

(APPROVED: 11/28/07)

**MOLOKAI PLANNING COMMISSION
REGULAR MEETING
OCTOBER 10, 2007**

A. CALL TO ORDER

The regular meeting of the Molokai Planning Commission (Commission) was called to order by Chairman DeGray Vanderbilt at approximately, 12:45 p.m., Wednesday, October 10, 2007, at the Mitchell Pauole Center, Kaunakakai, Molokai.

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

Chairman Degray Vanderbilt: I'd like to call the meeting of the Planning Commission, October 10th, to order. And before we get started, I'd just like to introduce some of the Commissioners. We have Commissioner Sherman Napoleon down there at the far end. Next to him is Commissioner Bill Kalipi -- Joe Kalipi, excuse me. And next to Joe is Commissioner Linda Kauhane. And next to Linda is Commissioner Bill Feeter. And we have Commissioner Lynn DeCoite, Vice-Chair Steve Chaikin. My name is DeGray Vanderbilt. Next to me is our legal counsel, Michael Hopper. Over there recording the minutes is Maui Planning staff member Suzie Esmeralda. And we have the Planning Department Administrator, Clayton Yoshida right over here. And Planning staff person Joe Alueta over here by the speaker stand who will probably be doing the report on the vacation rental ordinances. And next to Joe is the Planning Director for Maui County, Jeff Hunt. And right over here on this table across from Jeff are Long Range planners that should we get to that item on the agenda on the review of the Countywide policy plan, we have in the back aisle is Simone Bosco and next to her is Julia Staley. And with that, I guess we can get started.

I'd like to explain a few things before we go. We had pushed to have a meeting just on the TVR's in the evening, but the Planning Department, for whatever reason, went ahead and did the legal notice saying it would be in the daytime at 12:30, because normally it's our practice to have issues of high interest in the evening so everybody can attend. We have a very full agenda. I did go to the meeting yesterday on Maui where the Maui Planning Commission was, and they had to cancel everything on their agenda except TVR's because they had a large crowd, a lot of questions, and there was a lot of good information put on the record there.

On our agenda, the Planning Department put that -- they wrote in that "The Commission plans to take public testimony on the proposed bills at 12:30 or as soon thereafter and then recess the public hearing until 5:30 and take additional public testimony. The Commission may take action on October 10." The Maui Planning Commission didn't take action. It's very doubtful we'll take any action today, I would think. We didn't approve this language, but according to our attorney because the language says the Commission plans to and

doesn't say the Commission may that we have to have the public hearing now. We have to open it again at 5:30. And if our Commissioners don't object, the Chair is going to recommend that we have the staff presentation at 12:30 and then we'll have it again at 5:30 for those who come, because I think it's important that people at least have a little better understanding of everything because all the information's come out sort of at the last minute.

We were e-mailed a copy last week Thursday, I believe, of a Planning staff report on the TVR's which was 82 pages long. I mentioned it to a couple of people. They asked if they could get a copy. I said, well, it's probably online, but when I saw that it wasn't online, I tried to get the Planning staff report emailed out to as many people. I sent it to Diane over at Swenson Realty, and Friendly Isle Realty, and to the EC, and to other groups, and so hopefully, that information at least got networked out around the island because it's a very complex issue. We're dealing with five different ordinances. We got the TVR's combined in with the B&B's so there's a lot of information to digest. And hopefully today, we can get some good input from the public, from those on both sides of the issue, plus those that are in the business. They can help this Commission, and the Planning Department, and the Council come to some fair and equitable solution on this issue.

I know a lot of you are here to testify. We always open the meeting, and I will again today for those who want to testify on any agenda or any planning matter that have to get back to work and want to just testify now.

My plan was to on the agenda, on Item E, we have "Status of summary of the current enforcement policy on Molokai regarding Transient Vacation Rentals." I think everybody that's in the -- everybody would like to really understand more about that. So I planned if, again, if the Commissioners have no objection, to -- at the start of this thing not only go over the ordinances, but try to understand better where the County's enforcement policy is on Molokai, and who's in charge of enforcing, and how that's going to go down.

B. PUBLIC TESTIMONY ON ANY AGENDA ITEM FOR THOSE WHO HAVE TO GET BACK TO WORK OR HAVE OTHER SCHEDULING CONFLICTS

Mr. Vanderbilt: So at this point, I'm gonna ask if there's anybody that wants to testify on any agenda item before they go. Then I'm gonna ask everybody else that's here -- how many are here to testify on the TVR Bill? Okay. Is there anybody here to testify on any other agenda item? Okay, no. Alright. So after we finish with the initial testimony of people that may have to get back to work, I'm gonna see what the public would like, whether they'd like to testify before the presentation and before an explanation of the enforcement policy or after. And you could go either way at that time.

So at this point, if there's anybody that would like to testify because they've gotta leave at this point -- oh, and I'd like to recognize Councilman Danny Mateo who just came in back at that far table. Thank you, Danny, for coming. So at this point, if there's anybody that needs to leave before all the presentations would like to testify, please come up to the mike over here on the right and identify yourself.

Ms. Cheryl Corbiell: How long is it gonna take ...(inaudible)...

Mr. Vanderbilt: Well, it took a couple of hours up in Maui, but that's because -- the Planning Department said they wanted to give a presentation so we would better understand all the ordinances. And it's not just listening to a presentation. There's obviously gonna be questions. So yesterday I would say, Joe, what did it take? About an hour? An hour and ten minutes -- the presentation?

Mr. Joseph Alueta: For staff?

Mr. Vanderbilt: For staff with the questions and everything.

Mr. Alueta: About an hour.

Mr. Vanderbilt: Yeah, okay, about an hour, but they didn't get into the enforcement issue. And I'm going to ask everybody if they'd like to hear that too. So --

Mr. Alueta: ...(inaudible)...

Mr. Vanderbilt: We don't want shorter. We want thorough. And if it takes two hours to get it thorough, then it's gonna take two hours.

Ms. Corbiell: I have to leave at 3:00. That's why I'm asking.

Mr. Vanderbilt: Three? Okay.

Ms. Corbiell: ...(inaudible)...

Mr. Vanderbilt: Maybe after we -- All right. Commissioners, would anybody mind if we went into an understanding of the enforcement issues, and then ask people who may want to testify at that point, and then go into the staff report?

Ms. Lynn DeCoite: ...(inaudible)...

Mr. Vanderbilt: Okay, we're supposed to discuss on the record according to the Corp. Counsel. So anyway, at this point, I'm gonna -- is there anybody here that would like

to testify on the transient vacation rental issue before we get into the staff presentation? You would like to? Okay. Okay, go ahead, Cheryl, right up here. Cheryl, could you stand at the podium? Thank you. Appreciate it.

Ms. Corbiell: Thank you very much because, yes, I do have to go to work at shortly after three, so thank you very much for allowing me to come, to say it early.

I have just a very short story to tell because this is like deja vu in this room for me. I was trying to remember exactly the year, but it was Wren Wescoatt was still on the Planning Commission and others like him. And in this room, because the County was still working out and talking about vacation rentals and stuff said that they would like to float a balloon, and that is to do the bed and breakfast. So in this room, the Planning Commission members had questions, clarification of the ordinance, public, Diane, people like that, Frances, were sitting in the room while we talked about what was logical for a bed and breakfast. You know, somebody wanted to have white lines painted on the driveways and all those kinds of things. It's kind of stupid because it's a home. And I don't think anybody has to be told where to park a car, and that kind of stuff on a driveway. So we changed them so that they were logical. And at the time, you know, we talked about residential. And so I have to admit, I felt very confident that I was going to fit. It was in my home. It's not an ohana cottage. It's in a residential area. I'm adhering, paying taxes, everything else. Everything's hunky dory. Passed the ordinance. I called the Planning Commission, the Planning Department on Maui, and what am I told? "You can't get a permit. You're interim residential. Call back next year." So I did. And I have called for years. So I am actually very angry that I was lied to, participated in a process that I was led to believe that the two B&B's, two at the time on Molokai, would be able to apply for a permit if we abided by all of the rules. And yet, interim stopped it.

Now, I'm thinking was I lied to by the Planning Department? Did the planners over there don't know what they're talking about? Was the Commission misled at the time because, you know, we had discussions with Wren and others about have you not stayed in B&B's? Do you know what the experience is like? Blah, blah, blah, blah, blah. I mean, it was a friendly process to find out that nobody on Molokai could apply for a permit.

So I want to clear up as to when people say you're illegal, I'm sorry, but I've been through this process once before. I gave input. I put my hand up and said, yes, I'd like to get a permit. Yes, I believe in regulations. And I was told that, yes, if you abide by all of the rules and apply to find out that interim stops it. So the only place on Molokai that I can find because of course the planner on here Molokai doesn't have a map that shows interim, but from the best that I can gather, the only place that's not interim residential at the moment is Maunaloa, because of course that was a new development and the whole community of Maunaloa was passed at the same time. But the rest of us had this magic wand placed over us long after the developments were already built that "interim" became the word.

So my piece of advice is I want the word "interim" put into the ordinance cause otherwise, unless you guys are truly trying to get rid of every single unit on this island, nobody will be able to get a permit yet again cause the ordinance talks residential and rural. And the Planning Department says if you're interim, you cannot get a permit.

Mr. Vanderbilt: Cheryl, can you finish up in a minute, or would you like to come back for three minutes after everybody else has testified?

Ms. Corbiell: No, because that's my main message. Cause this ordinance, I've been through. So I want interim -- two things: I want interim placed into the ordinance, because obviously the Planning Department doesn't understand that all -- almost all land on Molokai that's residential and rural is interim. So if you're going to actually have this applied to anybody on this island, that word, obviously, has to be put in there. Or you have to magically have Maui County re-wave their magic wand, and put us all back to what we were 25 years ago, which was residential and rural, not interim. That's the problem. So this ordinance -- because you guys are gonna go through and spend tens of thousands of dollars of staff time and everything else making an ordinance for Molokai that isn't going to apply to a soul. That I think is stupid. Thank you.

Mr. Vanderbilt: Thanks, Cheryl. Any questions for Cheryl? Cheryl, I had a question, if you don't mind. You got time to go back? Thank you. You said you wanted to make two recommendations to us to put in the bill. One was get the interim zoning identified in the ordinance. What was the other one?

Ms. Corbiell: The second one is I actually think it's time that interim areas were no longer interim because no one can explain to me the benefit of being called interim. I'm seeing the interim zoning is creating huge problems down the road. There might have been a good reason 25 years ago, but I'm sorry, Commissioners, I cannot find anybody that can give me a logical reason why my 30-year-old development is still interim.

Mr. Vanderbilt: Thank you. Are there any other questions for Cheryl? Hearing none. Is there anyone else who would like to testify before we get into the staff report presentation? Okay, hearing none.

Have many of you received an email from some network, a copy of the Planning staff report either Monday or Tuesday? Could you raise your hand just to see? Oh, that's all? Okay. Because I sent it to Diane. I sent it to Friendly Isle Realty to send out to the networks. I sent it to the Ranch. I sent it to the EC. I sent it to a bunch of email lists. So anyway, okay. Thank you.

Okay, with that, I'm gonna ask the Planning Department -- I don't know. I'd like to -- Yesterday, Director Hunt gave some preliminary remarks, and I want to afford him that

same opportunity if he'd like prior to allowing Joe Alueta to give the details of the staff report regarding the ordinances. Director Hunt?

Mr. Jeffrey Hunt: Thank you, Chairman. The Planning Department wants everyone to realize that the issue about vacation rentals is an issue that is being addressed by many, many communities especially those that have a tourist component to their economy. It's very common for these communities to wrestle with this exact same issue that Molokai, and Maui, and to some extent, Lanai are wrestling with. You've got a number of handouts in front of you. The department added three this morning. Let me get them so I can reference them.

We received an email from an organization on Oahu called Keep It Kailua!. It explains the perspective from the neighborhood perspective about vacation rentals. It also has a lot of history on Oahu. Molokai is certainly not Oahu, neither is Maui, but in Planning, we often look to communities that are further down the road than we are to anticipate problems and see what solutions they're dealing with. So by reading that, you can anticipate some of the issues, some of the common concerns, some of the common tools. They also go into length about a number of communities that are grappling with the same issue.

I've also included an article from the *Star Bulletin* back in 2006. Again, this is on Oahu, but it does address many of the same issues, pros and cons on both sides of the issue. And finally, the National Planning Association, the American Planning Association, which is a national organization of planners, put out a *Zoning News*' article back in March of 2002. And it discusses the issues on both sides. It also discusses a number of communities that they surveyed. Most of them are coastal communities, and different tools and regulations that they're using to address the issue. The zoning is somewhat -- is trying to look at both sides of the issue. There's a tendency that we've experienced that this issue is a divided issue. And there's people on one side who only look at their side of the argument. And then there's people on the other side who only look at their side of the argument. And I think what's important -- what the planners are trying to do, what the *Zoning News*' issue does, and hopefully, what other people are trying to do is -- is trying to look at both sides of the issue. There are certainly economic benefits to vacation rentals. At the same time, I think it's important to acknowledge that there's impacts from vacation rentals. And this is what we heard yesterday at the Planning Commission, at the Maui Planning Commission.

There was testimony that went on for hours and hours mostly from the pro vacation rental people. They packed the court -- or they packed the meeting room. And they went on for hours and hours about the economic benefits of vacation rentals. And there wasn't much discussion from those folks about the impacts of vacation rentals. But once the Planning Commission started deliberating, it was clear that there is a community concern regarding impacts to the community. And so while we acknowledge the economic benefits, I think

we also have to acknowledge the impacts and the concerns. And they're both legitimate arguments. And just dismissing one side of the argument and holding onto your side of the argument isn't going to help us find a solution to this very controversial issue. And so I would implore people to listen to the other side, acknowledge the other side, validate the other side. And acknowledge while there is economic benefits, there's also impacts to housing. There's impacts to neighbors, adjacent neighbors. There's impacts to neighborhoods where the neighborhoods are no longer a neighborhood where people live, but alleged to me - I haven't investigated it - but alleged to me, they're basically, mini resorts.

There's also issues with the comprehensive plan. And in this case on Molokai, the community plan speaks to encouraging vacation rental -- vacation accommodations on the west side. The County General Plan speaks to separating visitor accommodations from residential areas. And that's not etched in granite. It's not an absolute. Yesterday there was some talk about how -- what's the wording on that? Is it an absolute separation? It depends on how you interpret it, but from the planners that I've talked to who have been around here a long time, that was a conscious decision that the County made when we took on tourism is that we'll take it on, we realize the benefits that it brings, but there was a lot of concern about it being across all the islands everywhere. As I understand it, the General Plan spoke to "Well, we'll take it on, but we want to separate it. We don't want it everywhere. We don't want our residential neighborhoods to be impacted by it."

Now, if the communities, all three of the islands, want to change that, that's fine, but at this point, the Planning Department believes that is what the General Plan and community plan speak to, and we have to base our proposed bills and our actions on the General Plan until the General Plan's amended. We don't just assume that it's going to change. There have been circumstances that have changed since the General Plan was adopted. Some people argue these community plans are outdated, and they are. They need to be updated, but you update the plan. You don't just ignore it. You don't just throw it away because then what do you have? You don't have a plan at all.

So that's our general approach. And Joe will go into the specifics of the bill a little bit more specifically. I would ask that the Planning Commission take a look at the bills that we have provided to you, and think about suggestions and revisions to the bills that you would like to make the bills palatable to you and this community. Yesterday, there was some talk about just throw it out all together. Well, the Planning Commission didn't do that. The Maui Planning Commission sat down and they had a very deliberate, thoughtful, rational discussion about how the bills could be amended, could be revised, could be tweaked to make them better.

And I would remind you what you're charged with today is to make a recommendation to the County Council regarding these bills. There's an agenda item later on, and we'd be

happy to talk to you about it, about enforcement, but the issue before you today is not to debate enforcement. That's an issue between the County Council, and the Mayor's Office, and the Planning Department. And there is ongoing discussions regarding that. Believe me. It's not something we're taking lightly, but that is not the issue before you today. There may be some questions. There is that agenda item, but I would caution you not to get into discussion about crafting an enforcement policy. What you're charged with today is to make a recommendation regarding the bills that Joe has drafted that are the department bills and that we're asking for your comments on. Thank you.

Mr. Vanderbilt: Excuse me. Any questions from the Commissioners? Yeah, Jeff, I have a question. Yesterday, the Maui Planning Commission didn't make any recommendations, right? They didn't make any --

Mr. Hunt: They went through, I would say, perhaps two-thirds of the bills.

Mr. Vanderbilt: Did they vote on anything?

Mr. Hunt: They voted on -- most of the time they went off a consensus. A couple times they voted because the consensus wasn't clear. But generally speaking, they got through the B&B bill, they got through the conditional use permit bill, and they started to get into the TVR bill. So they still have to wrestle with the TVR bill, and the ag., and the rural.

Mr. Vanderbilt: Now, we were told by Corp. Counsel we have to have public hearing at 5:30 also. And there may be people that just couldn't make it here that are planning to come there.

Mr. Hunt: I think that's a good idea.

Mr. Vanderbilt: Yeah, so it would be kind of hard to us to really start going through all the ordinances, and then have another public hearing, and not have the benefit of that public testimony. So it's gonna be kind of hard for us to move forward before 5:30. See what I mean?

Mr. Hunt: I understand your argument. What's going to happen is, on Maui, and I would anticipate here but maybe not, is there probably would be several meetings. So if the Maui -- the Molokai Planning Commission can't go through all this list of ordinances, you'll defer the remainder to another meeting, and then hold a separate meeting. And you should take public testimony at that meeting too. So I don't agree with you that you can't deliberate on these bills. I think -- what happened yesterday is the issues became fairly clear what the issues were. The answers aren't clear, by any means, but the issues are fairly clear, and you can take testimony for days on end. And I think in all due respect to the testifiers, the issues start to get repetitive and it's the same issues.

Mr. Vanderbilt: But we were told we had to have the public hearings, you know. We couldn't cancel the public hearing and having it one time at night where everybody could come. It's hard for me to see how we can start deliberating before we've heard the -- at least the initial public hearing. I don't know if they closed public testimony for the public hearing at Maui before they started deliberating.

Mr. Hunt: Once they went into the deliberations, they closed it, but then you would open it up again. DeGray, if you don't want to deliberate, that's up to you. We can't force you to deliberate.

Mr. Vanderbilt: Well, all right. Well, you seemed to have forced us into the position we're in today.

Mr. Hunt: We scheduled the public hearing. And if after the testimony, if you don't want to deliberate on it, by all means, that's your choice.

Mr. Vanderbilt: Okay. And the other thing, we have enforcement as an issue on our agenda. So it's before us today as a legitimate item to discuss. There's a lot of people who are very confused on this Commission and in the public regarding enforcement. There's probably some people that don't want to come forward because they don't want people to know they're running a vacation rental because they can probably slide on for a couple of years before they get caught. And so -- and the other thing is that our Planning staff person is being charged with some enforcement issues. I don't know if they are these or whatever. So it's a big issue to try to understand. And I think understanding that may -- if you're making recommendations for an ordinance going forward, you might have some recommendations to the County about interim enforcement matters.

Mr. Hunt: We can discuss the enforcement issue, if you want. It's a separate agenda item. As I understood it, the agenda item before you now is the -- pardon me, the proposed ordinances that Joe has drafted. If you want to shift your agenda and talk about enforcement, we're here to help you out.

Mr. Vanderbilt: Alright. I just want you to answer one question if you will on enforcement. You're taking a lot of heat on enforcing enforcement policies now. I heard it at yesterday's Planning Commission. Did you initiate the enforcement action, or were you requested or urged by the Council to fulfill your responsibilities as part of the executive branch to enforce the laws?

Mr. Hunt: What happened back in January is we went to the Council to discuss a draft bill regarding those very same issues: the TVR's and B&B's. A lot of people refer to that as the Bob Carroll bill because it was offered by Carroll. We went back to the Council and we scheduled it for discussion. And unbeknownst to us, the discussion involved into

enforcement. And I'll read you the Committee Report that came out of that discussion. The Committee Report is 7-27, and it states the Committee expressed and I'll quote: "serious concern about the Department of Planning's enforcement policies relating to transient vacation rentals under several different administrations." Most of the people who were there at that meeting, I think, would describe the action by Council as a serious scolding of the Planning Department, harsh scolding. Those are the terms that most people refer to that. Based on that, the Planning Department said, "Okay, we'll go back and take a fresh look at it." I was a brand-new Planning Director in January. I'd been in the office I think about two weeks total, including my vacation. And frankly, I wasn't aware that they were going to talk about enforcement.

So we went back and started analyzing it. We talked to people. We came back to the Policy Committee. And by the way, that Planning Committee Report was voted on affirmatively by all nine members of the Council. At that time, all nine members were sitting in the Policy -- pardon me, the Planning Committee. So we went back to the Planning Committee and said, "Here's some options we could do. We're trying to respond to your concerns." And we discussed those options, and there wasn't any opposition. There was some questions, but the direction that I understand we got is to enforce the existing laws, and that's what we're doing. And people ask, "Well, you don't take direction from the Council," which is true. We could simply say to Council, "Forget it, stick it in your ear," but I don't think that's a good approach. We're trying to work with the Council. And the example that I give is in Washington, D.C., when Congress and the President are at odds, it's grid-locked, and is that what we want? I don't think so. We're trying work with the Council. If Council gives me direction, I try and act in accordance with it. The Council is the representatives of the citizens of the entire County. And for me to ignore that direction, I don't think is serving the public. So if the Council gives us direction, we consider it, we work with Council, and that's what we're doing.

Mr. Vanderbilt: Thank you, Jeff, for that explanation. Are there any other questions? Okay, thank you. Oh, excuse me. Commissioner DeCoite?

Ms. DeCoite: Excuse me, Jeff. You know, I looking at the bills and stuff, and what is the distinction between the bed and breakfast and the vacation rental? Because you guys want to allow for certain things with bed and breakfast. And, I mean, bed and breakfast is a whole different animal because you're serving food in that place. I mean, you looking at a whole lot of other stuffs going on in there against vacation rentals also. So I no understand a lot of the stuff which is why I glad you're here because I get about 500 questions. And, I mean, you gotta -- I mean, I just like it be clear before we make a decision, and before we submit the bills, which why when we discussed this at the last vacation rentals, we had decided to make sure we went through these bills first. And the recommendation that came out from Planning Department at that time was that we had put

everything on hold until we had come up with a solution to the vacation rentals and the bed and breakfast.

Mr. Hunt: Let me explain briefly the difference between a bed and breakfast and a TVR, and then I'll turn it over to Joe because it's really his project and he should be one talking to you about the details.

I've had a number of discussions regarding this issue over the last few months, since January, since I became the Director. And my sense is, and I don't have a scientific survey or anything, but my sense from talking to all these people and organizations and giving presentations is there's a lot more support for a bed and breakfast than a vacation rental. The bed and breakfast has an onsite manager. And the reason there seems to be more support is you have an onsite manager that the neighbors can go to and knock on the door and complain about the people on holiday partying in the hot tub late at night, or making noise, or parking, or whatever. The other reason there seems to be more support for a bed and breakfast is it provides local housing. By definition, there's a manager living on the site. So it's not just a vacant vacation rental that perhaps somebody, and I don't mean to disparage people who live on the Mainland, but perhaps they live on the Mainland and they just rent it out here, which doesn't seem to add to community. If there's someone living there, it adds to community. It's obviously, a local person, if they're living there, depending on how you define "local," and there's someone who can manage it, who can keep an eye on things. So based on that distinction, the Planning Department is in support more for B&B's. The Planning Department is trying to liberalize B&B's, allow them in more zones, have an expedited permitting process; it'll be quicker, it'll be streamlined, and yet, restrict vacation rentals. Unless there's further questions, I'll turn it over to Joe.

