subsidence, and pollution; 7: Managing development. Improve the development review process, communication, and public participation in the management of coastal resources and hazards; 8: Public participation. Stimulate public awareness, education, and participation in coastal management; 9: Beach protection. Protect beaches for public use and recreation; 10: Marine resources. Promote the protection, use, and development of marine and coastal

resources to assure their sustainability. So, those are the objectives of the Coastal Zone Management Program. I can read the policies, but if you can kinda see, it's to protect the ocean, and so when you're talking about parking and everything, if -- if that's going to be something that's going to make you wanna review this, during your review, you're really reviewing whether this is a development or not; if it is, it shall be subject to special management area minor permit, and she'd have to go through that process if you find it is a development. And so, basically, if you want to review it, at the review hearing, you'll be determining whether it's a development or not, and if it is, if you determine it is a development, under the definition in HRS, then she'll have to go for a minor permit. I think it would be a minor permit. But --

Chair Buchanan: Yeah.

Ms. Oana: I've read the objectives to you for the Coastal Zone Management Act and I think the -- your discussion on the parking may be a little off base from what the objectives are for the SMA.

Chair Buchanan: Yeah. Okay. I agree. I agree.

Ms. Oana: So, I just kinda wanted to pull you guys back to --

Chair Buchanan: Thank you.

Ms. Oana: What the objectives are.

Chair Buchanan: Thank you for roping me back in. After that, I think I'm kinda clear in what -- what I -- I know what I would like to do. I would like to review the project because there's two things that she said that really struck out, number one, suitable location; number two, public participation. I think if we at least schedule a review to see if it's a development or non-development, and, in my mind, I can already see what I would say that this project is, you know, but at least a review of it would show that we supported public participation and feedback from the public since it is right in town, same like Mr. Manera's review was -- we waived the review, yeah? Yeah, 'cause nothing never change, parking never change, nothing. So, that's just one consideration. Mr. Kaholoaa.

Mr. Kaholoaa: I like say one more thing. You know, what I understand that you guys are trying to keep Molokai Molokai, okay, that I understand. And then so get rules and regulations that you need to or people need to abide by. The biggest question is who is the one going to do the enforcement? You guys can make all the rules and regulation here in what -- what need to be done, but who's going to enforce it? That's another question too. 'Cause if you talk about the resource management, the ocean, I was part

of the guys who worked on the -- the drain from Kaunakakai Town, supposed to go all the way out to by the canoe shack, that's where the outlet supposed to be, but if you go and look in the sewer right in front Pascual, you look where all the water stay, it's staying back there because Kaunakakai Town is lower than the ocean level, so if you talk about you going to protect the environment, the resource, yeah, somebody need to do, you know, the citation, yeah, otherwise, you guys can talk -- we all can talk about what's good for the island, what's good for the resources, if you not going do, you know, enforcement, it's no, you don't need to make all these rules and regulations. The other thing too, if you go right in front of Misaki's, every time they weed-eating over there, they blow all the grass in the drain. The grass is full. Now, that's another thing, yeah. So, you guys can make all the rules, but all I know that what we trying to do, it's an established business, and I'm glad, glad that you guys understand, as a applicant, what we have to go through with the County and what -- with the SMA permits. You know, a lot of things I don't understand, yeah. So, and I appreciate what you guys -- give us more knowledge then we can go home and learn more. So, for -- so for us, as a family, we trying to be independent, yeah, and we -- we hard workers, yeah. I believe in working hard and trying no -- don't depend on other people, so whatever little things we -- we create, especially lunch wagon, it's going to be a family thing, want to get all our children involved, yeah, so whatever we decide today, that's fine. If there's more things we need to know, yeah, then we -- we have to go in that avenue and main thing we still within the law. Okay. Thank you.

Chair Buchanan: Thank you.

Ms. Lopez: And I just want to thank, first thank and commend the applicant for actually coming in before even actually operating because the other two that's going to come in before you is an after-the-fact because they've already operated, and so that's the two difference, and I think that the Commission should really commend this applicant prior to even going on the property thinking that it's okay, operating, and then, oh, I sorry. I never knew that I needed an SMA permit; in comparison to the other two, which is operating as of today, you know. You guys, everybody eat from all of that -- that place and whatnot that you have from, but this -- they actually took the time out, and we've met consistently, we -- I don't know how much I sat down with the applicant to make sure that this lengthy process that we call "SMA" and applying for an SMA application, which is ten-pages long and part of the Chapter 205 that thank you, Corp Counsel, for reiterating that they had to go, they have 12 criteria of Chapter 205A that they had to complete even before that it is in front of you, and the reason the request to waive the review is that the review was already made during the Department, and if you're requesting to see the full report, it'll be the same as what you see now. I don't -- I don't know any addition to what is being said under -- in regards to public participation, that's why we have it on our agenda today, and it's documented as Section F, in the Director's Report, under Mrs. Ishay Honokaupu, and if there are public testimony that would wanna do public testimony, we can request that

we can continue public testimony if anybody else has anything that they wanna say, that the public wanna participate in, and any comments, recommendations, concerns, or issues that we would wanna request that we can ask now. Thank you.