Mr. Vanderbilt: Yeah, did that answer your question? Yeah, I have a question, Jeff. There was some people testifying yesterday who live onsite. And I know we have a few people here that live here full-time, and they have an ohana unit, and they rent the ohana unit out. So that was described -- well, there was a lot of different descriptions. There were hybrid vacation rentals and there was this and that. But I think the main point most of the people it seemed that I heard testify were people that had a B&B or a vacation rental that lived full-time on the site, it seemed.

Mr. Hunt: I agree with that. It seemed to me too.

Mr. Vanderbilt: Okay. So that's just one other distinction. Then there was even some talk of properties that had both a bed and breakfast and an ohana unit that was being rented out. They had a main house. They rented out rooms, and then they rented out the ohana too. So --

Mr. Hunt: Just real quickly, and I'm kind of stealing Joe's thunder, keep in mind in your policy analysis, and hopefully you'll get there, is there's three types of issues you should be wrestling with. And one again is the pure B&B where someone's living in that house and they're renting out rooms in the same house. Then there's the pure vacation -- TVR, let's call it a TVR, where no one's living there at all. They either live on the island in another house, or they live in the Mainland, or they live in another country, whatever. They don't live on that site. No one's there to manage it. Then there is the gray area in-between, what we call the "hybrid" where you have an onsite manager in the main house, for example, they're renting out rooms in the main house so it would be a B&B, but they also want to rent out the ohana unit. So it's not a pure TVR. It's not a pure B&B. So we call it a "hybrid." And you folks should think about those three different options when you're wrestling with this because those are three key areas.

Mr. Vanderbilt: In response to that, you have the gray area hybrid, an onsite manager. So do you distinguish between an onsite manager versus the owner being onsite?

Mr. Hunt: That's one of the issues that you folks can wrestle with: is the onsite person an owner? Is it a lessee? Is it just simply a manager? And there's different arguments for those. There seems to be more support for an owner. They own the property. They live there. A lessee is a little bit longer. They're usually a couple of years or more, perhaps. So there's a little bit more of a commitment. Just an onsite manager who could come and go month-to-month seems to be a little less of a commitment.

Mr. Vanderbilt: Thank you. Excuse me, Jeff.

Ms. DeCoite: So, Jeff, so if a vacation rental and B&B is operating in these areas, do they fall under a separate tax category? Or like do they file separate tax? Would it be land tax? And does it impact the resident or -- Joe, is that your area, Joe?

Mr. Alueta: Yeah, I'll . . . (inaudible) . . .

Ms. DeCoite: Okay, I'll wait.

Mr. Hunt: Joe would have the details on that better than me. I don't want to give you bad information. Anything else for me?

Mr. Vanderbilt: Thank you, Jeff.

Mr. Hunt: Thank you.

Mr. Vanderbilt: Okay, with that, Joe, would you like to give us a little overview? You know, from -- the Hana community had a hearing on this. They're advisory to the Molokai

Planning Commission. They had a hearing on this September 17th. And yet, at yesterday's meeting, the minutes from that meeting were handed out to the Maui Planning Commission because they're advisory to the Maui Planning Commission. But in that situation, Joe gave a presentation, but the Commissioners needed more questions answered. So they sort of went through the thing line-by-line almost. I don't know what finally happened at Maui because I wasn't there for Joe's presentation, which I think was mostly after lunch, wasn't it Joe?

Mr. Alueta: Yeah, correct.

Mr. Vanderbilt: Yeah, yeah. So anyway, with that, Joe, give it a shot. And we'll see how it goes and what questions the Commission may have. Thank you.

Mr. Alueta: Thank you, Chairman Vanderbilt. Again, my name is Joe Alueta. I'm the Administrative Planning Officer for the Planning Department. I just want to address first the lady's concerns over the interim district. I share your pain as far as interim district. We do want to get rid of it. Every effort by the Planning Department to eliminate the interim district has been thwarted at some level, whether at the Commission level, or at the Council level. The only efforts in which we have ever eliminated interim district from our maps have been the adoption of the ag., comprehensive zoning for agricultural, as well as the comprehensive zoning for rural district. And those are pretty much -- and one minor attempt that was partially successful in Paia. So it is an ongoing struggle that the department has. And we recognize the concern with interim districts especially on Molokai and we are open, the department is open to making -- amending an -- taking another bill or amending 19.02, which is the Interim District, to include bed and breakfasts as a permitted use subject to the Chapter of 19.64, which is the bed and breakfast provision. Single-family residences are a permitted use within the interim district. It makes only sense that we would add that use as a permitted use similar to what we did with the rural district. So we -- it came up earlier, and the department is already in the process of trying to amend that bill to include bed and breakfasts. So hopefully, we'll get the resolved for you within the next year -- to open up the opportunity. I'll briefly cover --

Mr. Vanderbilt: Excuse me, Joe. The 82-page staff report had the ordinances in it, right?

Mr. Alueta: That is correct.

Mr. Vanderbilt: Now on Maui yesterday, they had over a hundred copies for people to follow through. Who doesn't have copies of the ordinances here?

Mr. Alueta: The copies are right here on the desk.

Mr. Vanderbilt: There we go. Thank you, Director Hunt. Maybe we could --

Mr. Alueta: The overall concept of what I call the package of bills with regards to the transient vacation rental and bed and breakfast ordinance is to, one, simplify the process, expand where B&B's would be allowed. At the same time -- and precluding the -- and exclude the use of the transient vacation rentals from other districts. And where we would allow TVR's, they would be -- they'll be done as an outrightly permitted use.

I'll state by -- I'll open up also by saying that a bed and breakfast operation and a transient -- or a transient vacation rental is not an entitlement that you have on your land, on the majority of the land zonings in the State of Hawaii, and in particularly, the County of Maui. Unless you're zoned hotel, or a grandfathered apartment district, or a grandfathered business district, transient vacation rentals or bed and breakfast is not listed as an outrightly permitted use. You must seek an additional land use entitlement either via the bed and breakfast permit, or a conditional and/or State special use permit. So unless you are currently holding one of those types of permits for an operation, you are not a legal use.

The purpose of these bills are, one, to streamline the bed and breakfast process. It collapses the bed and breakfast operation or permit process down to administration where it's processed by the director. So one to six rooms would be processed administratively unless there was a trigger that would take it to a public hearing in which the Planning Commission, in this case, Molokai Planning Commission, would have the oversight over those types of permits.

Mr. Vanderbilt: Joe, excuse me, Joe. Are you looking -- are you going over one bill at this time or just giving some general comments?

Mr. Alueta: I'm giving you some general comments, but I'll start from the beginning of the staff report. I tried to -- since I know a lot of you have it, I'll start with 19.38, which is the -- if you look on Page 4 --

Mr. Vanderbilt: No, I don't mean to -- I saw people looking around and trying to figure out where you were.

Mr. Alueta: Okay. I'll try to reference -- start -- again, there was a brief history given by the director. There was a Bob Carroll bill. If you look on Page 2, the department was opposed to that Bob Carroll's bill. All the three Planning Commissions voted to either accept the Planning Department's recommendations and reject the bill, and offer of our amendments; or they rejected the whole bill as a whole, which is what the Molokai Planning Commission did.

The first bill, looking at Page 4 of the staff report, is the 19.38, which would establish the transient vacation rental ordinance. This bill would allow transient vacation rentals as a

permitted use within the destination resort areas. The four main destination resort areas that we have within the County of Maui are all on Maui which is Makena, Kapalua, Kaanapali, and Makena, and Wailea, excuse me. We also recognized during our staff review and agency comments that Kaluakoi is also another designed destination resort area. So that would also be included, and we would generate maps.

Many of these areas have lands that are not in the urban core, meaning that they're not apartment, or -- and they're in the rural or ag district. If they are within those districts, State law requires that they would still have to obtain a State special use permit to operate a transient vacation rental.

Within the residential districts and apartment districts, they would be allowed as an outrightly permitted use. So if someone owns a house within the destination resort area, single-family home, or a condo, or an apartment, they would be allowed to use it as a TVR without obtaining any permits.

Comments from the agencies with regards to those was that Finance -- again, Finance Department wanted some kind of recordation to show that that's been converted to a TVR. Parks and Recs was opposed to that concept. Excuse me, they support it with the intent to allow for within the destination resort areas. Housing and Human Concerns also supported the aspect of allowing TVR's within the destination resort areas. They felt they would have a positive impact on the long term rental housing market. The Hana Advisory Committee did vote to recommend approval of the bills to the Maui Planning Commission to allow for TVR's within the destination resort areas. The Current Division also -- planners also supported the use -- supported TVR's within destination resort areas and including Kaluakoi. They also felt that the boundary should reflect the original boundaries of the resort districts and not the -- some of the expanded residential areas. In our staff report, we highlight some of the General Plan and community plan statements that we feel support this policy guideline.

The amendments to 19.15, 19.16, 19.18, and 19.22 are the business core districts, our business districts: your B-1, B-2, B-CT, etcetera. What we are proposing is to allow for transient vacation rentals up to a 20-room operation within the business core district. Transient vacation rentals are basically a commercial use. So it makes sense to have -- to be allowed within the commercial core. Other justifications that we find for allowing TVR's within the business core is prior to 1991, hotels, motels were allowed within the business core, and it was removed from those sections. We feel with the neo traditional town planning, smart growth principles of allowing mix uses within your urban core to minimize traffic and promote pedestrian-orientated communities that having a commercial use such as transient vacation rentals within the urban core is appropriate. However, we felt that the scale and scope of it should not be a full-blown, you know, 400-room motel, but an inn would be more appropriate.

The Wailuku-Kahului Community Plan was amended to reflect that at the last go around. And they were one of the later community plans to be amended to allow for those uses. And we did adopt the Small Town Code -- Development Code for Wailuku Town, and specifically, the MRA, and we do allow 20-room inns in that Wailuku urban core, business core, as an outrightly permitted use, and that's where we came up with the standards.

Again, we listed a variety of community plan and General Plan statements that support that. At the same time, we're trying to provide you with a balance of both sides. And we also list the General Plan and community plan statements that do not support our position. So it's important to note and to review as to -- because we are trying to be consistent with the General Plan and community plans in our drafting.

Comments from agencies. Housing and Human Concerns also supports our position of expanding to the urban core, business core. Parks and Recs does not support our position except for within the business resort districts. The Hana community again, supported it for B&B's and TVR's as presented by our department. The Current Division encouraged the mixed use. They felt it would be -- small inn operations within Paia and Makawao would be compatible with the scale of the community.

Moving to Page 9 of the staff report: amendments to the B&B ordinance.

Mr. Vanderbilt: Excuse me, Joe. So you completed the ordinance regarding transient vacation rentals, right?

Mr. Alueta: I completed, yes, a summary of the proposed changes, the main changes, as well as agency comments, and highlighting -- I showed where the General Plan --

Mr. Vanderbilt: I think there's a lot here to digest and I would like to afford the Commissioners a chance to ask any questions regarding this ordinance they might have before moving to the next one because it's gonna be pretty hard to retain everything.

Mr. Alueta: Okay. I was hoping -- sorry, Mr. Chair, it's just that at the last meeting that we had on this, I guess the intent was to provide yourself as well as the general public with a brief overview of the proposed amendments. And then, you know, again, take your public testimony. And as indicated, you're going to hold another public testimony at 5:30. And so that way you would have your main deliberations during that time, but like I say, you can --

Mr. Vanderbilt: Well, I would prefer to open it up to some questions from the Commissioners only because it might stimulate some questions or thoughts on the public testimony. So I was just wondering: does anybody have any questions offhand? Commissioner Chaikin?

Mr. Steve Chaikin: Thank you, Mr. Chair. Joe, you brought up some different zoning areas. You talked about hotel zoning, business districts. We've talked about earlier about interim. Later on, we're gonna get into rural, ag. We've talked about resort destination areas. Are you prepared with any kind of a zoning map so we could better interpret what it is that you're talking about?

Mr. Alueta: Exhibits A through D of the staff report show maps. The concept behind 19.38 is that the destination resort areas, although they include a variety of zonings, including hotel, apartment, and single-family, those destination resort areas were designed for the tourism industry. The infrastructure is there. Houses and condos are marketed toward the offshore market. They're not primary -- they're not the primary housing and lodging sources for local residents. Therefore, we do not feel that the conversion of these units to a transient vacation rental would have a long term impact on the housing market for local residents, as well as several guiding principles within the General Plan and community plans, specifically, Molokai, which talk about limiting the expansion of tourism facilities toward the West End and those destination areas. And the Kihei-Makena Community Plan, General Plan, all talk about focusing the tourism industry toward those destination resort areas.

Mr. Chaikin: Joe, I guess I was referring a little bit more to about Molokai: the different zoning districts on Molokai. This thing really affects different zoning districts. Later on, we're gonna talk about the ag. We're gonna talk about rural. You know, this one talks about the Kaluakoi area where you're calling it a resort destination area. It talks about the business district, the airport district. Unless we have a map, and we can see where those areas are, it's kind of hard for us to interpret, you know, where people can do what on this island. So we really need to get some kind of a zoning map. That's a basic planning tool is a map. So if we could get some kind of a zoning map where we can take a look at what's going on, I think it would, you know, clear the picture up a little bit. Thank you.

Mr. Alueta: Okay.

Mr. Vanderbilt: Joe, and just to follow up on Commissioner Chaikin's point, we have here -- a few years ago, we changed the zoning in Kaunakakai, I believe, to country town business zoning, right?

Mr. Alueta: Yes.

Mr. Vanderbilt: Is that a yes?

Mr. Alueta: Yes.

Mr. Vanderbilt: That's a yes? Okay. This bill does not take in country town business zoning as a business district.

Mr. Alueta: Yes, it does.

Mr. Vanderbilt: Okay. So I'm just looking at this ordinance you gave us. It said within the B-1 district, the B-2 district, the B-3 district -- where does it say the country town business district?

Mr. Alueta: You are correct. Oh, no, excuse me, at the very end, 19.15 is the B-CT district, Section 7 of Exhibit 1, Page 6.

Mr. Vanderbilt: Commissioner Pescaia pointed it out to me. Thank you. So therefore, and I don't know if Maunaloa and Kualapuu are country town business zoning, but just to give you an example of what a 20-room hotel might look like, the Lodge at Maunaloa that the Ranch has is a 22-room hotel. That's a pretty big thing. So you could get -- were there any standards thought of as to what the size of these 20, or 22, or 18-room hotels might be?

Mr. Alueta: Again, the business country town design guidelines would provide you with your limitations as far as -- as well as lot size and development of parking on the site would be a constraint on the size of hotel. We put out the 20-room as a number because that's what's currently in there for the Wailuku Small Town Code. And if you have recommendations -- there was rumbling -- I mean, discussion on it. We didn't get to it on Maui, but maybe that number is too big. And that's what we're here about.

Mr. Vanderbilt: Alright. Just two quick other questions. I didn't see -- these resort areas are all on Maui. And it said somewhere in one of the reports that since the report or something came out that Kaluakoi Resort was put in there. Now, how did that come about? Did it come about -- did Molokai Ranch ask that it be put in? Or did you just --

Mr. Alueta: During the discussions with staff planners and my deputy director, she indicated that -- so she's -- we have -- in the process of generating a map for Kaluakoi.

Mr. Vanderbilt: You don't have any maps of Kaluakoi? We have community plan maps, don't we?

Mr. Alueta: Correct, but we're showing -- we're currently -- I was not given that map to get over here today. It was still in the process of being generated.

Mr. Vanderbilt: Okay. And then there's no resort areas on Lanai where they're gonna have --

Mr. Alueta: Not that have been identified by the community plan as a destination resort area. Those are all -- the resort areas on Lanai are project districts. So that's a little bit different.

Mr. Vanderbilt: So right now, you're just on resort areas and not -- project districts are not included in this?

Mr. Alueta: Yes, correct. The destination resort areas are still subject to the County zoning and what we're doing is we're taking the geographic region, which has been identified by General Plan and community plans as being the destination resort areas when they first came in. The project districts are a separate animal. They're not subject to the standard zoning codes of Title 19. They create their own zoning codes, so that's why it's not included.

Mr. Vanderbilt: And just one other thing was the definitions. I know that yesterday people were asking about the definition of TVR and bed and breakfast. And reading through these bills, I had questions of what some phrases meant. Where are the definitions in these drafts? The proposed new definitions or no proposed new definitions - where are the definitions?

Mr. Alueta: In 19.04, they currently exist in the 19.04. And to clarify, I mean, the bed and breakfast, right, as indicated by our director, bed and breakfasts, you live within the same --

Mr. Vanderbilt: You don't have to go through the definitions. I was just trying to find out where they are in case somebody has a question when they read through this, what does this mean? They gotta go find it on the web under the County site, Chapter 19.04, right?

Mr. Alueta: That is correct.

Mr. Vanderbilt: Okay. Any other comments? Commissioner DeCoite?

Ms. DeCoite: So, Joe, if Kaluakoi is a destination for TVR's and bed and breakfasts, and I guess that is listed in the County plans? Is that the recommendation for future vacation rentals? I mean, is that -- say those who are doing vacation rentals, and we say that the vacation rentals is illegal in the residential areas and so forth, what is the recommendation? That they do a vacation rental on the West End in Kaluakoi?

Mr. Alueta: That is correct, as far as the transient vacation rental. A bed and breakfast, like I say, is a single-family structure where a family or operator lives in that house and rents out individual rooms to operate a bed and breakfast. A transient vacation rental is

a unit that is where the -- we differentiate between the bed and breakfast is where you rent the unit, but you do not live in that same structure.

Ms. DeCoite: Okay. Well, then just to follow up then, on the bed and breakfast then, I would say that I've seen the bed and breakfasts. And whether it be here, Kona, Hilo, or wherever, you and I cannot innocently say that the bed and breakfast is actually run with the owner in there, or the manager at all times. And it could sway either which way, the bed and breakfast. But what I like know is, where do we draw the line? Where do we draw the line by saying the bed and breakfast is actually a bed and breakfast, and a vacation rental is actually a vacation rental? Because you're still dealing with the impacts of -- when testimony was brought forward on the residents, and I going say was the Manae residents that had come before us and said the imposing of their lots on the impacts to their areas whether it -- and going kick up like plenty more questions, Joe, because now when these houses went in, they went in based on their occupancy. In other words, the usage of -- whether it be water, went and based on an average family living there. And now you having -- I don't know what the capacity of these houses can hold - these vacation rentals. Those are all these other things that I think going get thrown in here, in the ordinance that we gotta look at, which is why we had asked at that time that we would review the ordinances, and add, and take out, and so forth. But I'd like to address -- I mean, I know it drives in monies and whatever, but it's the imposition of the residents that living adjoining to it that you gotta distinguish and we gotta distinguish. Where's the line between TVR's and bed and breakfasts?

Mr. Alueta: And that's a good point. Issues -- like I said, we define a bed and breakfast is where someone lives within the same structure. An owner/operator lives within the same structure and leases out or rents out rooms within the same structure. A transient vacation rental is a unit that is -- that the owner does not live within that -- the owner/operator does not live in the same structure. And in the case of a hybrid, if someone runs a B&B within the main dwelling, and then they rent out the "ohana unit" as short term, that's technically, a TVR. That's technically what we call a transient vacation rental which we are opposed to at this point.

So what we're not opposed to, I guess, at this point is that bed and breakfasts where we do not lose the entire unit, the entire housing unit to the tourism industry. Where that housing stock still remains a viable unit for a local resident to live in there, and they're able to rent part of -- certain -- a number of units within that single-family dwelling to the tourists to gain a direct access to the economic benefits of tourism. And I think we minimize the impacts of that by having the owner/operator live within that structure because you can still have a family within that structure. And like I say, the other impacts, you know, whether or not how big a B&B should be allowed, or if they should be allowed within those districts, that's a subject you're gonna have to deal with today and in the future.

Ms. DeCoite: Okay. You know, I understand that part, Joe. But what I'm saying it's like almost like when you renting one hotel, and I don't know I guess until today, I have never seen the hotels filled to capacity, is what I saying. And these hotels: Hotel Molokai, Molokai Shores, West End, the Lodge, those are designated rental areas. And of course, I've done this before, "Hey, you guys wait in the car. I going check in," because the rooms can only hold two people. We do that. We do that. And I understand that but, you know, you have these people. They paying their fair share which is Hotel Molokai and Molokai Shores. And so far -- and they're designated for these things to occur. And now that you tell me Kaluakoi is the area for vacation rentals, then --

Mr. Alueta: Again, that's our proposal. We're -- and that's for you to decide. You have it in your community plan, I mean, to limit visitor accommodation center to West Molokai, and require any expansion approval reflecting employment needs of the island's residential workforce. Allow expansion of the visitor industry within the existing tourism destination area of the West End. If you look on Page 5 --

Mr. Vanderbilt: Joe, sorry about that, but I'm gonna ask my Commissioners to ask questions on specifics in there. And we can get into more philosophical discussions later. And then I'd like to ask you to respond with short answers, if possible. So we're gonna work on this together.

And with that, I just have a quick question. Within the resort area of Kaluakoi, you have ag. lands where you have vacation rentals on it. In that situation, the vacation rental on that ag land would be subject to the proposed vacation rentals on the ag land ordinance that's gonna be reviewed later. Is that true?

Mr. Alueta: No, they would be subject to the State land use special use permit. And should Council pass 19.38, which would have geographic limitations to where TVR's would be allowed, they would be allowed as an outrightly permitted use. In those destination areas, the geographic limitation where they're still State rural or State ag, they would still be subject to the State law of limitation which would require a State special use permit.

Mr. Vanderbilt: Thank you. Any other --

Mr. Joseph Kalipi: One quick question. Joe, just for clarification. Say the owner/occupant -- owner/manager is living in the ohana house, but rents out the main house, is that considered a hybrid? Or is that considered a TVR?

Mr. Alueta: It would be a TVR. If he's not living in the same structure that's being rented, that's a TVR. If he is operating, I guess, some people -- if he's operating a B&B in one structure, and then has a TVR or rental on the property in the other structure, some people are calling that a hybrid. I still -- I mean -- and that's what a lot of people are -- some

people are doing is that they're having a B&B in one and then renting out a second structure on the property as a TVR. I still call them a B&B and a TVR, but some people call -- for simplistic's sake, some people call them hybrids.

Mr. Kalipi: Which is both.

Mr. Alueta: Yes, yes, basically. They're just operating two types of accommodations on the property.

Mr. Kalipi: Thank you.

Mr. Vanderbilt: Okay. Commissioner DeCoite?

Ms. DeCoite: So, Joe, then if the vacation rental to date is illegal, what you guys going do about it?

Mr. Alueta: I'm sorry, what was that?

Ms. DeCoite: If the vacation rentals operating today are illegal, what are you guys gonna do about it?

Mr. Alueta: We do have an enforcement policy that is going forward, and as my director alluded to has been heavily discussed.

Mr. Vanderbilt: Commissioner DeCoite, I was planning to get into that whole issue of enforcement after we get through these ordinances, because that's a pretty -- and it's on our agenda as an item. Okay. Thank you. Okay, if there's no other comments from the Commissioners, which ordinance are you doing now, Joe?

Mr. Alueta: I did cover part of the business district so --

Ms. Linda Kauhane: Excuse me, I have a question.

Mr. Vanderbilt: Oh, excuse me. Commissioner Kauhane?

Ms. Kauhane: Thank you. In the packet that you gave to us there's an ordinance in the back, Ordinance No. 12.69. Is that still in play?

Mr. Alueta: Yes, it is.

Ms. Kauhane: Okay, I have a question. In that ordinance, it defines what an accessory dwelling means. And it also makes reference to the County zoning and the land use

districts, one of which makes reference to not only the interim zoning district, but also the hotel district. Both TVR's and bed and breakfast are hotels? Is that a classification that they are? Or are they entirely separate entities or business --

Mr. Alueta: A transient vacation rental by definition is basically a hotel.

Ms. Kauhane: It is a hotel.

Mr. Alueta: Okay. And by -- or is a short term rental unit, I guess you could say, and it's less than a 180 days. That bill was attached for your reference to show the intent and purpose of the ohana dwellings was that it was to help alleviate the affordability, to provide additional housing stock within the urban cores, and primarily, somewhat of an affordability housing stock. And that's why our department is opposed to the use of ohana dwellings for transient vacation rentals. That's one of our issues that we have. That's why we support pure B&B's. And then the use of the ohana unit for a second structure on the property as a TVR, we're opposed to that because that's a direct conversion of what is considered to be somewhat of an affordable rental unit, and moving it into basically, an affordable rent for our tourists and so that's why we're opposed to it.

Ms. Kauhane: I see some confusion in reading the bill, though, because in addition to just asking clarification for what it is, it says the domestic type of business in the home -- for each business, there's one parking space allowed. And then it discusses for the use of a hotel that there's one space allowed for every three guest rooms. Further into the ordinance, it goes into making reference to business buildings which is an accessory building if you're calling it for TVR's or --

Mr. Vanderbilt: Commissioner Kauhane?

Ms. Kauhane: I'm just asking --

Mr. Vanderbilt: No, no. That's part of the staff report that you received, wasn't it?

Ms. Kauhane: Right, it's at the very end.

Mr. Vanderbilt: And I think what I'd like to do is go through each of these ordinances and continue on through the staff report and once we get a feeling for that, then --

Mr. Alueta: I'll just -- to quickly answer her question, it is an old ordinance. It did establish accessory uses, okay, which -- an ohana unit in the purpose and intent. Further on in the bill, it talks about the offstreet parking requirements. That section has been moved to 19.36 in subsequent amendments to the bill. So that's where you're getting this -- you're getting confused -- not purposely getting confused. I can see you're -- because I would

read it and get confused too because it basically just sets up what the parking standards for accessory structures and that has pretty much -- a lot of that has been moved to 19.36. Okay.

Mr. Vanderbilt: Thank you, Commissioner Kauhane. Okay, Joe, which ordinance are you doing now?

Mr. Alueta: I had pretty much gone through where we talked about the business district, and allowing for up to a 20-room inn or a TVR within the business core. I will say that bed and breakfasts are already an outrightly permitted use. They are one of the few locations where you can operate a B&B without any permits. It's subject to existing structures. So we have sometimes in some of the transition of business-zoned areas, you have single-family homes, B&B's are allowed to be operated in those districts. But what we're proposing, like I said, is to allow for small vacation rental units of up to 20 rooms. Any of your comments on that would be appreciated if you think those are too much or you want to create certain standards. We did have one testifier on Maui that wanted to exclude the business country town districts from this ordinance. So they wanted to strike 19.15 from the bill. Or you can add the famous Molokai line, "except on Molokai." It's up to you.

Mr. Vanderbilt: Joe, so where are you on the staff report now? Page?

Mr. Alueta: I was discussing Page 6 and 7. And like I said, if you go through our analysis with regards to the General Plan and community plan, we do have a section on Page 8, which basically is some of the community plan language that we feel is contradictory to our proposal so, you know -- and the actual bill, the actual draft bill language is on Exhibit 1, Page 2 through 7. So if you go to Exhibit 1, page -- that's the actual bill.

Mr. Kalipi: So, Joe, just for clarification, you're saying that -- the proposed is saying that B&B's in resort area destinations will not have to have -- to go through a permit process, and that it'll be limited to 20 rooms or less?

Mr. Alueta: You mean in the business district?

Mr. Kalipi: Yes.

Mr. Alueta: Yeah, the destination resort area, that was the previous bill. But in the business core, business district, yeah, you could do up to a 20-room inn, or hotel, or motel, whatever you want to call it, and without having to get a special permit. It would just be an outrightly permitted use. Okay? We'd list it as a permitted use in that district. Prior to 1991, motels were listed as a permitted use within the business district. That was removed after the construction of -- I think it was the Maui Isana in Kihei, which is a huge hotel. And that's what caused most of the uproar was that all of a sudden they built this huge hotel in

the middle of town. That's why we sort of capped it at 20 rooms. And that follows the Wailuku Small Town Code, which allows up to a 20-room hotel.

Mr. Vanderbilt: Okay. Any other comments? So, Joe, what, are we ready to move into the bed and breakfast homes, amendment to 19.64?

Mr. Alueta: Yes. Okay. The intent by the amendments to 19.64 again, is to streamline the permit process.

Mr. Vanderbilt: For everybody - excuse me, Joe - we're on Page 9 of the staff report.

Mr. Alueta: Page 9 of the staff report. We are proposing in the majority of the cases to collapse the permit process down to instead of having three levels, we'd just have one. It would be administratively approved by the director. If there's an appeal or another -- an appeal of the director's decision, another bed and breakfast within 500 feet or adjacent properties, as well as opposition by 40 percent of the landowners within the 500-foot radius, a public hearing would be required. The Commission would be the final authority in that case. Under the current rules, we have three levels of permits. We have one up to two bedrooms is done administratively. Up to four bedrooms is done by the Commission. Up to six bedrooms is done by the County Council. Like I said, we're trying to streamline the permit process, and make it a lot easier for those who wish to do a bed and breakfast. And that is, you live in the same structure, and you rent out rooms to guests. That's in compliance with a lot of our General Plan, community plan language about simplifying the permit process, easing of government. It was also in our Zucker Report, which was an audit by the County Council, which talked about streamlining the bed and breakfast permit. In the Zucker Report, they recommended that the staff be allowed to approve bed and breakfasts up to four bedrooms, and to leave five and six bedrooms at the Commission level. At the Hana Advisory Committee, they recommended that up to three bedrooms be approved by the director, and then four, five, and six be approved by the Commission.

Other issues that came up in our discussions in drafting this bill was -- which we'd like you to consider, it's not written down in the staff report, but this came up in discussions with key stakeholders, it was brought up before the Commission, and that is, don't count minor children toward the room limit. In bed and breakfasts, you're allowed to have up to two guests per room. There was some discussion that, you know, you shouldn't count minor children in that limitation of the room count because many families wanna allow -- they want to keep their kids in the room so they don't cause trouble. From personal experience, I stayed in bed and breakfasts throughout Ireland, and I kept my two kids with me, but mine are pretty small. But the debate would be what do you consider minor children? Most -- some people say anybody under 17, I mean, under 18 is minor. I will tell you that the Planning Commission decided to set the minor limit at 12 and under.

There was also discussions about allowing for a one-by-one sign on the bed and breakfast premise meaning like on the -- either from the fence or from their post office box so that people looking for the bed and breakfast operation don't drive around and disturb the neighbors -- "Hey, do you know where this bed and breakfast operation is?" And that helps. That was also -- from stakeholders, the Hana Advisory Committee also supported that because there are issues with bed and breakfasts where people drive around and get lost.

They also wanted discussions on the -- that it not be transferrable, that B&B permits not be transferrable, which is existing. And one of our amendments is that it has to be -- the B&B permit has to be held by a person, a living person, and not by a corporation or a limited liability.

Some key stakeholders wanted the department to deal with -- establish some type of administrative rules which would deal with family illness or medical emergencies for an operator to have someone temporarily operate their operation provided that they are -- that the house or the operation is still their primary residency. We've had cases in which bed and breakfast operators have gotten ill and had to fly to the Mainland for cancer treatment. They still intended to operate the business. They had an employee operate it for them while they were in the Mainland getting treatment temporarily, as well as another one where they had a family emergency, had to go to another island to deal with the family emergency for several months before coming back, but they didn't want to have to lose the permit because you're supposed to be the -- live and operate it. We feel that we can handle that through administrative rules in the department that would set some kind of guidelines, but we've had some pretty harsh issues where, you know, someone had to give up their permit because they were gonna be gone for, you know, a good nine months and we felt that it was a little harsh because that person still had -- still owned the property, as well as still claimed it as his principle residence so --

Other discussion that came up was tandem parking to allow -- currently, we require one stall for every guest room. So a single-family structure will have two stalls for the main dwelling, as well as one additional parking stall for each guest room. There was discussion: should we allow tandem parking? As well as there was discussion about allowing grasscrete or even grass parking rather than having them pave their whole front lawn, and which we do not encourage.

Mr. Vanderbilt: Joe, can I ask you something? I'm looking at the ordinance here, and you're sort of giving a general description. And then at the end you said all the verbiage is back in Exhibit 1-A. Is there any way to you to give the proposed amendments by just going through the ordinance itself? And you can make side comments as you go, but would that be easier for everybody to follow? Could we try that?

Mr. Alueta: I can -- I'm open to any way you want me to do --

Mr. Vanderbilt: Yeah, cause everybody has the ordinances in the staff report. And on all the changes, you have them either struck through or the additions are underlined, so if you could sort of go through the changes?

Mr. Alueta: Okay. That's fine. On Exhibit 3 is the bed and breakfast ordinance. Again, on Page 2 of Exhibit 3, we are limiting the proprietor to the natural person. We're also making breakfast must be available onsite. We don't necessarily mean cooking a breakfast, but have to be -- somehow you have to provide either pastries or some continental -- in compliance with the Department of Health regulations. Okay?

We're also making sure that the structure or residence has to be in conformance with the residential character of the neighborhood. That means, again, going back to parking. If you have a six-bedroom bed and breakfast, and the only way you can accommodate the six-bedroom -- six stalls -- six additional stalls on your lot is to pave your front lawn, we're probably -- it's going to be highly likely we're gonna deny that permit, or ask you to minimize your operation to possibly a two or three-bedroom operation where you're not -- you can accommodate all the parking onsite without impacting the character of the neighborhood.

Ms. Kauhane: May I ask a question about the parking, please, just for clarification?

Mr. Vanderbilt: Okay, and then -- yeah. Then after this, we're gonna hold our questions 'til the end, but go ahead.

Ms. Kauhane: This will satisfy my curiosity. Back to the Ordinance 12.69 where it's making reference to Item No. 25, and it says that the business dwelling should have one parking space for every 500 square feet of the building. So if you have a bed and breakfast that's over that, obviously, they would have one parking space. But then it also goes on to say that the minimum shall be three parking spaces. How did you address that?

Mr. Alueta: That's for -- again, remember that ordinance, a lot of those standards have been moved to 19.36, and that talks about a business district. It does not apply to the bed and breakfast. Bed and breakfasts in 19.36, bed and breakfast is listed as a use, and has a parking standard specific to bed and breakfast, which is one stall per bedroom, and it limits it by -- so in traditional single-family structures, the parking requirement for single-family homes is two parking stalls. And then from then on, if you a B&B permit, if you have four bedrooms that you are using as part of your bed and breakfast, you're required an additional four stalls.

Mr. Vanderbilt: Thank you, Joe.

Mr. Alueta: ... on Page 3, Line 25 is that we included a project notice sign of 16 square feet. That is to let the neighbors know and surrounding area to know that there's an application for a bed and breakfast. As you know, a lot of times on Maui, Molokai, or wherever, the first time you hear about some project is going on is when the bulldozers show up. So in this case, we want to put a project notice sign so people driving by can go, hey, what's going on there? And if they have a concern about that operation, they can, you know, write a letter to the department or this Commission.

Again, we're consolidating some of the notifications on Page 3, Line 37. 19.510 has standards for applications. We're just moving that standards. That's basically what it says there. It's the exact same thing in 19.510.

Again, on Page 4, Line 5, we're consolidating -- we're getting rid of Type 1, Type 2, Type 3 and we're just having one type or one application, and you can do up to six bedrooms. So we have a lot of strike -- if you notice, we've strike through a lot of the things because we just are getting rid of -- we're making it -- everything administrative except for when like again, you have another one within 500 feet, 40 percent of property owners complain, or you're appealing the director's decision about what -- your permit.

When I talk about appealing the director's decision, that's like again, you come in -- if someone comes in, just because we allow you to get a six-bedroom -- apply for a six-bedroom bed and breakfast, it doesn't mean that you're gonna be granted a six-bedroom bed and breakfast. It means that the department's gonna review your application. Does the project meet the -- is in compliance with the character of that neighborhood? Like I say, you may have a 4,000 square foot lot, and you can't fit all the cars on, we're gonna say you're limited to a one or two-bedroom operation. And if you disagree with that decision, you can appeal it to the director -- to the Commission, and hold a public hearing on the matter. And that pretty much summarizes the changes.

Again, like I said, some of the things that are not in the changes that want it -- that some people wanted to include and have you discuss was the issue of minor children, because there is a limit on two occupancy per unit, per bedroom; a one-by-one sign; dealing with tandem parking are pretty much the main issues.

Mr. Vanderbilt: And then, Joe, as far as the community plan, the various community plans and summary comments there on Page 13 through what -- 16 of the staff report?

Mr. Alueta: For the bed and breakfast ordinance, they're located on Page 9 through 13.

Mr. Vanderbilt: Nine through 13, excuse me. Alright.

Mr. Alueta: Is the department's analysis, our justifications, as well as analysis with regards to how it does comply with the community plan, and how maybe -- and then summary comments.

Mr. Vanderbilt: Okay. Thank you. Now, with regard to this ordinance, are there any questions of Joe? Commissioner Chaikin.

Mr. Chaikin: Thank you, Mr. Chair. Just in reading through this and taking a look at the ordinance, I have to say that this whole concept of bed and breakfast I find rather odd. And the reason I say that is because when you read through it, it's really unlawful to provide breakfast. I mean, you can't have any -- there's no need of any kind that you can serve. There's no poultry. There's no eggs. There's no dairy products. That means butter. Nothing. So it's very odd to go push so hard to get breakfast, you know, bed and breakfasts throughout all these different areas in Maui County when it's really, for the most part, an unlawful activity. And I'm just wondering why you're pushing so hard just to get this breakfast portion in there when I'm not really sure why you gotta push so hard for breakfast.

Mr. Alueta: Two things: bed and breakfast is the term that's worldwide. I didn't make it up. So I can't answer as far as that goes. But the Department of Health has requirements with regards to cooking and providing food for non-family members. We're saying is -- in the breakfast side, it can be a muffin. It can be a -- prepackaged foods are okay meaning you can serve, like I say, that's what -- if that's all your breakfast is, that's how you meet the requirement, that's fine. The Department of Health also has funky rules about -- from talking with other bed and breakfast operators is that they can have the guest cook their own food. They just can't prepare it for the guests. That's how quirky the rules go with DOH. I don't set DOH rules. That's the State. Remember, I work for the County. We're trying our best to make it easier as best we can within the County, but we do have limitations with the State. We want to have at least have some type of prepackaged foods, you know, that can be served or be available to the guests whether the guests take it or not. But the way we're proposing is that they at least provide an opportunity to have that type of prepackaged food.

Mr. Chaikin: Okay. Thank you. Another comment is that it seems like it's a lot better to be the first guy in line than the second guy in line. Because the first guy in line, you can just kind of go in there, and if your neighbor's don't complain, it's really a clerical thing. You can just move right through the process as long as you meet all the requirements. If you're the second guy in line, and your neighbor has one, then you have to go through all of this Planning Commission. You have to go get questioned by us. So I'm just wondering how are you going to set up this line? I mean, who's gonna be first? And who's gonna be second? And how would you plan to do that?

Mr. Alueta: As they come in. And we'll deal with the issue if we have multiple applications at the same time. But that's pretty much life, yeah? First one in, gets always the benefits. The second one sometimes pays the bill. I mean, that's sad, but that's the reality. But we don't have -- on Maui, it's not like we have a lot of these that have come in all at once. We can pretty much deal with it. At the same time, this issue is about having densities, you know, like the concern about having a lot of these B&B's congregated in one specific area and creating impact to the neighborhood and loss of community identity I think is what some of the neighbors told us. So we tried to minimize that and have some type of review by the Commission. And that's -- you know, right now, the rules state that way now. If you came in and you had a -- if you came in for a one-bedroom bed and breakfast but you were two doors down from one already, and he had a six-bedroom, you would get bumped up to a Planning Commission level, or Type 2, which is under the existing rules. So it's -- that standard is set up already. And all we're doing is trying to make it a little easier for everyone by doing it as much as possible administratively, as well as eliminate the Council level review and public hearing review which adds significant costs and time to any permit.

Mr. Chaikin: Thank you. I have another question in terms of the ownership of the potential bed and breakfast. There's a couple different options that you lined out. It either can be the owner or a lessee. There wasn't any provision, I guess, for whether or not you had to actually have consent of the owner. Is that something that's required?

Mr. Alueta: That's a good question. As far as the -- most lessees have a five-year lease, and that's what we normally recognize, or whatever the permit, we would grant -- potentially grant that permit for the term of their lease. So if a lessee came in, they had a three-year lease, the most they could potentially get as far as the B&B would be the lessee. If those are your comments, that's a good point that the owner be notified and consent to a person applying for a B&B. I think that's a good concern.

Mr. Chaikin: I've got another question on the ownership issue. A lot of people these days put their residences into trusts. So how would this be handled if somebody wanted to have a B&B?

Mr. Alueta: Again, we're not concerned with so much the owner of the property. It's the permittee. Whoever is applying for the B&B application must be the operator and living on the premise. Okay? And he can have a lease from the owner, or he can be a partial owner and operate the B&B, but the application for and the person going through the process will be the operator. Okay? And so that only one operator -- I mean, only one person could only operate bed and breakfast at a time. He couldn't have multiple B&B's.

The Commission -- I'll tell you two really quickly is that the Commission on Maui did vote that no lessee and it would just be an owner/operator. So they eliminated that provision.

They didn't state how much of an owner, but they had to be -- they felt that the applicant had to be the owner.

Mr. Chaikin: Okay. I have another question on the process. I guess to get a B&B in some cases, they would actually have to come to this Planning Commission. And then we would make a decision to either grant that permit or deny that permit. In the event that we denied the permit, under what conditions can we deny permits? Do we have to have some finding of fact or something? Or can we just not like it and slam it? What do we have to come up with in order to deny a permit?

Mr. Alueta: The standards in which you would review bed and breakfasts are listed on Exhibit 3, Page 1 and 2. So -- and the key issue would be Letter M and N are pretty much what you're gonna try to for the most part, you're gonna hang your hat on. So if you find it creates an impact greater than those that exist in the neighborhood -- the district, and does it conform to the residential character. Again, a guy comes in and paves the front lawn to meet his offstreet parking requirement, that that's his proposal, you could say, no, I don't want -- I don't think he should -- I mean, again, that's the same criteria that the director's gonna go to. You have -- I mean, that's the main one that most of you are gonna hang -- say a second one, a second bed and breakfast comes in and they say I want to do another -- a six-bedroom, and I'm right next to one already, and you can say, you know what? From our policy or for the Commission, we don't think that there should be any within 500 feet of another one. Therefore -- this person came in first. He got his. You're not gonna be able to do one. Again, a bed and breakfast application, a bed and breakfast operation is not a permitted use. It is an entitlement that is earned. Okay? By either the -- so --

Mr. Chaikin: Okay. Joe, in the event of a denial, what processes would be available to an applicant if they didn't agree with our decision? Would there be any recourse of any kind?

Mr. Alueta: I would assume they would appeal to the Circuit Court. I would leave that to my Corp. Counsel as to what their appeal process would be.

Mr. Chaikin: Corp. Counsel, would you know if they would have an appeal process?

Mr. Michael Hopper: I suppose they could appeal the decision to a Circuit Court if they desired to. I'm not aware of any appeals that were made for a B&B permit application.

Mr. Chaikin: Okay. Well, I hope we don't get there. Another provision in here is that you can only get a B&B permit if it's an existing structure. I guess that's to prevent people coming and building new houses, and turning it into B&B's. Now that's, you know, that's kind of like a difficult concept to have different property rights for different people on the block. This guy's in. That guy's out. This guy's in. That guy's out because ten years now,

20 years from now, there's gonna be, you know, a certain cutoff date where you can't have a B&B, then the new guys can.

Mr. Alueta: No, no, no. This came up during the -- sorry -- came up during Maui Planning Commission also. There was a confusion on that. What we're saying is we'll set up standards. One of the things was set up a standard for what you mean by existing. What we're saying is the house -- someone tomorrow could come in and build a house. And as long as they build it with the intent of being a single-family residence, and then they come in -- after the house has been built, they can come in for a B&B permit. So the same thing could happen in ten years. Somebody could build a house. Once they build a house, you know, and whatever standards we use for what is considered existing, they could come in and apply for a B&B permit after that. What we don't want is someone coming in to this Commission or to the department and saying, "I want a six-bedroom B&B permit. Here's my plans to build a house that's gonna accommodate this six-bedroom B&B." We want to make sure the house exist before you come in for the B&B permit.

Mr. Chaikin: Okay. I think what you just said is you can do it discretely, but not blatantly. Is that correct?

Mr. Alueta: That is correct. And what it is -- I guess we're trying to avoid having someone come in and build a -- purposely built a home for a bed and breakfast, and what if they don't get that permit? Then all of a sudden, there's some issues there that we want to avoid.

Mr. Chaikin: All right. I understand. Thank you, Joe.

Ms. Mikiala Pescaia: A quick question. There's a -- I was just wondering if there are any provisions for density limitations? I see you have a 500-foot buffer, but potentially, could there be a bed and breakfast at every 500-foot mark?

Mr. Alueta: That is an issue -- again, if you look at Page 9, 10, 11, and 12 -- if you look at page 12 and then also the top of Page 13, the issue of densities came up not only with the Hana Advisory Committee, I believe, where they felt there should be a cap of B&B's by the region, but also if you look at the Current Division, they would -- they also felt that some kind of density should be whereas it's not that you can still apply for a bed and breakfast within 500 feet, but they felt that maybe it should be more stricter meaning, if there's one within 500 feet, you can't. But they also talked about densities that should somehow be included in the bill. We didn't get into that. I mean, we're not proposing that except for the additional review if you have one within 500 feet. That's how the existing code is set up. We're just trying to -- like again, trying to streamline it. If you want to make that proposal that some type of densities come up, that's great. You can put that in. You can make those recommendations to the County Council as well as I think that's an issue that you

need to think about when it comes to your community plan or your island-wide plan, which is one in the same, because I think that's where an issue that you should really be specific on. You can say at that point in your community plan, General Plan, this island-wide discussion, you can say, yeah, we want B&B's, but we want to limit it to "X" amount of number, and you can have that community discussion.