Chair Buchanan: Okay. Commissioner Poepoe, yeah, we going -- we going wrap this up real soon. You get question? No?

Mr. Poepoe: Yeah. I get one question for Ishay. The -- your truck already stay over here on the island?

Ms. Honokaupu: Yes.

Mr. Poepoe: At -- at your guy's house or something?

Ms. Honokaupu: Yes.

Mr. Poepoe: Okay. So, you -- you would be ready for operate as soon as you get one permit?

Ms. Honokaupu: Yes.

Mr. Poepoe: Okay.

Ms. Honokaupu: Thank you.

Chair Buchanan: Nice. Anyone in the public wishing to testify? Can you give Aunty da kine mike 'cause I know my staff gotta go catch their plane?

Ms. Caparida: My name is Judy Caparida. I was laughing. I'm laughing here because everybody is trying to make it right. I mean, I look at it that way. You know, everybody is trying to make it right. But then you get all these guys is illegal, so what they going make noise about, you know?

Chair Buchanan: Yes.

Ms. Caparida: So, I would really encourage you, sweetheart, go do what you gotta do because you know why? The Lord knows the heart. He knows the heart. And that's all I needed to share.

Chair Buchanan: Thank you, Judy. Any questions for Aunty Judy?

Ms. Poepoe: Can I ...(inaudible)...

Chair Buchanan: Okay. Thank you. Mahina.

Ms. Poepoe: Mahina Poepoe. I don't really have an opinion about waiving or not waiving, just to say that I support the business idea and I think it's a good idea, and I'm excited also to have somewhere else to eat. That's about it. Thank you.

Chair Buchanan: Thank you. Commissioners, anymore questions for the -- for Ishay or Sybil? I only have one comment. I know the Yoshinagas. I used to go and play over there all the time. Jody Yoshinaga is my classmate. I was on a plane with her recently and heard her tell me about the family struggles with the property, so I commend the Yoshinagas for trying to work with local families to try and mitigate that. I'm aware of their hardships. Commissioners, I entertain a motion to waive or not waive.

Mr. Lasua: I move to waive the review.

Mr. Sprinzel: Second.

Chair Buchanan: It's been moved and seconded. Any discussion? Okay, call for the vote. All those in favor to waive the review, right hand. Okay, six in favor, and then I will vote to abstain, that will be counted as a yes vote. Thank you very much.

It has been moved by Commissioner Lawrence Lasua, seconded by Commissioner John Sprinzel, then

VOTED: to waive its review of item F.1.b.

**(Assenting - L. Buchanan-Abstain, W. Buchanan, L. Espaniola, L. Lasua, J. Pele, L. Poepoe, J. Sprinzel)
(Excused - C. Adolpho, X. Bicoy)**

Mr. Yoshida: Yes, Madam Chair, we --

Chair Buchanan: Congratulations. We going come eat. Hurry up.

Ms. Honokaupu: Thank you.

Chair Buchanan: Go ahead, Clayton.

2. Pending Molokai Applications Report generated by the Planning Department with the March 28, 2018 Agenda Packet (Appendix - A)

- 3. Closed Molokai Applications Report generated by the Planning Department with the March 28, 2018 Agenda Packet (Appendix - B)**
- 4. Agenda Items for the April 11, 2018 meeting**

Mr. Yoshida: We circulated our list of pending and closed Molokai applications report if there are any questions on that. Hearing none, the next meeting is scheduled for April 11th, we'll have two new members onboard, we'll have election of officers for the coming board year, we'll have some orientation training, and we'll have several more SMA assessments to bring forth. And we want to thank Commissioner John Sprinzel and Uncle Billy for their service on this board.

Chair Buchanan: Thank you very much, Clayton. You know, you talked about the pending meeting on April 11 and agenda items, can, Suzie, can I make -- I want to see some other stuff on the agenda. Can we talk about the attendance policy for the Molokai Planning Commission to amend rules to include an attendance policy, and can we have that if we don't have a lot of things 'cause we having an orientation meeting. And then I wanted to talk about the meeting minutes because, apparently, we don't have any, and I not going watch Akaku all over again and for get meeting minutes. I need hard copy of meeting minutes, and I don't know if anybody else does, but I saw that there was a letter saying that we're not required to do so, but I think in my rules I would like to have one. And the third thing is, Suzie, I would like to convene a working group, a permitted interaction group, and PIG, and the purpose would be to review the rules and practice and procedures for the Molokai Planning Commission, so if we can have that on the next meeting agenda. And that's it.