Mr. Vanderbilt: So, Joe, there's been talk that this whole issue is something that's a community issue. And bed and breakfasts and TVRs may have a different plan in Kihei, or Wailea, or Hana, or Molokai, or Lanai. Has there been any thought of waiting -- we're going through the General Plan and the community plan updates right now -- of waiting until we come up with those before passing an ordinance, because it seems like if we pass an ordinance now, and you just said, well, then you can refine things in your community plan, then that means going back and redoing the ordinance. And our history of getting things implemented by the County in our community plans just hasn't worked in the past. We come up with these ideas in our community plans, and they just fester there. So I was just wondering if this issue, which is so community-oriented wouldn't be better left off until the community plan issue, and work out something where --

Mr. Alueta: To answer -- multiple answers: B&B's already exist. There is a law on the books. Okay? So what we're trying to do is streamline that process of the existing B&B process that we feel is consistent with the community plans and General Plan as it stands today. Policies and laws, the law of man is an organic matter. It is constantly changing and it will constantly change. So saying we're gonna wait is not really the answer because you need to continually review and update your laws as time goes on. The excuse, or not excuse, but the argument that we should wait 'til this happens, or wait 'til, you know, something occurs, or the General Plan and community plan process happens, that's what got us in this problem with regards to TVR's. That's why especially on Maui, we're in such a pickle with regards to TVR's. It's not so much with the B&B's. We don't have the issue with B&B's because there is a process that we can go through. It is still a tough process, and we want to encourage people to obey the law and go through a permit process for bed and breakfasts and we feel that this would encourage more people to seek B&B permits, and also clarify our position with regards to TVR's.

Mr. Vanderbilt: Okay. I guess I have a hard time understanding. I listened yesterday and you said that laws are based on community plans and everything else. Alright. Well, just take for instance, say our community plan doesn't want transient vacation, or bed and breakfasts, or it does want it, you're gonna pass a law -- how can you -- just say for instance, it says no transient vacation rentals on ag land, or discourage that, or something like that, I think our community plan does, and you're gonna pass a law that may somehow be in conflict with that, yet the General Plan says all County laws shall be consistent with the intent of the community plan. How can you pass the law if it's in conflict with our existing community plan unless you change the community plan?

Mr. Alueta: Again, in our analysis, we do show in the bed and breakfast bill -- again, it's an existing law. We pointed out some highlights that we feel are consistent with that objective. With regards to the expansion of TVR's --

Mr. Vanderbilt: So, wait, wait --

Mr. Alueta: Well, let me finish. With the expansion to the business district, we specifically point out where we feel it is in conflict. That there are language especially, on Molokai where that -- where expanding TVR's to the business district is in conflict. And you can accept that. You can accept our arguments that the expansion of TVR's to the business district is in conflict with your General Plan and reject that section of what we have. Same token: if you feel that there is language that I'm not showing here that is in conflict with your General Plan, you tell me what that General Plan is, and you recommend denial of the bill. That's all I'm saying. I'm trying to provide you with a balanced picture. And I've gone through the General Plan and community plans, and I highlight what we think is consistent, and I also highlight where I think that our bills are inconsistent. And the final decision-maker is not only this Commission, but also the Council. So that's why we're here to give you as much information, and you give us your comments back.

Mr. Vanderbilt: The final decision-maker isn't us and the Council. It's just the Council. We just recommend to the Council, right?

Mr. Alueta: Yes.

Mr. Vanderbilt: We don't have any final decision on this.

Mr. Alueta: That is true, but I think that, you know, you have some community plan language that you feel is in conflict, I mean, they're gonna listen.

Mr. Vanderbilt: And there you get into our community plan. You have some comments -- policy plans that may be consistent as far as economic development, but then as far as lifestyle, or whatever, community situations it may be in conflict with. That was just a comment, so -- Are there any other comments for Joe?

Joe, who is gonna enforce things like you say the number of guests shall be limited to two, and the breakfast made available shall not include certain types of food, who's gonna monitor that? I mean, we always have an enforcement problem on Molokai. We have a lot of good laws that have good intentions, but no enforcement.

Mr. Alueta: I mean, we try our best to enforce. These are the guidelines that we have. Not only is -- the two-person limit is obviously going to be subject -- rather difficult. I think from

a DOH -- I mean, the rules that the DOH puts out, we're just saying that's what DOH requires, and they try to enforce it as well as we do as far as foods and cooking of foods.

Mr. Vanderbilt: Well, just take an example: say somebody said, well, they had four people in this one bedroom bed and breakfast, four adults, what's the -- is there -- when you make this bill out, and there's some requirements, and there's a violation of those requirements, are there any corresponding enforcement penalties? Or do they lose the permit? Or a slap on the wrist? Or --

Mr. Alueta: If there is evidence that they are blatantly violating the rules and conditions of their permit, the permit can be revoked.

Mr. Vanderbilt: Who determines the blatant in this?

Mr. Alueta: The director and enforcement division. And then it would be appealed probably to the Commission.

Mr. Vanderbilt: Okay. Thank you. Any other comments? Commissioner DeCoite?

Ms. DeCoite: So are we now on enforcement? Or are we still waiting on enforcement, DeGray? We're talking about enforcement now?

Mr. Vanderbilt: Well, not of the -- I was just talking about enforcement of these specific items. Sorry. Any other comments? Okay, Joe. Let's take a ten-minute recess, and then I'll see who may want to give testimony 'cause we've been going on now for almost an hour and 45 minutes.

(A recess was called at 2:41 p.m., and the meeting was reconvened at 2:56 p.m.)

Mr. Vanderbilt: Okay. We're back on the record. And a couple of people have come up and said that they're gonna have to leave. And we do have a list. But can I see a show of hands of those that have to leave that may want to testify right now? I got one, two, three. Okay. Four. Alright. So this one lady has to pick up her child at 3:00, so we're gonna let you go first.

a. Public Hearing on the various proposed bills

Ms. Patty Guay: Hello. I'm Patty Guay. I work for Swenson Real Estate as the property manager for vacation rentals. And I just wanted to come up and testify that we recently, in the last couple of months, have removed our home vacation rentals from our website, so we are no longer making future bookings. And we have on that website put the petition so that people that do try to book vacation rental homes can sign a petition in support or

however they want to do it. So I did -- I have collected all of these petitions. And so I wanted to submit them to you guys to review. A lot of them are just signatures, but some of them do have comments as far as , you know, vacationers that have repetitively come year-after-year in support that they will go elsewhere in the future if the homes are not provided as vacation rentals. And then the other ones, about 50 of the petitions that I did receive are from the recent canoe races that we have. And we do sell out of all of our vacation rentals during the canoe race. We even had guys going out to Wavecrest staying out there for the canoe race in this last recent race. And that's really a long drive for them to have to go to Hale o Lono from there, but there wasn't enough accommodations even with the houses that we were renting out. So I just wanted to make that point. And again, that happens at Ka Hula Piko time, both women's and men's canoe race, and there's even other smaller canoe races that we sell out at those times -- sell out of condos and the houses. So I just wanted to make those points clear to you guys that it will be affecting those large events that do come to Molokai that are cultural events also. So you guys have any questions?

Mr. Vanderbilt: Yes, Commissioner Feeter?

Mr. Bill Feeter: Yeah, thank you. Have you applied for a vacation rental?

Ms. Guay: I don't own any of the vacation rentals. I'm just the manager. I believe a few of the owners have tried to apply even recently have tried to apply, and they were turned or told by the offices that they shouldn't be applying at this time.

Mr. Feeter: One other question. How were you notified that you were to cease and desist?

Ms. Guay: Just from, you know, coming to the meetings and stuff. And Diane Swenson is our broker, and so she's told us that that's what we need to do.

Mr. Feeter: Thank you.

Mr. Vanderbilt: Yeah, Commissioner DeCoite?

Ms. DeCoite: How many vacation rentals do you have? And how many -- well, you said all of them are rented out.

Ms. Guay: We have 16 homes that we were managing.

Ms. DeCoite: And they're located?

Ms. Guay: Our office is at Holomua.

Ms. DeCoite: No, no, no. Your vacation rentals are located --

Ms. Guay: Are all over the island. We have some at -- or not some, but there's a few on the East End. I think three on the East End. There's four, five in town, between town and Kawela area, and then the rest are on the West End.

Ms. DeCoite: What kind of revenues you guys driving if you rent out all 16?

Ms. Guay: For just the homes?

Ms. DeCoite: Can I ask that? Or I not allowed to --

Mr. Vanderbilt: You can ask whatever you want. She doesn't have to answer you.

Ms. DeCoite: Well, I'm just trying to see what kind of economic -- you know, yeah, what kind of money you guys driving.

Ms. Guay: What kind of money are the owners getting or what kind of money --

Ms. DeCoite: What you guys renting them out for? So 16 houses, you rent them out -- what? How many --

Ms. Guay: I did a report actually before I came here. The homes -- of the homes that we have in 2007, the revenues for those homes, not what the owners are getting, but what we charged guests to come in was \$416,000 in which I calculated out the 11.42% tax came out to \$47,000 of tax money that would've been coming in. And also I did a report of just -- we have independent contractors doing cleaning, yard, maintenance, all that kind of stuff to keep up these properties. And of the cleaning independent contractors alone, so far this year we've paid out over \$50,000. And I know one of our owners wanted me to state specifically he's done some improvements to his properties, and just in adding rock walls, improving his landscaping, and putting new curtains, and buying furniture and stuff for his home, he spent over a hundred thousand dollars here on this island to, you know, local contractors that did the rock walls or did the landscaping, so --

Ms. DeCoite: Your yard people and the people that come in to clean, are they on your payroll or are they subcontracted out?

Ms. Guay: They're independent contractors.

Ms. DeCoite: Okay. Thank you.

Ms. Guay: They run their own businesses. They're not our employees.

Mr. Vanderbilt: Go ahead, Commissioner Pescaia.

Ms. Pescaia: If you know this, you might not, how many -- can you -- how many nights of rentals in a year? You know of the 16 rentals --

Ms. Guay: What's the occupancy rate?

Ms. Pescaia: Yeah, that's it.

Ms. Guay: The homes, I believe, are between 55 and 60 percent occupied, and that's inclusive of owner usage and owners' guests for usage.

Mr. Vanderbilt: Commissioner Feeter?

Mr. Feeter: What -- have you ever had a complaint from any source on -- that was generated by your guests?

Ms. Guay: Complaint from like a neighbor or from --

Mr. Feeter: It could've been a neighbor or illicit activities, if any. Did you ever have a complete -- a police complaint, or any other municipal complaint, Health Department, etcetera.?

Ms. Guay: I believe in the seven years that I've been working for Swenson Real Estate under the property management, we only had one complaint from a neighbor at one point that guests were being loud, but never a police report or never any -- I don't believe the Health Department's ever been in checking these vacation rentals.

Mr. Feeter: How was that complaint resolved?

Ms. Guay: Actually, the owner of that house decided -- because they also got the complaint from the neighbor, they sold their house. And now I think the person does a long term rental in there.

Mr. Feeter: Thank you.

Mr. Vanderbilt: Commissioner Kalipi?

Mr. Kalipi: Patty, if you know, hearing the current proposed laws and the current laws that we have in place now, would the vacation -- the TVR's, would some of them be able to apply because of the laws that are being presented? Would they qualify to be legal TVR's?

Ms. Guay: From my understanding of what the law is, most of these houses that are here are either zoned interim or zoned ag, which I don't believe is in the current lot to be approved anyways, but most of them are not B&B's. All of them are TVR's.

Mr. Kalipi: And in most cases, if you know, would the owner or manager live on property? Or you guys just rent it out?

Ms. Guay: There's only two that would fit into that kind of a hybrid TVR where the owners or a managing agent lives on the property.

Mr. Kalipi: Okay. Thank you.

Mr. Vanderbilt: Patty, just one quick question. I know that accommodations on the island sometimes are said to be taxed like at the men's race. How many of the 16 homes and -- how many condos? You had 16 homes and how many condos?

Ms. Guay: I think we have about 65 condos that we manage.

Mr. Vanderbilt: About how many of those were rented out by this time for the men's race?

Ms. Guay: I think out of the total houses and condos, I think I only had three vacancies for the men's canoe race, and they were at Wavecrest.

Mr. Vanderbilt: But some of those may have been to people that are here on -- for other reasons beside the race or --

Ms. Guay: Some of them on the East End, but everything on the West End was paddlers.

Mr. Vanderbilt: And so do you know roughly how many crews? Or do you have that information how many --

Ms. Guay: How many crews came over and stayed with us?

Mr. Vanderbilt: Stayed with us. Or could you get that information later?

Ms. Guay: Yeah, I believe it's about eight crews because each crew has 12 to 20 people, if not more.

Unidentified Speaker: I'm sorry. My understanding is in reading the newspaper, it was 170 crews of which there were nine persons each.

Mr. Vanderbilt: But they weren't all staying --

Ms. Guay: Okay, we didn't accommodate them all.

Mr. Vanderbilt: Excuse me. No. Excuse me. You're out of -- let's just handle it this way. Okay, so --

Ms. Guay: We didn't accommodate everybody from the race, of course.

Mr. Vanderbilt: Okay. So it would be really helpful, and I think that's where the public can be helpful is to get this kind of factual data into the Commission in some way. And hopefully, you know, we can get an idea on that.

Ms. Guay: Okay. Well, I have a letter that I've written that explains the number of petitions that I received from businesses, local residents, and from visitors. So I have one for each one of you, and then, of course, the copy of the petitions.

Mr. Vanderbilt: Okay. And you have one copy of the petition, right?

Ms. Guay: Just one, yeah.

Mr. Vanderbilt: Okay, so if you can hand that out -- give that to Suzie when you leave. Commissioner DeCoite?

Ms. DeCoite: Patty, how many of your 16 homes, the vacation rentals, are locally-owned? In other words, not from people that bought out-of-state?

Ms. Guay: Does "locally" mean other Hawaii islands?

Ms. DeCoite: I mean Molokai residents that own those homes that are being rented out?

Ms. Guay: Two.

Ms. DeCoite: Thank you.

Mr. Vanderbilt: Okay. Any -- Commissioner Pescaia?

Ms. Pescaia: Sorry. Thanks. Of the 16 homes, what is the max occupancy total of the 16? Like how many persons do the 16 homes accommodate?

Ms. Guay: Some of them are just one-bedroom cottages that can accommodate two each. We try to limit it to two per bedroom as was in the thing. And the largest house, which is only one house is a six-bedroom house that can accommodate 12.

Mr. Vanderbilt: Okay. If there are no -- her daughter is --

Ms. Guay: But the majority is small cottages or two to three-bedroom houses.

Mr. Vanderbilt: Commissioner Chaikin?

Mr. Chaikin: Thank you. I was just wondering if basically what's being proposed is we eliminate transient vacation rentals, and we go into this bed and breakfast concept, now you're in the business, I mean do you feel that the bed and breakfast concept is going to work, and your owners are gonna want to do that? Or what's your gut feeling about bed and breakfasts?

Ms. Guay: Well, in the one-bedroom cottages, no, it's not gonna work. Most of the places, the owners, I'm not sure what they'll do with their properties. I don't think that the houses are set up to -- they're small houses. They're, you know, maybe 800 to a thousand square feet. To have somebody in there -- I mean, when I go on vacation, I don't want to be in a place where there's somebody. I'd rather, you know, stay in a hotel or a house that --

Mr. Vanderbilt: Okay. If there's no more questions, we'll let Patty go pick up her daughter. And thank you, Patty, for going -- doing all the work. Okay. Who else was there that wanted to testify? Diane?

Ms. Diane Swenson: I'm Diane Swenson. And I brought you and made copies for everyone. I've made 15 copies. And I think they were passed out of the position, the Maui Vacation Rental Association presented to the Maui Planning Commission yesterday. And I wanted you to have that because I think there's a lot of important information in it for you to consider and think about. And so I'm hoping that you'll all take the time to read it.

A couple of things that I'd like to clear up is, one, I'm not sure if you're all aware of it or not, but the State landlord tenant code requires anyone who rents their property in any fashion in the State of Hawaii must have an agent on that island taking care of the property. So any time a property is rented -- like if we own a property on Oahu, we have got to have a property manager on Oahu who can be called 24-7 to take care of any problems or emergencies. So any rental property should have a manager -- somebody managing the property.

And the other -- this is a gut-wrenching thing for me because I don't want to see the island run over with visitors and tourists. That's part of why I live here. But I do know -- you know, there are a lot of people, ourselves included, that have been doing vacation rentals for years. I know like Cheryl's house, the people who owned the house before her did vacation rentals. And she pretty much picked up where they left off. All of us are trying -- been trying to be legal, and have talked to the County, and dialogued with the Planning

Department, and tried to get right with this thing. And we've just gone in circles and in hoops. And so I hope you that you guys will give some consideration to that, and maybe like there be some sort of a grandfathering clause, or some sort of a slack in this thing until rules and regs can be solidified at least with the people who have tried to be legal and do it right.

And this concerns me because like in my neighborhood, I mean, we were doing it before there was anybody else in the neighborhood. I mean, we were the only ones out there. And since then, we've had a building contractor move into the neighborhood that's operating out of his house. We have a cabinet shop across the street -- a metal craft and cabinet shop. So on Sundays, which is about the only day I get to stay home, usually, I have to listen to sawing all day. And we've got a jeweler down the road who's running jewelry classes and making jewelry. And all of these people are just being ignored, and the Planning Department is only going after one entity. I mean, I just think that this playing field needs to be leveled. And everybody who's not operating legally needs to step up to the plate. I mean, you've got guys doing stuff all over the island that should be in industrial or commercial areas. And the County's just going, oh, well, that's okay, we're only going after you people.

Mr. Vanderbilt: Diane, you don't have to finish up right now, but can you finish up in a minute or would you like to come back?

Ms. Swenson: No, I can -- I'm basically finished. The only other thing I wanted to say is there's been a lot of talk that these houses would go to low income housing. And I can tell you guys, they're not. Already one of the houses that we manage is in escrow, and it's being sold to a family from the Mainland that doesn't have to -- isn't going to rent it. We have another house that they've sold part of their interest in the house that won't be rented. I can tell you guys there's millions of people right now with kazillions of dollars that are looking for a place where there's not tourists, and they can have privacy and isolation. So these houses are gonna go to people like that. They aren't gonna go to low income housing and be rentals.

So I -- you know, and I'm not telling you guys what to do, and I don't know what's right or wrong, but I think that this whole thing is gonna have a significant economic impact to a lot of people on this island. And it's gonna make some changes. I think we're benefitting from lower airfares, and better selection of groceries, and things that we're not gonna have if we don't have visitors contributing to our economy. I don't know what the answer is, but --

Mr. Vanderbilt: Thank you, Diane. Wait. Is there any questions for Diane? You mentioned that the State law says there has to be an agent managing the property, but the State law doesn't require that person to live onsite?

Ms. Swenson: No.

Mr. Vanderbilt: No. Okay.

Ms. Swenson: It has to be an agent. It can be a friend. It can be whoever you want, but you have got to have somebody that can be called 24 hours a day to handle emergencies.

Mr. Vanderbilt: Okay. And then with regard to the transient accommodation tax, now, we've heard that some people pay. Some people don't. With regard to your clients, you handle that, right?

Ms. Swenson: We won't -- we will not take a property unless we have their GET numbers. And we collect the tax, and we give it to them, and they have to do their own reporting and payment of that. So we collect the tax, forward it to them, and they have to do their own report and pay it to the State.

Mr. Vanderbilt: Do you get any confirmation from them if they've made the payment?

Ms. Swenson: They're telling us they are.

Mr. Vanderbilt: And I think that's one of the things in this whole bill whether who gets to be grandfathered in or who -- nobody can get that tax information from the government. You just can't -- the Planning Department or our Commission. So it would be up to people to get some kind of clearance that -- you know, whether they go for a renewal or this that they show that they're paying the TAT tax.

Ms. Swenson: I mean, like we can turn in all of our paperwork. I mean, if somebody wants to see it, I mean, we've got --

Mr. Vanderbilt: No, no, but that's just one of the weak points. Everybody says they're paying the TAT tax. They may or they may not. Nobody knows. And so I think in any kind of final ordinance, there probably should be some way that you have to show people that you're doing that. Okay. Is there any other comments? Okay. Hearing none. Thank you, Diane.

Ms. Frances Feeter: Good afternoon. I'm Frances Feeter. And first of all, I'd like to say I think Jeff made a very good point earlier when he said we need to have people that will compromise and talk to each other. The fact that so many people will take one position and not listen to anything else really upsets me. I've always been a person who would want to work and compromise with other people, and find a way to work something out. And when we went through our hearing, I tried to emphasize that I feel -- we feel strongly that -- this is in vacation rentals -- that they need to be limited. They have to be regulated.

And as DeGray says, we've always paid our tax even though you may not believe me. I just sent my return in. I would like to see a meeting of the minds from both sides rather than closed minds. If we could work together and work something out, I think it would be good. But that was not the main reason I got up and talked.

One other thing, when we went to our hearing, there was a concern particularly from Tina Thompson about the taxes affecting her property to make her pay more taxes. Now, what I -- she may not realize and other people may not realize that what may be even worse is that if these properties are being sold at a price greatly inflated from what they were assessed at, they are really going to be hit with major tax raises. Our daughter is considering the possibility of selling property and she may do that. It's a matter of finances. And if she -- if that happens, I'm sure it will affect neighboring property taxes.

But what I -- in reading through the bed and breakfast ordinance, I have a question. I talked to Jeff briefly, but what really upsets me is the requirement for a four-by-four sign posted before you apply, and kept up until after you're approved. Now, if that had happened with us, it would've been up six years, but hopefully, nothing like that would happen. My question is, why do you have to have such a big sign: four-by-four? I mean, it's this size. It's a major -- up to here. I mean, that is a big sign. Does it really have to be that big? What is a size of a billboard? Aren't billboards prohibited in Hawaii? That's very nearly a billboard size, I think. And it also says "The information and wording as prescribed by the Planning Department." What exactly are they going to make you put on this sign? It doesn't say in that. As far as I know, they can make you say anything. What are they gonna make us put on the sign? Anyway, that sign really upsets me. I read it. I thought, my gosh, this sounds like what the Nazis did to the Jews when they made them wear a gold star. You've got it. It's a label on your head. My gosh, I'm applying for a bed and breakfast.

Mr. Vanderbilt: Frances, can you finish up in a minute?

Ms. Feeter: Yeah, I'm done.

Mr. Vanderbilt: Oh, you got another minute, if you want. No, no, wait. Okay. I mean, I'm required -- does anybody have any questions for Frances? Commissioner Chaikin?

Mr. Chaikin: Frances, you know, we have these five ordinances that are sitting in front of us and our job, our responsibility is to come up with a recommendation that we pass forward to the County Council. And the one ordinance that would probably affect you the most is the one that eliminates the transient vacation rentals from being allowed in the area where you're at. If you had it your way, what would you like us to tell the County Council? How would you want us to recommend to the County Council that we change that ordinance? Or what would you like it to say?

Ms. Feeter: Okay. Well, first of all on the TVR, I think they should be allowed. They should be regulated, first of all, but there should be some limit on the numbers in a neighborhood. Now, I don't know exactly how you do that. I think the bed and breakfast is like 500 feet. You could do the same thing with vacation rentals. I would think if you apply -- also, like Joe said, you do it on -- when they apply. And you say, how can we say no to one? Well, you base it on when they apply. You know, you take the date of application. And if there's nobody else in the neighborhood, okay, well, that's okay for that neighborhood. And if two or three other applies, you say, okay, we only allow three in this neighborhood so I'm sorry. You could do that.

Another thing on the bed and breakfast, I can see just talking to Jeff about this the matter of a hybrid kind of appeals to me. You could have -- you could provide -- on our property -- well, to back up. My daughter was going to make a little studio apartment for us because she thought we were getting so old, and she needed -- would need to take care of us on our property. We convinced her that we weren't that old yet. So she turned it into a garage and canoe storage building, but we could provide a beautiful studio apartment for a local resident as a manager of our bed and breakfast if they would allow a hybrid. We have the permit for the accessory dwelling. It's legal to have it. And if we could convert that to a -- it could be a beautiful studio apartment. It's a nice location. And I'm sure there are a lot of single young people that would love to live on the beach in Puukoo. And they could be a resident manager. Would that fulfill the requirements for somebody being onsite? I would like to see that. Right now, Christy is exploring the possibility of selling it, but you know the real estate market is kind of down at this point. And so it may be a long process. And I'm hoping maybe something will happen that we could salvage it so she doesn't have to.

Mr. Chaikin: Thank you.

Mr. Vanderbilt: Excuse me, Frances. Would your daughter consider an old single guy for that studio?

Ms. Feeter: Of course. You would be ideal, DeGray.

Mr. Vanderbilt: Thank you. All right. Any more? Okay. Huh? No, no. We got one behind you that --

(Commissioner Kalipi was excused from the meeting at approximately, 3:25 p.m.)

Ms. Joanne Simms: I'm Joanne Simms and I live in Wailua, born and raised on Molokai. I was kind of feeling -- I never come to the meetings because I used to when I was a little younger and a little more active, but I started to get guilty when people would come up to me and say, "How come you're not helping us? Why aren't you helping us?"

Well, anyway, after teaching at Kilohana, I went into caretaking service. I met a man on the beach at Wailua. He built a four-bedroom home. He had it there for a year, and he said, "You know what? I need somebody to caretake it," and that was on the beach. So I said, "Well, that sounds like a fun job." So I did. So I was designated his agent caretaker. However, it was not a rental. We had friends and family come over. I was present there, not all the time. What I did find through the years before it became a rental was that we had a lot of vagrancy. And you can go back to 19 -- I think it's 1985 to the police records at Molokai Police Station and account for all the homes that were broken into from 1985 prior to vacation rentals. So vacation rentals had become an asset for owners in the area. And it was a way for us to maintain the homes, keep them maintained, and the owners to come back and, you know, enjoy what they had bought.

I came, you know, kind of with a contrite heart, because what I -- I had a few suggestions. And that was after listening to your -- to kind of scanning the codes there, I did come with this. I had recommended, or I would like to recommend that all should go through a permit-regulating process. Every vacation rental, you know, in this case, TVR's are out, but it's really not out, but consider them: TVR as well as B&B's. And as part of the process, they should have onsite inspections and that would be required as part of the application process. And that's the only reason because sometimes people apply, they don't know what -- the people who are making choices and decisions don't know what they have in-hand. Okay?

And then I also put down applicant -- be a resident of the State of Hawaii. I'm narrowing the homeowners to residents of the State of Hawaii. I mean, I was even thinking just Molokai, but residents of the State of Hawaii. And that'll kind of help us curb the amount of people coming to Molokai, and making changes on our island, which we so love.

And then the third was all applicants, upon approval, will agree to a fee, a percentage of their monthly gross income to be earmarked for some specific need or needs on Molokai. Education has a lot of money, but we got a lot drug problems, youth problems here. So you know what? Maybe they can give back.

The other one, and that is -- let's see. And because of -- I don't know why I put this--the permit regulating process onsite was due to the zoning issue. It says "short term rental in a particular residential area may or may not impact the area in a negative way." So by being onsite, having onsite inspections, you're allowing yourself to assess the environment which the applicant is seeking a rental in. Okay? And of course, my curbing the outside investors.

And the reason I went to number three with keeping money on Molokai is because I wanna address the fact of economic issues of funds staying on Molokai. We're all part of Maui County, and we generate income with the TAT's and whatnot, but it's really nice to keep

a little bit more here. And, you know, I came back from Mo`otea with Auntie Mo. And there, in order to buy on Mo`otea to control where they live, you have to live there for ten years. Or if you're a business, you can go in, marry someone, you know, and have -- be able to purchase property there. Or you can go in as a business and promise to hire ten people that are natives.

So anyway -- and then the other one was my brother-in-law's one of the biggest Kentucky Realtors. And he, his company, builds schools, builds new centers as Realtors. So anyway, that's where I'm coming from.

And it does hire -- I mean, we have people that cannot get jobs outside of their home due to whatever reason. And through the vacation rentals, through Patty -- you know, Patty's services, you know, we have yard men that are very competent and capable. And they also are independent contractors taking care of their own taxes, as well as I. And I get a 1099 or whatever. Okay?

Mr. Vanderbilt: Thank you, Joanne. Are there any questions for Joanne? Joanne, thanks for that information and the specific recommendations. That's very helpful. Larry?

Mr. Larry Swenson: Hi. I'm Larry Swenson. And I'm with Diane so I need to go with her when she goes, but there's just a couple of things I'd like to straighten out a little bit that may be misconceptions that a lot of people had.

The first one is taxes, property taxes. Property taxes that we pay are actually based on the County of Maui's budget. And if you did note this year, there was a reduction in taxes as far as the tax rate is as it related to the budget. What happens in I think a lot of people, if you look at your tax bill this year, and you look at your tax bill last year, you may see that you are paying less taxes than you were paying the year before.

I do real estate appraisal. And when I appraise a property, part of my job is to put down what the taxes are for properties. I look at a lot of properties every year. Some of them I look at several years in a row. Usually I pull up records for the last two or three years. And I see this, plus, of course, there are a lot of people here on Molokai that are able to get the short circuit tax break and only pay \$60 a year in taxes. But even though your tax assessment may go up, your taxes aren't going up. That's something to please keep in mind.

The second thing is housing. I actually have spent all of my adult life and part of my life as a child in housing. I started out by mixing cement for my dad who was a mason, and built a few houses after World War II when I was 15. I built a hundred low cost houses here on this island for people through the Farmer's Home Administration where they could

get subsidized loans and have affordable houses. And this is one or two decades ago, two or three decades ago because I've been retired from construction for over ten years.

What makes houses expensive is not what houses are selling for, or not that they're being used for vacation rentals, or not that they sitting vacant. What makes a house expensive is the cost of the house. And in Hawaii, the cost of the house is usually 50 percent or more for the cost of the land. Land is expensive. And of that land cost where most typical houses are especially, if it's a subdivision, or if it's anything that's been divided, it is in the cost of the subdivision, and in the cost of the County, and other governmental agencies' requirements in order to make that lot a lot that is to code for the health and safety of the community. An average lot will cost -- if the land were free, the house -- if the land were free and the infrastructure had to be put in, the cost of infrastructure per lot depending on the size of the lot, the smaller the lot, the smaller the cost of the improvements is gonna be in relationship to the land. Even a small lot, you're gonna be looking at somewhere between \$30,000 to \$60,000 depending on how you measure that. And if you measure it by the time it takes which here in this County can be from two to five years to do a subdivision, it'll even be more than that. So those costs are costs that vacation rentals don't have anything to do with, or don't cause that to go up.

The first house I bought cost me \$6,950.00. I had to work two jobs in order to be able to afford it. It was 1953. And at the same time, you could buy a pound of coffee for \$.29, that was for a full pound, or a quart of milk for \$.07. So everything's changed. We live in inflation and that. So I only say what I say to say that that, along with the fact that has been covered by a number of people, vacation rentals do help the community from the standpoint of making jobs, of keeping the community looking neat, and not having houses that are sitting vacant and may be used by vagrants or someone that shouldn't be using them if they aren't rented otherwise. Thank you.

Mr. Vanderbilt: Thank you, Larry. Are there any questions for Larry? Hearing none.

Mr. Swenson: Thank you.

Mr. Vanderbilt: Thank you, Larry. Okay. Well, I guess this was for people that had to go, but the people that testified are still here. So we have a list, but we're getting down to one -- Let's see. Let's just go down the list, if we could at this time. Are you trying to get out of here right now?

Mr. Tim Brunnert: ...(inaudible)...

Mr. Vanderbilt: Okay. Well, come on up to the podium. So much for the list. But we have one, two, three, four more people on the list. I don't know if there's anybody else who signed up. Okay.

Mr. Brunnert: Ready? I'm Tim Brunnert. I'm -- caretake the place down Papohaku Ranch Lands. Actually, it's the largest house that Swenson takes care of right now.

Just to bring a few points to the place, I wrote this letter. And after listening to everything, I really had a whole subject here.

To find -- I certainly understand that there's people that have issues with TVR's next door to them. And probably has some good complaints. And not to take that away from them, and that these houses could also be rented for long term local people. I'm sure there are some that are available at that point. But the homes on the West End mostly are on large lots. They're large homes. They're nowhere in reach of a local rental. I'm not trying to take away from that, but these houses are used primarily for TVR's. And we also house -- our house particularly -- and I know the other ones down in the area are booked a year in advance by the paddlers, Ka Hula Piko committees, and whatnot. They all struggle to get the houses because they're so convenient for them. So I mean, booking them a year in advance is -- every time one stays there, they try to talk us into seeing what we could do to get that house for them and whatnot. Not to mention these houses are also used by local people as far as their weddings, family gatherings, luaus, whatnot, you know, so we do get quite a few local gatherings.

I listened to what Maui -- the County of Maui had to offer for us as far as what their situation is over on Maui. And listening to the Commission here, I mean, it's pretty obvious you guys understand that we don't fall in their place. I'm really glad I live on Molokai because it sounds really complex over there.

We have our vacation rentals and we don't have a lot of them. They are producing -- everybody hit the point that they are producing for the island. They're not taking away from the island. And, you know, Maui is -- the whole prospect of inviting investors or whatnot to come over here and -- I mean, buying up business ground to put up mini hotels, I don't know of anybody on this island that wants that.

The houses in the property that we caretake is on ag land. I understand that's an issue as far as the State law goes. Why and how the development of Papohaku Ranch Land ever became a development, a subdivision in an ag area, I don't know. I mean, somehow the Ranch got it through and it happened. I was a builder in the Mainland for 20 years. And, you know, that's absurd to think that we're on ag ground, and we have to produce -- I think it's \$30,000 of agricultural products to maintain a TVR. And I'm trying to count how many banana trees I can get on five acres to make this work. And to me, it's ludicrous. I'm sorry, but --

You know, I'm under the impression that things have been going well for the last 20 years with vacation rentals. We don't have a whole lot of complaints on Molokai. You know, I

always went on the facts that if it's not broke, don't fix it. Why can't we just fine-tune it to make it work for us? I really -- the zoning laws that Maui County is enforcing on Maui certainly are not working for Molokai. So that's all I have to say. Thank you.

Mr. Vanderbilt: Thanks very much, Tim. Are there any questions for Tim? Yeah, Tim, I had -- you said you're the six-bedroom house, right?

Mr. Brunnert: Yes.

Mr. Vanderbilt: And how does that rent out or what does that rent out just to compare it to a hotel?

Mr. Brunnert: How as far as --?

Mr. Vanderbilt: The cost to rent.

Mr. Brunnert: If you have a full house, you have six bedrooms and six bathrooms. You're looking at \$650 a night.

Mr. Vanderbilt: So you could -- so that's a \$110 a night?

Mr. Brunnert: That's actually cheaper than a hotel, if you look at \$100 a night hotel. You have your own accommodations. You have the privacy of the property. You know, we're on a six-acre compound. Our neighbors -- if there's any complaints from us on our property is not good because right next door is Papohaku Park. We get all the rowdies right there. So it's --

Mr. Vanderbilt: Now, how does the -- well, you may not have this answer, but are vacation rentals permitted in the homeowner -- under the CC&R's for Papohaku Ranch Lands and Moana Makani? Do you know?

Mr. Brunnert: I believe they are as far as the Ranch Lands, yeah.

Mr. Vanderbilt: Okay. Plus, there was a comment on Maui that the CC&R's in some resort areas may not allow vacation rentals, so okay.

Mr. Brunnert: Yeah, as far as I know, the owners, they even -- they're in the process of trying to apply for a permit and it's going nowhere. They do want to be legal. They do want everything to be right. They're very good people. They come to this island three, four times a year. They're both doctors. They're willing to provide their services to the community. They do provide to the community. They've donated to the community. I just -- you know, in the area that we're in, there's several vacation rentals in the same

status that are perfect places for it. And going with the current laws, they're not gonna happen.

Mr. Vanderbilt: Thanks very much. Commissioner Chaikin?

Mr. Chaikin: Yeah, you know, we're not sure. They've described this area that they're going to call it the Kaluakoi Resort area. And somehow they're gonna draw some lines on some maps, and some people are gonna be in, and some people are gonna be out. But just say that you guys are gonna be outside of that line, then your only hope is really to go to the bed and breakfast route. Does that seem something that you think your owners are gonna want to do, or would you want to do that? Or how do you feel about that?

Mr. Brunnert: No, I don't see it feasible. If I'm understanding -- if we go by the current law, according to codes, we're zoned agricultural. That puts us into applying as a conditional permit which would go the State? Is that correct? Which the State does not allow. So I -- there's so much confusion here.

Mr. Chaikin: Well, that's one of the ordinances that they have before us is in the ag. area that B&B would be allowed. You might still have to go through bunch a hoops to get, you know, permission to do that, but it would be permitted if this thing goes through. Is that something that you would want to do, or you think your owners would want to be? Or do you think you'd be interested in doing that? Or how do you feel about bed and breakfast?

Mr. Brunnert: The bed and breakfasts, if I understand it, you either live -- well, for one thing, I don't live under the same dwelling. Okay? I live in the ohana house and the big house is rented out. So that would -- you know, I would either have to move into the main house with the people who stay there, or I don't know how the guidelines would fall until we come to those conclusions on where the division of what is considered a bed and breakfast. But I don't know why -- currently, we do as far as I think he said packing food, we do set out a basket of Molokai products that we propose to the people. And they're all sample packages. And hopefully, they'll go out and purchase, you know, from different places here on the island. And it's food, basically, food. There's coffee, potato chips, fruit, you know, so on and so forth. So, you know, we're out to promote this.

Mr. Chaikin: Well, I think you can call that breakfast. So you're halfway there. All right. Thank you.

Mr. Vanderbilt: Yeah, Tim, just one question: with the canoe paddlers, we heard that there's 12 to 20 people. In those instances where it's a special event, did you allow a few more than two to a room? That wouldn't even be one whole -- Some people said they could camp in the front yard. Some of the canoe paddlers said some of the homeowners were letting them camp in the front yard. I mean, I'm not -- we don't have any -- there's no

law. Everybody's technically illegal now, but I was just trying to get a feel for -- you know, we hear about this Ka Hula Piko. We hear about the canoe races and the lack of accommodations. So I was just trying to get a handle on that as to in your case, if two to a room, six rooms, that wouldn't even take in one canoe club.

Mr. Brunnert: Right. And I'd be lying to you if I told you we haven't allowed it because we do. I mean, this past team came in and there was 18 guys there, and it was all the Tahitians. But we make it a strong point to them that the owners care about this house. We care about this house. And basically, if you'd like to have it next year, you care about it. And they do. And they're very good people. Most people are very --

Mr. Vanderbilt: How did they do in the race?

Mr. Brunnert: Pardon me?

Mr. Vanderbilt: Did you follow to see how they did in the race?

Mr. Brunnert: You'll get all the stats from the next speaker.

Mr. Vanderbilt: Any other questions for Tim? Commissioner DeCoite?

Ms. DeCoite: Not to go off the subject, but does that pool have a -- I mean, does that house have a swimming pool?

Mr. Brunnert: We have the largest swimming pool in the world.

Ms. DeCoite: Thank you.

Mr. Brunnert: That's the ocean. That's the only one.

Mr. Vanderbilt: Any other questions? Thank you very much, Tim.

Mr. Brunnert: Mahalo.

Mr. Vanderbilt: Are you Liana? Okay. Come on down.

Ms. Liana Brunnert: Hi. I'm Liana Brunnert. And if it went to a bed and breakfast, that means I'd have to cook for everybody in the house. I mean, Pop Tarts sound like it'd be a good thing.

A couple things. I have a letter here that was faxed to me this morning that I was asked to read to you guys. It's to the Molokai Planning Commission from Roy M. Horner, President of the Molokai Mule Ride:

My name is Roy M. Horner, and I'm a resident of Molokai, as well as a businessman operating two small businesses of which one is related to the visitor industry. I've been involved in assisting various canoe teams, and setting up their housing, transportation, and various other details since the latter part of the '80s. In the past six years or so, some of the paddling teams especially, those from Tahiti have requested to stay at homes instead of the hotels because it allows them more flexibility in cooking, getting closer as a team, and even playing their music.

I realize that some of the vacation rentals are in close proximity to their neighbors especially, on the East End, but my concern is more for the groups coming for the canoe races, the Ka Hula Piko events on the West side of the island. The homes are spaced far apart, and it will not disturb any of the neighbors.

Molokai is a very unique place, and having this option only gives us more power in bringing groups like the canoe teams to our island for what is considered to be the world championship of long distance canoe racing. I am grateful for your time, and I apologize for not being able to be present.

Roy Horner.

Okay, the guys that stayed at our house won second place. And the first place ones were right up the street at Papohaku Plantation. The fifth place, they ended up having to stay at Molokai Shores, but that wasn't where they wanted to be so -- okay, and I got that from Roy.

I've also spoke with Pam . . . (inaudible) . . . with the Na Pua Keao Koolau Poko Halau from Oahu whose kumu is Patty Wright, and Cindy Chong from the Big Island, Kawaihai Canoe Club. Their concerns are like everyone else's: where will they stay for these events? People that vacation on Molokai realize that this is a very special place, and is a low key island. No night life. No shopping centers. We're not Maui. So when the families want to get away from the hectic lifestyles either from the Mainland, or other islands, or even Molokai, they come here to relax. And having vacation rentals to house these families and friends together make it even that much more special where they can all stay together under the same roof having their meals in a family style, sharing their special events

together such as engagements, weddings, anniversaries, birthdays, family reunions, or just a group that wants to just vacation together.

On the West End -- we're on Papohaku Ranch Lands, so we're not in the Kaluakoi area, but all the lots are a minimum of five acres and the housing is very spread out. The nearest driveway to our place is 750 feet away. The problem in the residential areas is not the same as what the problem is on the West End. The problem for the West End is that this development is zoned agriculture and it's not used or really considered agricultural lands, nor does it even have the ag. water. So please consider zoning to include the Papohaku Ranch Lands in the TVR's.

Now, we also live in the gray area and are the hybrid and caretakers. So, you know, it will affect us as well. I even got some petitions from up in Maunaloa, the General Store, in town, the Sunrise Cove. I got the General Store, Clay Ching's Hallelujah Whole Fishing, Molokai Mule Ride, and I would've had the men's canoe races, but I didn't speak French or Tahitian, but I do have the women's petitions as well, so --

Mr. Vanderbilt: Are there any -- before you answer the questions, you can give a copy of all that to Suzie over here: Roy's letter and the petitions.

Ms. Brunnert: Yes.

Mr. Vanderbilt: Thank you. Are there any comments? Okay. So the Tahitians came in first that were staying down the road in a vacation rental, and the ones that were staying in your vacation rental came in second?

Ms. Brunnert: Second. And then the fifth --

Mr. Vanderbilt: So maybe the vacation rental should be outlawed so that our local guys can win the race. These guys are having too much fun. Thank you, Liana. Okay, we have two other people on the list: Terry Volt, and Illona Honig, and Gail Parrish. Okay. Gail is first on the list.

Ms. Gail Parrish: Hi. Aloha ka kou. I'm Gail Parrish. I've been around Molokai for most of my adult life since the early '70's. I've always volunteered in the community. I've always donated to all the charities. We have been giving back since day one before there were any vacation rentals involved. A lot of the people in this room have worked with me on various fundraisers. Thank you. I really appreciated that. I agree with everything that all the TVR people said so far and I want to add a couple of things.

First of all, a TVR, the way they're talking about it in the new ordinance that they're proposing is unrelated to my single family dwelling in any way. It just doesn't sound like

a -- it doesn't sound like a short term family dwelling rental at all. It sounds like a hotel. And I don't think my place looks like a hotel. And it's homogeneous in the neighborhood. All of the neighbors are participating. They all signed the MVR petition. And they're all in favor of it because we are 20 miles from town. People need to work closer to their homes because gas is four dollars a gallon almost. And I don't think people can afford to go to work if they have to spend their entire paycheck on just gas and repairs for their car. Does that make any sense? I mean, is anyone listening because, wow, I'm just so proud that I can provide some employment even in just odd jobs for my TVR or my short term family dwelling rental to my neighbors. And all of my neighbors at one time or another participated and enjoyed that business. And I don't consider myself a viable commercial business because we've never made a profit. The people making the money are the people we employ. So I'm happy to do that. It's like a community service. I'm never gonna make a dime on it.

I think that every neighborhood--just another point -- every neighborhood ahupuaa should decide whether they want the rental in question. That we should have to ask our neighbors. And they should decide because it's different in every neighborhood. And if the neighborhood is into it, then they should all be allowed to do that. And it shouldn't be up to somebody on Maui who doesn't understand what's going on on Molokai or even in our valley. It should be up to our valley. And that's how I feel about it.

So another point would be -- that's pretty good. This hybrid thing. I don't want to be a hybrid. I don't want to be a B&B. I'm not gonna live with and cook for -- especially, the kind of food you guys allow, I'm not cooking that. That is disgusting to me. That's not even healthy food.

I live next door to my rental and I monitor it very closely. And I'm very strict about six guests because there's only three bedrooms. And I don't allow anybody to stay there. I've handed them back their check, sent them back to Swenson or whoever booked them and said, look, you have to stay somewhere else. Try Wavecrest. You got a lot of people, you know, I mean, but don't stay here because we don't want you to bother our neighbors, and we don't want you to wear down our facility. And that's strict, a very strict thing. Plus, they have to sign a contract before we even will allow them to give us their money. They can't give me a dime if they haven't agreed to all the rules. They can't -- they just can't come. They can't leave the Mainland. So I think that's a very good thing to have. We do that without being told. I'm sure other people do it too.

Mr. Vanderbilt: Can you finish up in a second here, Gail? I let you run over here a bit.

Ms. Parrish: Sure. I'll try. The ordinance they're proposing for ag, TVR's and -- it's all wrong for especially single-family dwellings, as I mentioned, and Molokai as a whole. It just doesn't take us into consideration at all. We wanna be considered as you know -- what

we've always done on the East End there's always been vacation rentals, there's always been vacation homes, there's always been the Puuohoku Ranch Hunting Lodge, which is I don't think a hunting lodge anymore, I think it's a cattle lodge now, and there's always been -- there's always been guests in our valleys.

Mr. Vanderbilt: Okay, Gail, thank you.

Ms. Parrish: That's what we do and now, all of a sudden, it's illegal.

Mr. Vanderbilt: Thank you, Gail.

Ms. Parrish: Yeah.

Mr. Vanderbilt: Are there any questions of Gail? Commissioner DeCoite.

Ms. DeCoite: Where's your vacation rental located at?

Ms. Parrish: It's in Honouli Wai Valley next to my house.

Ms. DeCoite: How many neighbors you have?

Ms. Parrish: Let's see. Did you figure out how many neighbors there were? There's 12 families.

Ms. DeCoite: And all 12 have no problem with the vacation rentals?

Ms. Parrish: Not a problem. In fact, we went around before we ever even decided to spend money opening it and asked them if this would be cool with them and then some of them requested to be additional insureds on the driveway, and we did that, and that was the only request that they had as they wanted to know if there was going to be more traffic and the fact is there's less traffic because we no longer have a full-time resident who used to own the property driving up and down the driveway five or six times day so it's really saved the driveway a lot. We don't have to worry about fixing it as often.