Ms. Lopez: Just a question. What would that fall under as far as --

Chair Buchanan: On the next agenda?

Ms. Lopez: New business, communications, reports?

Chair Buchanan: Well, we going -- we going have to take action on that, yeah? The permitted interaction group, I going ask people to volunteer for that and so we going have to take action.

Ms. Lopez: So, is that an ad hoc committee?

Chair Buchanan: Under new business.

Ms. Lopez: Is that an ad hoc committee?

Chair Buchanan: A permitted interaction group.

Ms. Lopez: Okay.

Mr. Pele: ...(inaudible)...

Chair Buchanan: April 11. It's just on the agenda because anything we want to try and do gotta be on the agenda, and I want to talk about attendance. Attendance is -- is important because we have a commissioner that has not shown up for three months, and we gotta do something and we have no rules.

Ms. Lopez: Chair, just wanna let you know that because we're starting a new, you know, our outgoing and then our new coming in, we are -- the Department is scheduling time for orientation training.

Chair Buchanan: Yeah.

Ms. Lopez: So, I don't know if you wanna add any -- anything in the --

Chair Buchanan: I no see -- for orientation training?

Ms. Lopez: Yeah, we -- we are still trying to schedule it maybe possibly in May, so I just wanted to let you know that orientation training for -- for the Commission is coming up.

Chair Buchanan: Okay. Okay, alright, any -- anything else? Commissioner Poepoe.

Mr. Poepoe: Just my standard question regarding where we're at with the Native Hawaiian Law Training?

Chair Buchanan: I -- that's -- that's not -- that's not even funny. Yeah. I know. It's not.

Mr. Yoshida: We're still at the impasse with OHA and Richardson School of Law on whether we can televise the training or not. I mean, that's the sticking point.

Chair Buchanan: I -- I thought Commissioner Poepoe had made contact with them and they were willing to come.

Mr. Poepoe: Yeah, that's true.

Chair Buchanan: Okay. So, can you work, Commissioner Poepoe, with -- with our planner and Clayton to make sure we get that training and --

Mr. Yoshida: I think we want a uniform training for all planning commissions and the Hana Advisory Committee as specified in the County -- the ordinance that was passed by the Council.

Chair Buchanan: Well, then I think we better find money for two, one in Hana and one on Molokai then because I -- I cannot -- Hana can come over here if they like, but I'm serious. I think it's really -- it's really adverse for this community to have commissioners that are operating without training especially on Native Hawaiian legal --

Mr. Yoshida: Well, whatever you could do to help us break the impasse --

Chair Buchanan: Okay.

Mr. Yoshida: That we have with OHA and Richardson School of Law. I mean, that's been the sticking point for months.

Chair Buchanan: Okay.

Mr. Yoshida: We had something setup for December 9th, but then they said we cannot televise, so they didn't want us to broadcast, so that kind of defeated the purpose.

Chair Buchanan: Well, right now, I want them to come here and do the workshop. So, Commissioner Poepoe, can you see if OHA can fund that or what was the sticking point for them not coming here to give us the workshop and, sorry, but Hana gotta figure it out.

Mr. Poepoe: I kinda went right around OHA and said latas with the funding and we can just do our own training straight from when I -- I had correspondence with Malia Akutagawa, who is training in Native Hawaiian law, said that she would be able to come to Molokai, on her own time in May, and we can setup somewhere, in any classroom or in this room even, agendized or have it a public viewable meeting and I was told by the Planning Department that thanks but that's alright. We just going do some -- we going try consolidate the training. So, that's where I was given the boot with my involvement with this setting up the Native Hawaiian Law Training.

Chair Buchanan: Thank you, Commissioner Poepoe, for your diligence. Okay, well, let's work it offline now that we know that Professor Akutagawa is available, let's just work it out with Planning, County Planning, and then we'll work out the date and let's hope it's within the next two months. I think that's it. That would be great.

G. NEXT SCHEDULED REGULAR MEETING DATE: APRIL 11, 2018

H. ADJOURNMENT

Chair Buchanan: Anything else? No? Okay. We are adjourned. Thank you very much.

The meeting was adjourned at approximately 4:12 p.m.

Submitted by,

SUZETTE ESMERALDA
Secretary to Boards & Commissions II

RECORD OF ATTENDANCE:

Present:

Lori Buchanan, Chairperson
John Sprinzel, Vice-Chairperson
William Buchanan
Leonora Espaniola
Lawrence Lasua
John Pele
Laakea Poepoe

Absent(A)/Excused(E):

Carl Adolpho, III (E)
Xavier-Kaniala Bicoy (E)

Others:

Clayton Yoshida, Planning Program Administrator, Current Division
Sybil Lopez, Staff Planner, Molokai
Jennifer Oana, Deputy Corporation Counsel
Suzette Esmeralda, Secretary to Boards & Commissions II