Ms. DeCoite: Well just for your information, Puuohoku Ranch is still a hunting lodge.

Ms. Parrish: Okay. I didn't know that.

Mr. Vanderbilt: Any other questions? Commissioner Chaikin.

Mr. Chaikin: Yeah, I just wanted to know, you said you lived next door, is that on the same TMK or is that the same property or different property or --

Ms. Parrish: Well, that's a gray area because they used to be on the same TMK but before we bought it, it had been subdivided so the two houses are on two different TMKs but they're still in the same four acre section of each other.

Mr. Chaikin: Okay.

Ms. Parrish: And there's no other neighbors.

Mr. Vanderbilt: Alright, so, Gail, you would be a pure TVR?

Ms. Parrish: I would like to be.

Mr. Vanderbilt: Well you live in one of the houses and rent one of the houses. But now you say that the house you rent out is a three-bedroom?

Ms. Parrish: Yes.

Mr. Vanderbilt: And do you book rentals directly as well as take rentals through real estate agents like Swenson Realty?

Ms. Parrish: Yes.

Mr. Vanderbilt: Okay. And as far as -- I had one other question. Does anybody -- oh, the employees, you said that you don't make a profit from your operation?

Ms. Parrish: I've never broken a profit cause we have the business report at the end of the year for the accountant, never come out plus, always in the red.

Mr. Vanderbilt: What do you -- if you -- you don't have to answer, but do you charge a night for the unit?

Ms. Parrish: Two hundred.

Mr. Vanderbilt: And that's whether you rent one bedroom or three?

Ms. Parrish: That's just for the whole house.

Mr. Vanderbilt: So you can --

Ms. Parrish: Most of the time --

Mr. Vanderbilt: You can have one person but no more than six?

Ms. Parrish: Yeah, and if you have more than six, even including babies and children, you're out and they know this before they leave home.

Mr. Vanderbilt: Okay. And do you also rent to local families for weddings and luaus and --

Ms. Parrish: Yes we do.

Mr. Vanderbilt: Now, do you allow pets?

Ms. Parrish: No.

Mr. Vanderbilt: Okay.

Ms. Parrish: Well, unless I like the pet. Some people showed up with a pet that I didn't know was coming and I like the pet so I said, "Nah, stick around."

Mr. Vanderbilt: Okay, so you would -- you would approve in the ordinance "likable pets?"

Ms. Parrish: Well, it depends.

Mr. Vanderbilt: Never mind. Never mind.

Ms. Parrish: I don't know.

Mr. Vanderbilt: That was --

Ms. Parrish: That would be a really sticky issue. That's a really sticky issue.

Mr. Vanderbilt: Alright. Alright. Any other questions for Patty? Hearing none, thank you, Patty. Alright --

Ms. Parrish: Gail.

Mr. Vanderbilt: What did I say?

Ms. Parrish: I'll be Patty if you want me to.

Mr. Vanderbilt: Oh, Patty was the first testifier. Senior moment there. Sorry about that.

Ms. Ilona Honig: Aloha, Commissioners. My name is Ilona Honig. I live on the East End; also out at Honouli Wai. There are 12 families out there. By the way, I passed out my written comments to you earlier and I wanted to comment a little more on everything that

has been said here today. As far as B&Bs versus transient vacation rentals, I have a home that I call my vacation home. It is always been my weekend home. Twenty-five years ago, by the way, my roots are Molokai but I was born and raised on Oahu, twenty-five years ago, I started returning because we had an opportunity, from a friend, to rent and care for their little place out in Manae; that was our vacation house. We would go there once every two months, once every three months. As time went on, we ended up going once a week. We made a decision. We were going to retire from all the business and all the hustle and bustle; come live full time in Molokai. And when we did that, we stayed at the one house and we had the little vacation cottage. We built another house next door. When my partner passed away, that -- that big house, that piece of property went into trust for the rest of his family members. I kept my vacation home. It's 20 miles from town; 40 miles a day round trip. So, what do I do? I move into town. This is still my vacation home. I needed extra income. I rented out my vacation home. I created a small cottage business for myself. Other of my friends had homes, locals had homes that they wanted to do the same thing with and they said, "Iliona, what are you doing?" And I said, "Well, this is what I do and I have -- I have this on the internet and this -- " and they said, "Can you help me with mine?" And I said, "Okay." So in the last year, I've had couple, three other locals that have come to me with their homes, their vacation weekend homes on Molokai. The reason that I'm really trying to make that point to you is that the intention for these homes has always been the same, for years and years and years. Hawaiians have always had that. We've always had a place where we go down to the beach. It's our vacation home. That's where we go to get away from the heat when it gets too hot in Kaunakakai. But we're here in the action where we can do our work, where we can be with our community with the rest of our ohana. This is what we've always done. We're not changing anything. We're not doing anything different. When I speak to the people who come to rent, they are interviewed. They're not given an agreement that says, "Give me this much money and take the keys." They are interviewed. I ask them, "What is your purpose for coming to Molokai?" I talk story with them. I kukakuka. I wanna find out a little bit about these people because I don't want them to tear up my property, cause concern to my neighbors, or walk naked down the beach. I don't. I want them to come here and understand how to respect us and know that we care enough to ask these questions; that we're not just handing over keys to a house and saying, "Oh, yeah, come on down, tear it up." We care about our homes, about our properties, and we want these people to care about it too.

So I think if you're going to address this -- these amendments and these ordinances, that you really should take into consideration what fits for Molokai. Please consider that. Saturation in any single area is never good. Earlier, Mr. Hunt brought up the subject of Kailua and he handed you some pros and cons. I went to school at Kalani High School on Oahu. I was there when all of that huhu started and do you know what? If they had good planning in place that limited and had a review committee that went over the limitations in any particular area, perhaps there wouldn't be so much saturation today. Now, you know, I'm saying this is how I see it.

Mr. Vanderbilt: Ilona?

Ms. Honig: Yes?

Mr. Vanderbilt: Can you finish up?

Ms. Honig: I'm done.

Mr. Vanderbilt: Oh, terrific.

Ms. Honig: Okay.

Mr. Vanderbilt: I knew that. Are there questions for Ilona? Ilona, you mentioned you had two other local families that you'd helped. Now, are those local families like yourself that live in Kaunakakai but have a house out there or are they --

Ms. Honig: One is Gail Parrish --

Mr. Vanderbilt: Oh.

Ms. Honig: And the other one is Kaunakakai.

Mr. Vanderbilt: Okay, thank you. Okay, are there any other questions? Hearing none. The next testifier -- thank you very much, Ilona. Did you have a -- you handed out your testimony earlier?

Ms. Honig: Yes.

Mr. Vanderbilt: Okay, thank you. Okay, the next is Terry Volt, and that's the last person signed up so -- but I'll be asking people if there's others here who would like to testify and then you can sign up after you testify. Okay, Terry.

Ms. Terry Volt: Hi. I'm Terry. Thank you guys for this public forum where we can all speak again. I take care of two large homes on the West End. One that occupy as the caretaker in the caretaker cottage, and because I don't occupy the other caretaker cottage, we also use that as a rental. These homes house anywhere from 8 to 12 people. They are 3500 and 5,000 square feet with swimming pools and hot tubs. Yes, my guests they float around in the pool naked every now and then; I just ask them not to get out while I vacuum the floor and tell the men to stay away from the vacuum cleaner.

To reiterate, yeah, these homes don't always make a very good profit. That's the truth. Even we go 515 a night and 525 a night on the other house, you take a large home like

that, base it on how many people are in that home, it is cheaper than a hotel. There's Legos and toys and everything right now with one of my families. They're with their families; they're with their kids; they're playing games or having fun. You know, they're doing all the good stuff that families need to do and they're really busy in the Mainland life. It's a very stressful world out there. Anybody flying to Seattle tomorrow, get out of the airplane, you're going to freak out. Believe me, it's hell. I was just recently in Idaho - couldn't wait to get home. Oahu - can't wait to get home. You know, so that's the beauty of what families can do when they come to these vacation rental homes. We are on six acres so the noise level, yeah, it doesn't interfere with anybody and me being right there, even though I'm not on one property, the noise level does travel downhill. If it's 11, 12:00 at night, the stereo's on a little loud, I'm the first one to call up and say, "Hey, don't blow my speakers. It'll cost you a hell of a lot of money." So you just take care of business. It's real easy, you know, they respect. Ilona had the Tahitians, they took second. I had Bill Bowers team who took first. I was hoping for the Tahitians. They like robust women. I said I'm not going on a diet till the Tahitians go home. I should have been dieting already, yeah? But when you take, you know, me being a single woman in that condition and you got nine or ten guys, they did have a woman that cooked for them, you know, they left the house better than the women's team and the women leave the house very nice. So when I went down that Sunday morning after they left, I mean I gotta applaud these guys, they deserve first place, they deserve a free night stay next year, you know, there way - I'm not kidding guys. This was awesome. The laundry, whoopee, you know, and put it all back together, but that is 99.9 percent of all the guest I get is the respect for these homes. They do not get trashed. We do get finger prints and lips up on the windows and we got lots of glass windows, but a good squeegee and hot soapy water, life is good; you bring it back; the next people check in. The homes are clean. Hula Piko, paddlers, Brito family reunion, that's local grandma on this island, also knew from the Mainland which -- "Oh God, I'm busted again?" You know, I couldn't get away from family. Samalas. All those people rent our homes for birthday parties, wedding receptions. One of my owners, his brother is getting married in November, be a local hula halau at our house. Just recently, somebody celebrated their five-year wedding anniversary and brought a bunch of people with them, took all three homes. Again, Moana provided the halau for them. But the maintenance, the electric bills, the water bills, you know, rebuilding of decks, putting in swimming pools every five, six years cause they're just vinyl liners you have to replace them, hot tubs have to come in every five to seven years, you know, they don't last forever and you get a maintenance guy over here to do it, tell me when. Irrigation. I employ all the local people for everything I do. It took me a year and a half to get a local boy to finally show up to do my irrigation but I had to wait. What am I going to do? I needed it then. So I put the sprinklers out and I watered my land, you know, and I do do all the gardening, but I do have Dawson come out every nine months; that's a thousand dollar job for Dawson to cut down my trees, I only 19, but it's a thousand dollars, not only does he cut the trees, he provides the opening of the coconuts for my guests, which just makes their whole day. Even when the local boy, they're there, doing maintenance on the house, it really makes

the people there feel a part of Molokai when they have a local guy right there that they can talk to about fishing and hunting and all that kind of stuff. So we work together, you know, and -- and what I give them is the local spirit. I don't talk crap about nobody, no way, what for? You know, it's a beautiful world here and it only brings positive energy for me. Come to these meetings, then we get a little hot and heated, it makes me wanna go home and cry but this has been a good meeting, so thank you for coming and I hope I answered some other little questions there and stuff and --

Mr. Vanderbilt: Thank you, Terry. Are there any questions for Terry? Terry, I have a question. You say you manage two units; one rents for 515 a night and one's for 525. Now does the same owner have both of those?

Ms. Volt: No, they're operated by separate owners.

Mr. Vanderbilt: Separate owners. Now, on property there's a main house and ohana and both of those are rented out, right?

Ms. Volt: Correct.

Mr. Vanderbilt: So what's the ohana rent for?

Ms. Volt: One-fifty if you take it in combination with the main house; 175 if you rent it on a separate entity.

Mr. Vanderbilt: And then -- okay. And when you had the paddlers there, you made a little exception to have a few more there than the 8 or 12?

Ms. Volt: No, the team only had 9 and then they brought their cook, so a total of 10. Men don't sleep together anyway so we gave them mats, cots, whatever they're on the floor. I know. You know the women kind of bunk up; the men is like, "Yeah, right." So they're in the living room. Oh, yeah, and pets. I provide the pets. All the local cats that get dumped on the property I got and everybody loves them. They say they feel like it's home.

Mr. Vanderbilt: What would you estimate your occupancy rate is?

Ms. Volt: Oh, man, we're doing - I'm not kidding you -

Mr. Vanderbilt: Huh?

Ms. Volt: I first started with Miller, you know, we were doing about 50 percent five years ago. We now run, including the owner occupancy, we're running really close to a hundred

percent. Papapa I look on three years ago cause they were only doing like 60 percent so it's like, cool, now I got a place to go. New owner. Man, hundred percent. So –

Mr. Vanderbilt: Now but – now, when you say, “including the owner,” does the owner come over –

Ms. Volt: Yeah, the owners come –

Mr. Vanderbilt: A month?

Ms. Volt: They come in three times a year and stay for at least 12 days every time.

Mr. Vanderbilt: Three times, so they're here for what?

Ms. Volt: Thirty-six days a year.

Mr. Vanderbilt: That's a little over a month. Okay. Now, so at those occupancy rates and those room rates, they still can't make a profit?

Ms. Volt: You know, we make a very little bit in the beginning but, believe me, the house is now 20 years old, I'm having all my decks redone, I've had a hot tub replaced.

Mr. Vanderbilt: Okay. No, I'm just trying to get a rough idea.

Ms. Volt: Yeah, some day we'll make profit again but, right now, we're really not making a profit and he never ever saw a profit on till about three years ago was the first time he ever saw a profit and I would say it's \$4,000 for the entire year was the profit, and we do pay taxes.

Mr. Vanderbilt: Okay, and –

Ms. Volt: Again. I hope.

Mr. Vanderbilt: And the taxes are paid by you as the manager?

Ms. Volt: No, we have our own reservation and accounting system and everything that the owner has cause he also has another business so she handles all his rentals plus, you know, the secretarial duties and things like that. So I don't have to handle anything but the house.

Mr. Vanderbilt: So is this an independent contractor, somebody that works for him and his business somewhere else?

Ms. Volt: Correct.

Mr. Vanderbilt: Okay. Thank you very much, Terry.

Ms. Volt: Thank you.

Mr. Vanderbilt: That was the last person signed up to testify. Is there anybody else here today that would like to testify? We are going to have testimony again at 5:30. Is there anybody here that would like to testify?

Ms. Lori Buchanan: Chair, clarification. What is the plan? You guys going to take a break and come back at 5:30?

Mr. Vanderbilt: We are going to – after we have testimony, we're going to continue on. We have three more ordinances that – the bulk of the ordinances were in the TVR and the bed and breakfast. To give everybody a feel, we've got a few other ordinances that are attached to this that we're going to go over, and then we're going to discuss things, and – and it's going to be 5:30 before we get there. So, anyhow, that's the game plan. There's a lot on the agenda today. Yeah, and we're taking a dinner break. Clayton was going to arrange a steak dinner somewhere but we'll find out about that.

Ms. Buchanan: What time is your dinner break?

Mr. DeCoite: When you call, Lori.

Ms. Buchanan: When I call?

Mr. Vanderbilt: Well –

Ms. Buchanan: We all going run away that's why. We tired already.

Mr. Vanderbilt: I know. Okay, so could you identify yourself for the record –

Ms. Buchanan: Lori Buchanan.

Mr. Vanderbilt: In case any of us don't know.

Ms. Buchanan: Hi. My name is Lori Buchanan. I actually – I'll just hit Chapter 19.64 although I did wanna hear about the enforcement on Chapter 19.30 and 19.64. But I first wanted to say that I was really displeased that we don't have a map to look at. Everytime we talk about zoning at the Planning Commission meetings, there's no map. We've been asking for maps forever and ever. The GIS, ARC GIS program is very simple to pull up on

a powerpoint and doing an overlay of zoning should take all of five seconds. So I hope at the next meeting you guys have the ability to do that because we're always asking where is this? Where is that?

Anyway, I just wanted to point out that the 19.64 section is really the meat of everything and it's very important because the other two amended the rural and ag. All they really did was just slip in one line on the rural and it queries everything back to 19.64. So everything that we going do we going have to do in 19.64.

My question was, the first question was the zoning and designation question you brought up about Kaluakoi. My question is: Who and how does a place get designated? I mean just because we wanna designate a resort area, we're just going to say we're going to designate it? Who does it? The Department of Planning? Because remember now, with the designation you get permitted uses. With permitted uses you have the ability to enforce laws. So that's my question is can I just stand here and say, "I like designate Manae, Mile Marker 20, as an area where I want? Do I want to designate the wharf?" I mean I don't know how that designation process is working. One question.

I'm trying to be fast, DeGray, okay. We're sitting here since 12:30. The second thing that kinda makes me question is the administrative permit processing in 19.64.050. And that, again, is what Molokai is always fighting for. Here we giving back the power to our Planning Director to make the decision for us about who we're going to allow; where we're going to allow; what we're going to allow, okay. That no sit well with me. It will never sit well with me cause I feel all that decisions should come back to the community. The community should decide whether they want it there or they don't want it there. And if we give that process back to the – we punt that back to Director Hunt over here, remember now, what did I just say? 19.64, under Permit Processing, that's Page 4 of your Exhibit 3, okay, Item No. 2, "Planning Director shall approve or deny applications pursuant to requirements of this chapter." If you read down and you read down and you go on, it all goes into the initial permit. Now you – now I going come in for an initial permit for that one-year permit, after the initial permit, and I don't even know how that is working, the applicant can come in and renew that permit and it's up to Director Hunt to say, "Okay, you never have one problem for one year. I'll give you a permit now for up to five years." That does not come back to this Planning Commission. That is not scrutinized by the community. We have nothing to say about that because it's an administrative process again, okay. There we go. Now in Hana, yeah, they're suggesting, okay, their provision is not more than three bedrooms – I mean not more than three vacation rentals, B&Bs, whatever you wanna call them. After that, gotta come back to the community, okay. That's something to think about.

Now in 19.64, would help if I went tell you the page, yeah.

Mr. Vanderbilt: What section are you at?

Ms. Buchanan: Okay, 19.64.030. Even me I getting lost. That's what I said, this thing is ...(inaudible)...

Mr. Vanderbilt: Okay, that starts on Page 1.

Ms. Buchanan: Okay. Page 2, Exhibit 3, under that 19.64.030, my question now –

Mr. Vanderbilt: What letter are you –

Ms. Buchanan: D.

Mr. Vanderbilt: Okay.

Ms. Buchanan: Okay, so now the light bulb went off in my brain. I said, "Wow, what's to stop me, if I get some money, to go out and lease x-amount of homes; turn right around, flip 'em right over, and get ten permits for B&B and TVRs? Then I going be in the one point something million bracket of earning income on Molokai." There's nothing to stop me from doing that. From just going out and leasing a whole bunch of homes and coming back and just vacation rental everything. Why does somebody with money can come in and do that? Is that what we want? Okay. And then of course what Feeter brought up, the signage, oh the signage gotta go. We don't want no four-foot signage. And we not even getting there yet, but I no think I going hang around, I'm sorry, unless you going buy me dinner but even then I not going hang around, Chapter 19.29, the rural district, Page 1.

Mr. Vanderbilt: Lori?

Ms. Buchanan: Yeah?

Mr. Vanderbilt: I'm going to let you go. I'm going to ask you if you want to come back for your last three minutes but since –

Ms. Buchanan: I going – I going –

Mr. Vanderbilt: There's only a few people, why don't you just go ahead and get –

Ms. Buchanan: Thirty seconds. Aunty wanted me to go. She thinking what she like say.

Mr. Vanderbilt: Okay. No, no, no, but you got another three minutes now.

Ms. Buchanan: Okay, so under permitted uses, rural district, the 19.29.030, you notice how they just went slide in No. 6, under Item 2, that's Page 3? They just went slide that in: "Bed and breakfast operation subject to the provisions and restrictions under 19.64." And that's for rural district now. What would you consider Manae? Yeah, maybe we're all interim but I would think, in the future, I can see that all comprehensively changing to rural district. So now we just went allow bed and breakfast in all the rural districts by one sentence in 19.29 contingent upon everything we came up in 19.64. I no agree with that. I would omit that. I can see plenty ramifications coming out of one simple sentence inserted into my rural district.

19.30A. Now we go to the ag district, same thing there, except get something in there I just no understand. Again, under permitted uses under the ag district, No. 12, Page 7, bed and breakfast operations operating in conjunction bonafide ag operation, annual gross income – okay, who going – who – who's going to monitor all of this? Director Hunt again? Zoning and enforcement? What kinda – what kinda stipulation? What does this look like? I need one example cause I cannot comprehend how this looks like or what the intent of this wording is in the ag district. So, sorry I no more answers for you. I get more questions than answers.

Mr. Vanderbilt: That's fine. This helps us out.

Ms. Buchanan: But the main point here is I do not want to give up control of what we want in our community to our Planning Director, as much as I love him, okay, as much as I trust him and I love him and everything, I don't want that decision to have to be punted back to him. It needs to come back to you, right here, you guys. Okay, thank you.

Mr. Vanderbilt: Okay. Does any – excuse me, Lori. Does anybody have any questions for Lori? Hearing none. Aunty Judy?

Ms. Judy Caparida: That was a long wait but was worth it. It's very confusing. This thing just given to us. Now who in their right mind can read this cute damn thing? This is too much to read. Even the guys with degree going get hard time to even make what is – what makes sense of this thing. So much confusion. It talks something over here, then it turn around, it talk something else, and at the end, he goes right back again. Confusion. I've been to almost every meeting for the Planning, the GPAC. A lot of the plans that we had made for Molokai has been they change it again, change it again. I mean, hey, change Maui. You like Maui be changed, fine. Do it. But no change what we put in for us on Molokai. That's what's so confusing. Like everything, read this paper. I take this paper and wipe my ass with it. This is so unreal. People sitting there ...(inaudible)... and take apart all the things that you said with your heart cause you live here. Everything we do here is because we live here. No make changes cause we don't want the changes. The change is that be pono. It was from long time ago. The boards today is different. Last

year, two years, three years ago different. I know all the crooks. They all sat on top the board and they the very ones that make an unreal moves on our lives today because they doing all this. They doing all the things that is not right and only because you wanna live. You want to live. This guys want to make money. Make money for what? You never happy? You going keep wanna making money. But I'm letting you know because we're not going to change our mind on how we wanna live. You know how many grandchildren that came through here? I had 12 grandchildren that I carried like this to every meetings from 30 years and before. I know almost everybody that sat on this board and I know everyone of them that today greed is their living. It's I, me, self, and lover of self. It's not looking to the needs of you and all of your whole community. That's what. Bringing on all these people is what's ruining and is going out now days people is getting wise to make money on everything. That's why I really -- I am for what her name now? She left over here. For the Wailua one. Simms. Mrs. Simms. Everybody know that what you guys doing is wrong. Hello. If you really wanted to make it right, you stay by the cute office and you tell 'em, "I want you to make this right because I want a legal place to run." That's what it is. When I wanna go meeting and go legislature, they say, "Judy, you know what? They busy." I say, "Bruddah, I'm coming to your office. I'm going to sit there cause you gotta pass the door tomorrow." That's the way you gotta make yourself because why? You wanna be right. You wanna make sure that you are a role model in your community. So this is why I need to share this. Everybody's making plans but they not making it pono. Everybody's making deals that they getting something out of it and I am not for that. And our Councilman is here sitting down and I really appreciate you sitting down here because we don't wanna blow bubbles. I'm tired of blowing bubbles. I wanna make sure that this get recorded, that this thing get pono because why? They are all over. They're not in designated places. All these things is all over Molokai. Gotta stop these germs. They making money all over the place. But you know what? We need to make it right. So you know what? If you gotta pay, pay up.

Mr. Vanderbilt: Thank you, Judy. Is there any questions for Judy? Yes, Commissioner Pescaia?

Ms. Pescaia: Hi, anake. Mahalo. So I'm guessing your sentiment is not in support of vacation rentals?

Ms. Caparida: No, I'm not.

Ms. Pescaia: In any way, shape, or form, or just in a certain part? Would you allow it in certain part of the island or --

Ms. Caparida: Well, wherever it's going to be legal. That's where they can have it.

Mr. Vanderbilt: Commissioner Decoite. Aunty Judy?

Ms. DeCoite: That's okay. Aunty Judy, you can sit down. I just wanted to comment. First of all, you know I not one crook right? Second of all, I agree with what you say and that it should be handled in designated areas.

Mr. Vanderbilt: Thank you. Seeing no more comments, we have the public hearing starting at 5:30, and the Commission I know wants to take a break, is there anybody else here that wants to testify right now? Oh, got one, two, okay.

Ms. Linda Place. Hi. My name is Linda Place and I'm sure all of you and in front of this Commission is just tired of seeing me. Anything to do with vacation rentals, I'm always here. Anyway, a survey was taken on May 5, 2007 at Kilohana School Mother's Day bazaar regarding vacation rentals. There was a strong opposition to vacation rentals. Seventy-four percent of all completed surveys taken deemed that this was a critical and concerning matter. This survey clearly shows that vacation rentals in Manae is not wanted by the majority of those surveys.

I wanna bring up a few things about canoe and Hula Piko because I've been hearing a lot about it. I have people that come to Molokai Hula Piko that come to my house. I don't have the sewer system to -- to keep them occupied with showers and everything. I have to bring in an outhouse, well I call it a porta-potty, for canoe or Hula Piko. Lots of people don't stay in a rentals. They can't afford it. These clubs can't afford it. They pay their trip to come here. They come, some of them have big boat escorts, they pay big money, they stay on those boats. A lot of these people stay with friends or family. I have a girlfriend that lives up at the -- about three miles out of town, and she don't even know these people, but through friends, they ask her if she could accommodate these people at her home, nine or ten people because they can't afford to go into these vacation rentals. And if you have a vacation rental and you're telling me today that you're not making a profit, that's BS. How can you run a business if you don't make money? I mean come on. Let's get for real here. People are telling us stuff that are not true. I mean if you go on the internet and look what the rentals cost for a TVR, it's unbelievable. It's 300. The most I see. People said hundred dollars a room at night. Come on. No way. It's 250 to \$300 a night or and some. So I don't know where this is all coming from but I just wanna say that the homeowner, you know, people are renting their ohana houses which was not made for that. Ohana houses was for your family to live in to help them because they can't afford the rent. Rent is ridiculous - 1400 a month, 1200 a month, people can't pay that kind of rent so they stay at home. How can you choose and how can you pick and choose who can and who cannot have a vacation rental? I can have one but two years down the road you cannot have one even though you're my neighbor. Come on. He said, "Oh first come first serve. If you're first, you're the guy that's going to make the money and the other guys what are they going to do?" And when it comes to locals, locals aren't doing this. The people that live here are not doing it. It's the people that's coming here to make a profit because why? The stock

market is not a guaranteed thing but a vacation rental is. And that's all I'd like to say. Thank you for your time.

Mr. Vanderbilt: Thank you, Linda. Is there any comments for Linda? Commissioner Pescaia.

Ms. Pescaia: Aunty, the survey you mentioned, how many -- do you know how many people were surveyed?

Ms. Place: There was like almost 56 people and we have, like in our group, we have 74 -- 74 members and we never -- we only did it that one time.

Ms. Pescaia: What group is this?

Ms. Place: Malama Pono O Ka Aina. And most of us are residence of Mana'e.

Mr. Vanderbilt: Commissioner Chaikin.

Mr. Chaikin: Linda, I just wanna make it clear that we're not tired of having you come and give public testimony.

Ms. Place: Well, I'm getting uglier and uglier every time I come up here.

Mr. Chaikin: We value all of your input. Thank you.

Ms. Place: Thank you.

Mr. Vanderbilt: Alright.

Ms. DeCoite: Linda? Linda, hang on.

Mr. Vanderbilt: Excuse me. Commissioner DeCoite.

Ms. DeCoite: Linda, I hear prior of the Honouli Wai vacation rentals and -- and I -- I kinda know who lives in that area. Is that the same guys you surveyed also?

Ms. Place: If they came, I don't think so, but I can't find -- I can't even number 12 residence in that area. Can you?

Ms. DeCoite: That's what I -- that's what I --

Ms. Place: Can you?

Ms. DeCoite: I never ...(inaudible)...

Ms. Place: I mean let's be real. You know what I mean?

Ms. DeCoite: Okay, that's why I just wanted to clarify.

Ms. Place: When we give testimony at least give truth, you know, just don't come up here and give testimony just to make a profit. Thank you.

Mr. Vanderbilt: Alright, let's -- alright. Okay, Mahealani.

Ms. Mahealani Davis: Mahea Davis. A lot of good ideas have come up today from, you know, the entire room of people. My involvement with this has been mostly with an eye towards Mana'e and the -- the problems that have been caused by unrestricted, unmonitored, unregulated vacation rentals. The bigger problem I see is that we have made a strong investment on this island in good planning. We fought for a long time to have a Planning Commission here and I totally agree with Lori's comments that I also don't like that part of the ordinance that puts the final decision making back in the director's office. I think it should stay here at this table. The problem is not so much vacation rentals good or bad; bed and breakfast good or bad. It's the process not being followed and people coming in when they understand that they will not -- no longer be allowed to continue to do something which they knew was not allowed in the first place, and after 20 years of running a bed and breakfast, suddenly wanna scream "that's not fair" because it's not in the law. People need to be involved in the process to change the law if the law doesn't work for us. That's why we have a Planning Commission and a community plan. I didn't see most of these people at the General Plan committee meetings which we sat there till 9:00 at night sometimes to go over, line by line, what the General Plan says. And the process to look at the community plan is coming up. It's hard and it's take a long time and it takes a lot of effort. And I want to just have it on the record that a lot of the problems we're having is because people aren't following the plan that their neighbors and friends and community citizens worked long and hard to get on paper and to try and express those things that are important to us and provide guidance for decision making. And the other thing is enforcement. I can't come back tonight, I have a class at MCC. But enforcement is a critical problem on this island. When you have a plan, which nobody follows, and then you don't have enforcement to put a stop to things when there are small problems, then you get this situation where we have hundreds of vacation rentals on this island, not 12 over there and 9 over there, we have hundreds. They're going for so much money, it's a lucrative business, and I can tell you there are a lot of lucrative businesses on this island that a lot of people would say, "I supporting my family. I'm paying my taxes." Why not legalize that? Because it's not pono. That's all I wanted to say. It's about the process and following the process, and respecting all the work that have gone into the documents that provide us guidance. So the one thing I would like to say is that I want the decision

making, that ordinance that Lori pointed out, absolutely, keep the decision, final decision making here on the island and respect the law that's in place. Thank you.

Mr. Vanderbilt: Thank you. Are there any questions for Mahealani? Hearing none. Okay, Ruthy, do you have some final comments before we take a break? Short. So are you going to let us go now or you're going --

Ms. Ruth Manu: No, I going say something fast.

Mr. Vanderbilt: Okay.

Ms. Manu: Aloha. Ruth Manu. It's such a tiresome job. But let me tell you, the work hard, the GPAC, the Planning Commission just to get these laws, these ordinances, these whatever need to be in place for the island of Molokai because we say we love Molokai. When we say we love Molokai, then we tell the truth about Molokai because we are blood, willing to live here and die here. We fought a lot about this Planning Commission to keep this Planning Commission to have the power, not giving them to nobody. We went fight for that when Lori Buchanan was onboard. And when she left, we did the same thing. We said, "No." Mike Foley was the Planning Director at that time. We voiced and we said we wanted to have our own Planning Commission on Molokai to make the right decision and give them the power. That's what it was. So I'm for keeping it like letting the Planning Commission of Molokai retain and keep the power because everybody else who doing crooked need to come to them. I no see nothing wrong with that. What's wrong with being truthful or being honest on what you doing? If you doing guilty, how can you sleep? Hello. I cannot understand that. When people do so much covering up and lying, how can you sleep in the night? Doesn't it bother you? They mustn't have a conscience or a heart. You have a heart that's beating but it's telling you you doing wrong. But I'm not -- I just want to say I wanna keep the power for the Planning Commission on Molokai here. Don't give it to Maui. And I'll come back later after we pau eat supper. Aloha. Any questions?

Mr. Vanderbilt: Any questions?

Ms. Manu: Thank you.

Mr. Vanderbilt: Hearing none. Okay, we're going to take -- we're going to take a break right now and come back at 5:30 because that's what our agenda says. We'll be right back here at 5:30 and our agenda says -- and what we're going to do is if there are some people showing up at 5:30, we may need to do another presentation and we still got three ordinances to go through, and then we gotta do some discussion, so I think the TVR is probably the only thing that's going to get done at this meeting and that was the only thing that got done at the Maui meeting. So see you all back here at 5:30. Meeting's recessed.

(A recess was called at 4:47 p.m., and the meeting reconvened at 5:53 p.m.)

Mr. Vanderbilt: Okay, I'd like to call the meeting of the Planning Commission back to order. Okay, everyone, we had -- I'd just like to explain to everybody, we started at 12:30 today, we had a long agenda with a lot of items on there, but the Planning Department put that we would be planning to have public hearing at 12:30 and at 5:30 so we're obliged to have it at both times and -- but all we did was the TVR or the vacation rental proposed ordinances earlier. We had a presentation by Planning Department as an overview of the changes. We had some questions from the Commission. Then we opened it up to public hearing, and the public hearing went up until 4:45, took a break for dinner, and now we're back, and so we're going to reopen it for the public. How many people do we have here to testify approximately? One, two -- Shaun, you're going to say something? No? Oh no? Oh no? Okay. Alright. Walter, would you like to get a brief overview like we gave everybody else this morning and then -- before you testify? Okay. I think everybody's a little overwhelmed by the amount of paper. So maybe we could start off if, Joe, you could give a -- just a brief overview. I think everybody has a copy of the -- of the document so maybe you could give a brief overview.

Mr. Alueta: How brief did you want me to make it, Chairman Vanderbilt?

Mr. Vanderbilt: Well, I mean if you could sort of say where we are now, you know, where -- where vacation rentals are allowed now and how this law's being changed to either make more areas are restricted and then maybe hit a few of the high points of the changes. I don't think you have to go into the whole history.

Mr. Alueta: Okay, bed and breakfasts and transient vacation rentals are treated -- we view them differently. A bed and breakfast is a housing unit where the owner or operator lives within the unit and rents out some of the rooms; where the transient vacation rental unit, the owner or operator does not live within the same structure as the unit being rented. So that's the key difference. Transient vacation rentals and bed and breakfasts are not an outrightly permitted use or allowable use in most categories except for the hotel district, some nonconforming apartment districts, and some business districts and -- or nonconforming business districts. So to operate, for the majority to have a transient vacation rental or bed and breakfast outside of those districts, you do need to seek a land use entitlement. That land use entitlement is not a given right, it has to be sought and approved and granted prior to you operating one to be legal.

The department, we currently have a bed and breakfast ordinance. Our proposal is to streamline the bed and breakfast permit process from basically a three-tier system of levels of approval down to one and possible two levels, meaning it'd be handled administratively; in some cases, it may require public hearing but not in all.

For transient vacation rentals, we are proposing to disallow them in all districts except for geographic regions of the destination resort areas. For Molokai, the area that we're going to establish is the existing Kaluakoi resort area. I apologize, we do not have a map for the Commission and for the public at this time. We're still drafting them. The other four destination resort areas that have been identified within the General Plan and community plans are Kaanapali, Kapalua, Makena, and Wailea. Those maps are attached in your staff report. And for the report, if anyone wants one, has Exhibits A through D. We're also proposing to have transient vacation rentals be an outrightly permitted use in the business districts but with the limitation of up to a 20-unit vacation rental or inn. Prior to 1991, motels were allowed within the business districts. These were taken out after the Maui Isana incident in Kihei, that was the last hotel built in the business district. Given the size, scope, and policy statements and General Plan statements that occurred later on, Council removed those -- the provision for motels and hotels within, not only the business district, but also in the A-1 and A-2 districts.

There is a trend toward neo traditional town planning or urban -- having more compact urban design and allowing for mixed uses. We feel that small scale inns or mixed use where you have maybe commercial on the bottom and maybe some rentals on top of that commercial is appropriate within the urban core. Most of the community plans, as I point out in my staff report, does not support the expansion of visitor accommodations into the business district. It is supported in the community plans for Wailuku-Kahului; however, we are still making that out as a proposal or as an option. Whether you feel that's -- that's appropriate or you find that you wanna -- that it would still be contrary to the community plan and General Plan, we just threw it out there.

Other areas that we're looking at changes in the bill are in the -- allowing bed and breakfasts in the rural district. In the rural district, single-family residence are a permitted use. We are proposing to allow that under the guise of 19.64, which is the existing bed and breakfast ordinance. In the agricultural district, we are also proposing to allow for bed and breakfast in the ag district if you are a true bonafide ag operation and we are setting a criteria of 35,000 in gross agricultural income sales as shown on your income taxes, etcetera, or that you are a State registered and National registered historic site or structure in which you can operate -- also operate a bed and breakfast because, again, that's listed -- the restoration and adaptive reuse of historic structures is listed as a permitted use within the agricultural districts.

Again, bed and breakfasts -- again, bed and breakfasts are not a given right outside of the business district. It is a land use entitlement that must be sought. In the agricultural district, the primary purpose for ag is farming, therefore, we feel that bed and breakfast operation needs to be subordinate to the agricultural district and that's why we set up the \$35,000 threshold on the ag. That's a summary --

Mr. Vanderbilt: Thanks, Joe. Joe, just one second. Commissioner DeCoite had an announcement.

Ms. DeCoite: You know, Joe, I no agree with that. I no agree that the bed and breakfast should be allowed in the ag -- the ag zoning only because ag should stay strictly ag and the preservation of ag and because I can easily say you can gross 35,000 in income and use a bed and breakfast to the best of your advantage and take away from that ag zoning. So I no agree with that one and I would recommend a change that the ag zoning needs to stay strictly like that and that the bed and breakfast in a zoning that's clear for bed and breakfast.

Mr. Vanderbilt: Thanks, Commissioner, and I think we'll get into the detailed discussion. I think Joe's just trying to give an overview for the people that are here starting with this afternoon public hearing and -- Joe, is that it?

Mr. Alueta: Yep, that was it.

Mr. Vanderbilt: That was it? Oh --

Mr. Alueta: You wanted brief.

Mr. Vanderbilt: Okay. Are there any questions from the Commissioners? Joe, I had one question. You said that the Kaluakoi Resort was a place that could have transient vacation rentals in certain situations?

Mr Alueta: Yes.

Mr. Vanderbilt: Okay, now you say you don't have a map of the Kaluakoi Resort. Is that correct?

Mr. Alueta: That is correct. At this time.

Mr. Vanderbilt: Now who determines the boundaries of the resort? We have an urban area of the resort and then we have -- I think the urban area's maybe a thousand feet, and then we have over four thousand five hundred acres of ag land, which is these residential ag subdivisions. Now who determines the boundaries of the resort and how is that determined?

Mr. Alueta: We are currently reviewing historical documents and zoning maps that established the original boundaries of the Kaluakoi Resort and that's the primary basis that we will be using for -- for our initial draft of the boundaries of the destination resort areas. We've done -- we did the same thing with Makena, Wailea, Kapalua, and Kaanapali where

we looked back at when they originally were granted their destination resort. We also went back and looked at some of the original General Plan and civic development plans from the 1970's, the 1980's, as well as you know newer -- the 1990 documents. As I said, if you look at my staff report as we go into more detail in reviewing the General Plan or Molokai Community Plan, it make reference to the West End destination resort of Kaluakoi and so that's how we've -- that's how we determine that we should add it in as part of our proposed geographic limitation for transient vacation rentals because, like I say, was --

Mr. Vanderbilt: Well, if we're deliberating on it, when do you think you're going to have that information? I mean I -- I, myself, have --

Mr. Alueta: Next meeting.

Mr. Vanderbilt: Okay. Good. Commissioner Chaikin.

Mr. Chaikin: I just wanted some clarification on the, you know, we talked about the TVRs being eliminated in the most areas and, basically, replacing them with these B&Bs, they're going to be allowed in pretty much across the board. I'm just wondering, is there areas that B&Bs would not be allowed and specifically the term interim, the things that are termed interim, are they allowed in that area or not allowed?

Mr. Alueta: Two points. Bed and breakfasts is an -- the bed and breakfast ordinance is an existing ordinance and people can apply for them under the existing guise. Our bed and breakfast ordinance is attempting to streamline the permit process as well as expand where they can be allowed including the rural and ag districts. We will also be coming back to you very shortly, I will get a draft ordinance to include the interim district into that bed and breakfast provision. So, again, similar to what I did with the rural district where I added line as a permitted use or allowable use bed and breakfast to the rural district we're going to do the same thing with 19.02 interim district we'll just include bed and breakfast as a permitted use under the guise and permitting structure of 19.64. That would address not only the lady that testified earlier today but as well as some existing single-family homes that are in the Paia region, Paia area of Maui.

Mr. Chaikin: So would there be any areas or zoning districts where B&Bs would not be allowed?

Mr. Alueta: Oh yeah, industrial zones, open space. There will still be a variety and, again, in the TVR district, on the transient -- the pure TVRs, the expansion into the business core that you may or may not agree with and that excludes industrial and -- heavy and light industrial zones because if you remember our zoning structure is that if something is allowed in the M-1, M-2 district, it says, "Any use allowed within the business districts," we're striking that as far as B&Bs -- I mean as far as TVRs so someone couldn't convert

like a warehouse in an industrial zoned area and turned it into a TVR because we still wanna preserve some of our industrial lands for industrial uses.

Mr. Chaikin: Okay, there are a few legally permitted TVRs. How are we going to deal with those? If this thing actually passes where they're prohibited in these or not allowed in these zoning districts, and there's actually some in there that are already permitted, how are we going to deal with those?

Mr. Alueta: That's one of the comments that we've gotten from both department staff as well as other agencies about having a transition period or setting up a transition process to either continue to allow them to continue under the permit and still open the door for these that have already got a conditional permit to operate as one, or if they already applied for a conditional permit, they should be allowed to continue to go through the process. That is something that we'll continue to work out with -- with our proposal.

Mr. Chaikin: Okay, I had some additional questions regarding the rural and ag but you haven't gone over those ordinances yet have you? Are you planning to still do that?

Mr. Alueta: It's at the whim of this Commission how you want me to do --

Mr. Chaikin: Okay, I'll hold my questions until you make your presentation. Thank you.

Mr. Vanderbilt: Any other comments? Commissioner DeCoite.

Ms. DeCoite: Joe, on the -- the bed and breakfast, Chapter 19.29, Rural District, "Bed and breakfast subject to the provisions and restrictions under 19.64." And then when we go back to 19.64, it allows for the permits to be valid for one year. My question is: Why does, after that one year, the permit process does not come back through the Commission and the Commission have the final say and for public review? Because it finishes off with the Planning Director having the final say on that. Why can't the Commission --

Mr. Alueta: That's why we're here today to get your comments on what you wanna see and your proposed amendments. Like I said, our proposal is to streamline the bed and breakfast process for not just the time extension but also for the initial granting. Our proposal is for the initial granting to be done by the Planning Director in reviewing it and that the only times that a public hearing would be required for an application for a bed and breakfast would be: one, if there's another existing bed and breakfast in operation within 500 feet; 40 percent of the landowners within the 500 feet radius object or state concern over the application; or if the applicant he or herself objects or wants to appeal the director's decision on their permit, meaning a person comes in, yes, you can apply for six but you have a 5,000 square foot lot and you can't accommodate all of your parking on this site, or the building or the house itself is not compatible with the neighborhood in how it's

built or how you're proposing to meet all the requirements of the bed and breakfast ordinance and so we don't grant you six rooms, the director says, "No, I'll grant you three rooms." If the applicant says, "No, I think I need six rooms," and appeals his decision and it comes to this Commission to decide, hey, was the director correct or do you feel that the applicant deserves more rooms or whatever, and I think that's the process that we've set up, that's what we have proposed right now. In addition, time extensions on bed and breakfasts we initially grant one year. After -- if there's no complaints and we do inspections and they're in compliance with it, the director can grant anywhere between one year or five years time extension administratively, and any -- if the director grants two or more year time extension, annual reports will be required so the applicant will have to submit annual reports of compliance, how they're complying with the conditions, showing their tax returns, and whatnot that is required that show that they're still in compliance as well as subject to inspections by not only the Fire Department but also Planning staff or Planning inspectors I should say. But, again, if you have issues or concerns with those, you need to -- that -- we're going to try to take all of those concerns, get a consensus what's -- and get them down and send those recommendations to the Council.

Mr. Vanderbilt: Joe, I'm just trying to follow up with what Commissioner Chaikin said. At this point, transient vacation rentals are only allowed in hotel zoned properties. Is that correct?

Mr. Alueta: Hotel, nonconforming business zones, and nonconforming apartment zones.

Mr. Vanderbilt: Okay, apartment, so --

Mr. Alueta: And bed and breakfasts are allowed as a permitted use, as an outright use with no permit, in the business district.

Mr. Vanderbilt: Okay. So, right now, somebody could have a bed and breakfast in a business district or a hotel district? Those are the two --

Mr. Alueta: Yeah. Yeah, basically.

Mr. Vanderbilt: Okay. As far as TVRs, the only place besides those nonconforming things would be in a hotel district. On Molokai we have Pau Hana is hotel, Hotel Molokai is hotel, and then we have six or seven hotel sites zoned at the Kaluakoi Resort, so as things stand today, that would be the only place that TVRs could be on Molokai?

Mr. Alueta: Unless they obtained or seek -- obtain and granted a conditional --

Mr. Vanderbilt: No, but right now based on what --

Mr. Alueta: As a permitted use without any permits, yes.

Mr. Vanderbilt: Yeah, and now we're seeking to make them a permitted use in those areas plus 4,500 acres possibly at the Kaluakoi Resort if those ag lands are considered part of the original resort and also open them up to being permitted uses in the business district including the country town business district which may be Kaunakakai, Kualapuu, and Maunaloa. Would that be a fair statement?

Mr. Alueta: That is correct.

Mr. Vanderbilt: Okay. So we -- these bills really, on Molokai, depending on the outcome, although we will be making recommendations, that's where it stands now if we just accepted everything as it is. So, anyhow, but -- so -- but Joe's right. It's up to us to listen -- to listen to public testimony and then get into going through this thing and saying yay or nay and making a recommendation to -- to Danny's crew so anyhow --

Mr. Alueta: And, thank you, Chair, and I also wanna make sure that you -- you do look at our analysis of how of the General Plan and, more specifically, the Molokai Community Plan whether or not I found them consistent or inconsistent with your plan because remember, for the most part, I try to hang my hat on that so I mean and I've laid out groundwork where I feel that some things are not consistent with your plan and you need to either highlight that and use that as part of your rationale, or if you agree with me on some of the areas where I say it is consistent, you know, highlight that as part of your rationale for -- for your statements. I just --

Mr. Vanderbilt: And I thank you for all your hard work on that staff report and I think you'll know that Molokai look at the details before it makes any recommendations. So thanks, Joe. Did you have a question, Commissioner Decoite?

Ms. DeCoite: Joe, so we went over what is legal and what illegal. So if the vacation rentals, as of today, is illegal, shouldn't we say that everything from here on in is at a halt?

Mr. Alueta: I'm sorry. Is at a what?

Ms. DeCoite: Is at a halt? At a stop? Because if these guys practicing illegal stuff, what's the sense until the revisions can be submitted? The vacation rentals are being operating in an illegal area and the legal areas you're deferring them, those that are operating in a legal area, like Kaluakoi, they did what they supposed to do under the law. So the illegal vacation rentals being taken place whether that be Manae, Kaunakakai, and so forth has no justification to be operating right now is what I'm saying. So --

Mr. Alueta: That's correct.

Ms. DeCoite: Based on -- now we go back to enforcement and, of course, it's like what you guys do about it, you know, because if not, it's going to -- it's going to support illegal stuff.

Mr. Alueta: The department, again, has struggled with the enforcement. We have notified those that we do know are operating illegally. We have -- we have or are in the process of notifying them via letters. Some people have applied for transient vacation rentals through the conditional permit and State special use process. Those that were "under the previous administration's sort of amnesty policy" are being allowed to operate to, I believe, the end of this year without being subject to fines and penalties. Any new application that comes in for a conditional permit or special use permit for a transient vacation rental are being told that they are not allowed to operate and that we do not process their application until they shut down if they are operating. So if they are operating, they come in with an application today, we say, "No. We're not processing your application until you shut down," and they are subject to enforcement provisions from today. Is that correct?

Mr. Vanderbilt: Commissioner DeCoite, you mentioned Mana'e and out that way of illegal but, basically, we have transient vacation rentals operating in Kaunakakai and Kawela and Kalae and Kualapu'u and Maunaloa, and at the resort on the ag lands and all of those also are -- yeah, okay -- so enforcement is going to be a heavy issue and that's something I think we're going to discuss, it's on the agenda to discuss after we get through some of -- some of these bills to see where we're going. Any other questions for Joe at this time? Commissioner Chaikin.

Mr. Chaikin: Yeah, I had some enforcement issues but I really wanna try to keep the train on the track so I'll hold those until we get to the topic of enforcement. On the -- on the B&B's, I didn't really -- I was looking for the, you know, a real clear definition, and I know we've been over this a number of time today, but just to make it absolutely clear can we go over it one more time? If you have a lot with two houses on that lot and you're taking and renting out one of the houses and you are providing those people with breakfast and you are sleeping in the ohana unit, that is not bed and breakfast. Is that correct?

Mr. Alueta: That is correct. You have to be in the same structure, okay, and renting rooms within the same structure to be considered a bed and breakfast under our definition.

Mr. Chaikin: Thank you.

Mr. Vanderbilt: Okay, anymore questions? Or if not, we'll head on into the public testimony and we're going to get -- we're going to get right back to this after the testimony. We have one person, at this point, signed up to speak, Walter Ritte, and I'll be asking others in the audience if they'd like to testify after Walter's complete. Walter, since there's nobody here, you got six minutes. I don't do that three-minute thing after I was on the receiving end.

a. Public Hearing on the various proposed bills (continuation)

Mr. Walter Ritte: Thank you, DeGray. They did it to you that's why, huh? I got couple goals I wanted to try and get across tonight. I picked this up from the back table and it's hard to catch up. So my goal tonight is to try and get across what is happening on the streets outside; how people are viewing all of this stuff that's going on because it's so damn complicated, it's really hard to follow.

At the heart of all of this is people are very worried that, in the near future, they will not be afforded the opportunity to live on this island. That's the heart of everything that's happening out on the street. We are going to have to move because we cannot afford to live, we cannot afford to buy land and build homes on this island. That's what everybody is afraid of, and that's what's generating all the talk outside, and people are getting pissed off. We're sick and tired, and we'll start with the government, we're sick and tired of the government taxing our lands to the point where we cannot afford to pay taxes. We're sick and tired of BS coming from land zoned ag and you got all these million dollar houses on it - sick and tired of that. We're sick and tired of rich people moving to this island, building second homes, raising the taxes on the land just so that they can make money by renting it out to other people illegally. People are sick and tired of that because they -- all those kinds of issues are diving them out of Hawaii and we see us not being able to live here.

So tonight we're talking about the transient rentals. Before I forget, I wanted to ask staff if they realize that this 2001 updated Molokai Community Plan, 2001, is less than ten years old, has a portion in it called the "East End Policy Statement?" Because a lot of people did a lot of hard work in doing this plan and you guys are going through another process to do another plan, and people are going, "What the hell we going do one other plan when nobody even following the original plan?" The East End community participated in the Molokai Community Plan. Not only did they help divide the original plan, but they went ten steps further. They had their own community meetings and they stayed up from 11 at night to 12 at night at those community meetings hammering out their East End Policy Statement. They wanted that in the plan. The Planning Department says, "We'll put it as Exhibit D as an addendum to the plan." And they said, "No, we want it in the plan." They said, "No, as Exhibit D addendum it is part of the plan. It is considered the Molokai Community Plan. It is part of this plan." So we took the words of the department and everybody said, "Yes, okay." So thanks to staff tonight, I went to get this 2001 plan, and lo and behold, there is it. The East End Policy Statement. You guys use this East End Policy Statement or you just don't look at it? Is it part of the community plan?

Mr. Vanderbilt: Walter, we can ask that after you finish testifying. We'll ask them that question. We'd rather hear --

Mr. Ritte: How do I get ...(inaudible)... last time was the thing.

Mr. Vanderbilt: No, no, but we can't everybody asking everybody --

Mr. Ritte: Okay, okay, okay. Sure, DeGray, you want --

Mr. Vanderbilt: But, no, we got -- and if we don't ask the right questions, you can chime in again.

Mr. Ritte: Okay, thank you. On Page 7 of this plan, on Page 7 --

Mr. Vanderbilt: Of the East End Policy Statement?

Mr. Ritte: East End Policy Statement.

Mr. Vanderbilt: Okay.

Mr. Ritte: Item 10, it says here in Item 10: "A permanent moratorium against the development of tourist related accommodations or businesses, which will subsequently change the social infrastructure of the area." I don't see how you can get more clear because we stayed up till late at night pounding out this stuff on East Molokai. And it was really clear that people were afraid of the tourists coming to East Molokai because it's way more beautiful than the kiawe trees at West End. And that's why, in the front of the plan, it talks about going West End if you're going to do tourist stuff. And in the back of the -- in the addendum, it says, "A moratorium." I would really appreciate it if this item was reflected in this besides just talking about West End as being the tourist place.

Mr. Alueta: ...(inaudible)...

Mr. Vanderbilt: Well, wait, wait, wait. Joe, you can come up after cause we got other questions on the community plan too but that's a good point right there.

Mr. Ritte: So the talk on the street is how come we get busted for pakalolo, how come we get busted for crack, because it's against the law, but all these rich people living at East End, buying up all the lands and raising all our taxes so we cannot live here, can break the law? That's the basic question that is happening out there and that's what the -- that's the talk out there. So I don't know how we going keep all our law abiding young people. We cannot double-talk to these people. How can you double-talk? Bullshit is bullshit. So we need to clean this act up because it's affecting the future of our people on this island. Thank you.

Mr. Vanderbilt: Thank you, Walter. Are there any questions for Walter?

Mr. Ritte: Sorry, DeGray, for disrupting your --

Mr. Vanderbilt: No, that's fine. That's fine. But you opened the door for the community plan. Joe, before we get to the next testifier, could you come up and respond to that issue of on Page 7, Item 10, of the East End Policy Statement and whether the East End Policy Statement is part of the ordinance that was accepted as our community plan and does it's policy statements have the same weight as the policy statements in the rest of the community plan? Director Hunt. By the way, everybody, I'm sorry, for the people that came in that weren't here today, I'd like to introduce -- that was Joe Alueta that was speaking earlier and he is a Staff Planner that's -- he's had the tough job of coming up with all this, and with us, about to speak, is the Planning Director for Maui County, Jeff Hunt. And so, with that, Jeff, maybe you could shed some light on the East End Policy Statement.

Mr. Jeff Hunt: As a part of the -- as an appendix to the Molokai Community Plan, that is considered part of your community plan. The plan policy that he referred to, I believe, was used or at least the East End Policy Statement was used recently, I won't mention the name, but you had a transient vacation rental application come before this very board couple months ago and the staff planner made a recommendation of denial based on those statements in the plan. And so the plan is being implemented. The board chose a different tact, and we're not here to argue that or go backwards, but in response to the issue of are we -- are we using that East End Policy Statement, we are using it.

Mr. Vanderbilt: Okay, now we've heard -- we heard Joe say earlier that you do laws and you look to see if the -- the General Plan -- the General Plan has a statement in there that all laws shall be consistent with the intent of the General Plan and the General Plan includes the community plan. I mean take my word for it. That statement's -- that's the last statement in the General Plan. So if we're contemplating new laws here, do those new laws need to be consistent with the intent of our community plan, which includes the East End Policy Statement?

Mr. Hunt: I would advise you that they would.

Mr. Vanderbilt: Okay.

Mr. Hunt: That -- then an example is that's why the Planning Department's recommendation is to create a resort destination area on the West End where TVR's would be allowed outright. We're not recommending that on the East End because we believe that would be contrary to the Molokai Community Plan.

Mr. Vanderbilt: Okay, thank you. Joe, did you pick up that statement in your analysis of these things or -- I mean it's okay if you didn't. You had a lot of work to do. But --

Mr. Alueta: I would be lying if I said, "Yes, I looked directly at that statement." However, I'm not -- the reason that you have a permit process, again, is because you're going to catch those kind of statements. And again, if you look at -- just because I say you can apply for a B&B permit, doesn't mean you're going to get a B&B permit. That's a misconception by most people that just because I go through the hoops and file my paperwork and do all this, when I come to this Commission or go before the County governments, I'm going to be granted something because I went through and filed my paperwork. That's not the case. We may recommend denial. And in the case of B&B applications for -- whether it'd be in rural or in the ag district, which would most likely be the West End, they would come in for their B&B permit. We would then look at that West End Policy Statement and look at number -- Letter M, if you look on our Ordinance 19.64, Section 030, Letter M, it says, "No bed and breakfast home shall create an impact greater than those therefore existing in that district and shall conform to the residential character of the neighborhood." And we're going to look at that statement No. 10 and say, "Hey --" so I don't think that -- that's why we're not saying it's a permitted use outright in those districts. Again, your policy -- your community plan makes reference a lot to the destination area resort of -- on the West End for future expansion of tourism resort areas and that's why, as Director Hunt said, that's why our proposal is only for that area primarily.

Mr. Vanderbilt: So this Commission, if a bed and breakfast or TVR application came before it, they could say, "We do not approve of that because it's inconsistent with the community plan policy." Would that be a logical reason for denial?

Mr. Alueta: Yes.

Mr. Vanderbilt: Okay. And one other thing, when you were explaining the identification of the Maui resorts, there was suggestion that it only -- that it only includes sort of the core area of one of the resorts and not the expanded residential area, but what happened was we had an original resort, and there was zoning and everything, and there wasn't any plan for all these residential subdivisions that went in, but they went in in '81 and a little later, so how would you look at those? Would it be -- I mean would they be in the resort area or how would you determine the resort area?

Mr. Alueta: I think we're -- the department is still struggling with that. You know, not everything is -- is going to be clear cut. In the case of Makena --

Mr. Vanderbilt: Well, we don't -- no, don't --

Mr. Alueta: I mean I'm just saying that when we bring you the map, you'll see the map, and then we'll try to explain as best we can how we drew the line.

Mr. Vanderbilt: Alright, so you're not going to make a decision before coming back to this Commission and sharing your mana`o and maybe getting some of ours in return, huh?

Mr. Alueta: Yes ...(inaudible)...

Mr. Vanderbilt: Thank you very much. Commissioner Chaikin.

Mr. Chaikin: Yeah, I just wanted to make a comment on that No. 10 item, the moratorium on TVR's. We -- when we were going through the TVR issue, when it came up before this Commission, that was a key thing. But when you read it carefully, the paragraph before that puts this little bit of interpretation of what that means. It, basically, is saying we're going to -- we have a list of requests, and it lists all the requests, and one of the request is a permanent moratorium on TVR's on the East End. So there's some question as to whether those requests were granted or not granted. So there's actually interpretation as to what that statement means or what kind validity it holds and I'll tell you, as long as I'm on this Commission, when the planning -- community plan comes across, we will try to eliminate all that ambiguity in the future.

Mr. Hunt: Mr. Chairman, if I could just respond real briefly.

Mr. Vanderbilt: Thank you, Commissioner Chaikin. Director Hunt.

Mr. Hunt: I agree with Mr. Chaikin that these plan policies are open to interpretation and it's not an exact wording. Some people could read the same policy and interpret it differently. But in terms of the question that Mr. Ritte brought up earlier, is the Planning Department aware of these policies and are we trying to implement them, the last TVR application we did put it in the application. There's different way to interpret it.

Mr. Vanderbilt: Okay, are there -- okay, that covered that question and now, as far as other testifiers, I know Hano had signed up. Go ahead, Hano. And I'm just gonna -- if you need the six minutes, I mean you could come back after everybody's testified. If you can finish up sooner --

Mr. Hano Naeaho: Okay.

Mr. Vanderbilt: That would be great.

Mr. Hano Naeaho: My mana`o, my testimony is nothing you haven't heard already. But what did ring in my ears was Makena, Wailea, Kihei, and how about using those models. And even for me, I would use those models to influence you guys to make sure that Molokai never goes that way. Never goes that way. Why? Because just like what my wahine was saying, we know kupuna that grew up there and it wasn't one place where you

could go and it wasn't designated vacation rentals then all this kind stuff, but now it is. So for me, keeping that Manae mission, that statement, that should be spread to the West End, not let the West End be a foot -- be a footing for these vacation rentals to come in because -- and just like what Uncle Walter was saying, these guys are doing illegal activity. But the different between one drug dealer and these guys, is the drug dealer can get rehab. It's pretty unreal. You try compare 'em. Once we go development, there is no anti-development or rehab for that development. It's gone. The drug dealer get more chance than the development guys for come back and be one productive member of their community. So, first, I think there should be mean enforcement on what's going on with these guys cause, like you said, if anybody smart that doing illegal activity, which probably that sound kinda you shouldn't be smart doing illegal activity, but this is something they could use for one benchmark for something that, hey, this validates what I do for one living and, you know what? better yet, put me -- put me in the front of the line on the wealthy, the comfortable, the successful people. To me I think that's wrong. I'm also -- I also get aina in Kumimi ahupua`a or the west side of Hanouli Wai River, and I wasn't here earlier about the Parrish's saying something about, you know, everybody in that community is alright with vacation rentals, I definitely am not alright with vacation rentals and if, again, back to the policy statement, there was blood, sweat, and tears, time, sacrifice, effort put into what we all believe from Manae side, what should be, what it is, and one person or even like, you know, couple people shouldn't be able for change what the majority went decide. So, aloha to you guys but I know you guys can handle your guys' responsibility and do what is right, so aloha.

Mr. Vanderbilt: Thank you, Hano. Are there any questions for Hano? Okay, hearing none. Is there anybody else that would like to testify? So, go ahead. Next is Greg Jenkins followed by Moki Kim, and Ken Bear.

Mr. Greg Jenkins: Aloha, Planning Commission, Molokai. My name is Greg Jenkins. I'm a resident of Molokai. I live in Puko`o and I'm testifying this evening as a member of our community. As far as I know and the way I read the community plan, vacation rentals are not allowed. Straight up not allowed in our current community plan, which is what is currently approved. I do not condone the continual violation of law with these vacation rentals with the exception of the ones that have been approved through this Planning Commission and the East Molokai Community Association, which was done up and up with the community, and the person that did that had the courage do so. I believe there should be immediate enforcement. I think it's a joke that our County is not enforcing this Countywide and that we even lend the credibility that these people have a right to take up our precious time on this island for an issue that they're not even willing to obey the law with themselves. I mean be up and up, come clean, the amnesty is over, the Arakawa Administration is gone, okay. The amensty is over, okay. Enforce this now, okay. And then let these people come back and even have dialogue. And they have a right to their opinions, okay.

Last but not least, I'm very concerned with the GPAC considerations with regards to property taxes. The illegal vacation rentals are taking place in all areas of zoning in our community and it's lending the right whether legal or not for people to buy and sell land and it's turning into gross speculation that's nothing new for anybody in here and it's raising taxes on people of all status in our community from kupuna all the way down and it's causing Molokai to have to take a look at our, just as with many other things, are people even going to be able to afford to live here, pay their taxes, and one thing that's called out in the GPAC is responsible property taxes. Now I'm not an expert on property taxes, believe me, and what I do for a living depends on property taxes, but I think that the County needs to take a very close look at how we're responsibly dealing with the impact on this, at least this issue with relation to that because what I've seen is property taxes going through the roof for many reasons, but this is one of them. And if we don't take a look at that, not only are we not going to be able to say we're responsibly funding County activities, but we're not going to be able to say that we're responsibly allowing people to live on this island that's already hard enough to afford to live here. So that's mana`o. Thank you.

Mr. Vanderbilt: Thank you, Greg. Any questions of Greg? Hearing none, the next testifier is Moki Kim, followed by Ken Bear.

Mr. Moki Kim: Aloha . . . and the board. I need to ask first, I'm still kind of -- so because of the East End community input appendix, this should not take place on the East End. Correct?

Mr. Vanderbilt: Moki? Yeah, talk to us. We'll relay the message.

Mr. Kim: Okay. Well, I figured everyone's going to be able to answer. But it's alright to do these kinds of stuff on the west side?

Mr. Vanderbilt: According to our community plan?

Mr. Kim: Yeah, even the -- I mean we're talking about that community plan that was done and run through ions ago.

Mr. Vanderbilt: No.

Mr. Kim: That can do all these kinds of stuff that gives them the right to do it on the west side and so the original idea was to be able to -- to separate the masses and we do that kind stuff on that side but we no do this kind stuff over here. Well, my thought and mana`o is this, my ike is this, this whole island is wahi pana. There are just as many sacred sites on the west side as there on the east side. If the west siders had been able to sit down until wee hours of the night and come up with a community plan, if they were informed enough or acknowledged enough to be aware of some of the cultural sites on the west

side, I am -- I can feel assured that they would have come up with a similar west side community plan as the east side community people did because allowing for these kinds of development, you might say, next to those mega malls or mega mansions, is going to impact the whole of the west side, which people cannot say will not impact the whole of the island. How will it affect us? There's a water problem. How do we start? We have one family down there in this huge house and they're trying to convince us that they only need so many hundred gallons of water. Now you bring in another family on the same property, are they going to limited to the same amount? Common sense tells me it's going to double. Even though it might be on a temporary basis, it's going to increase. No longer will they be at 600, but it may be as much as 900 to provide these kinds of accommodations. So what's the point? The point is it will impact the sacredness of this island and that's what people in the State don't understand. You guys on Molokai are all crazy. You know and I tell a lot of them, "If it wasn't for us, we wouldn't be the last Hawaiian Island. There would be no Hawaiian Island." Because as soon as we lose our water, the Hawaiian disappears. And then what is the State going to do? They're going to call a special session to see what they can do keep the Hawaiians around. I'm not trying to put the natives in a special classification, but what I am trying to say is the bottom line is if it wasn't for our ike, our mana`o, our na`auao in establishing our identity in our place, tourism would be down the tubes. It wouldn't exist. Where are we at today? What is the impact of these kinds of things coming about? As subtle as it is, because that's what it is, these kinds of things is really, really subtle. We are aware of it happening on homestead lands. The point is it begins to rob us of our children's and grandchildren's future. Their identity. Their sense of place. Then who's going to come up a plan to try to ameliorate that? To try to make everything back to pono? Cannot be done. I take particular interest -- I think maika`i loa, great lessons to my community. I feel their anguish. They can see what's happening out there. But I take special interest on the west side because many people refer and make comments about the west side but too many people are not even aware. My family come from the west side and they literally disappeared. They are gone. Oh, but that's on ranch property. You cannot go up there and do your heathen practices. Whoa, they've done it for generations. How come all of a sudden -- oh, because we have boundaries now. We have fences. We have this. That's the kind of impact that I wanna know these kinds of things take into consideration. It's a cultural thing and it bothers me that we say put everything on the West End. Well everything on the West End comes down through Keawanuiaumi, comes down to Paka`a, comes down through his wahine, you know, who is the daughter of La`a O maumau, comes down through their son, Kuapaka`a, comes down through the kahuna who came from Kauai, Lononuhiwa, all west end. Who's going to remember those kinds of things? Who's going to remember that? We begin to disappear because we're losing our identity and our sense of place. In support of this, I say I have a hard time having somebody on Maui telling us what to do. Kala mai, but mahalo.

Mr. Vanderbilt: Thank you. Any questions? You know, Moki went quite a bit over the time limit but he -- that's sort of standard for Moki but, anyway, it was really important, I think, testimony. I mean we can look at this in saying that this word's wrong and that word's right, but I think there's a lot of people that are not from Molokai and when you look at our community plan, you look at laws, and you look at what the community's all about, I think what Moki said really gives another dimension that needs to be understood about why our community plan and all the work our community put into needs to be respected, and so that's why I let Moki continue on because I think it really -- it really helped bring all of these different parts together and -- and this is something that's on the record now and it'll go from here, it'll go to the Council, and I thank you, Moki, for that testimony. Excuse me --

Mr. Kim: I apologize for taking too long.

Mr. Vanderbilt: Moki, Commissioner Chaikin had a question.

Mr. Chaikin: Moki, you're not done yet. You know, what --

Mr. Kim: ...(inaudible)...

Mr. Chaikin: Yeah, I just wanna make a couple comments and I wanted you to respond because what you are proposing is actually what the Planning Department is saying, they're saying, "Hey, let's wipe our transient vacation rentals in their entirety on the island with the exception of this area around Kaluakoi and maybe a little bit around town," but we haven't seen the map so we don't know about that. So they wanna eliminate all the TVR's on the island, basically, and they wanna put in what they're calling B&B's in their place. We had a lot of people here today and I kept asking them, "What do you think about this B&B concept?" No one really sounded like they were very excited about actually doing it. I guess my question to you: Is there any level of tourism or transient vacation rentals that would be acceptable? Just because they actually do create jobs for the people on the island and I'm just wondering is there any level or they should just be wiped out in their entirety or what do you think about that?

Mr. Kim: I think there is a level, okay, but not too many in this room can see it or understand it. There are some from my view or my lense. I host approximately anywhere from four to five hundred people a year. I don't charge a cent. But they help the community because they take advantage of the services that are available, they support the businesses that are available, etcetera. People say, "You are crazy." And I'm thankful for that. You know, I'm glad I am on that side. Take this past year, in fact I just got done signing an agreement that was hammered out. They say, "You see you gotta take something." I said, "No I don't. Not for myself." "But you have expenses." "Oh, yeah. Sure I do." But I'm at a position in my life where I can share and I can give back to the young people coming in or to the people coming from outside." I mean Uncle Billy called

me and he has some people that he wants me to take for a couple of days. And then he says, "And they going pay you." And I say, "Billy, you know me." And he says, "Well they'll give your favorite charity." I said, "They can do that. That's fine. They can help somebody else." To me, they're contributing to our people who still have a foot, sometimes two feet, up to their hips deep in that lifestyle. When you get into that situation, our own people have a hard time understanding culture. They don't say, "You cannot do that. You gotta have this. You gotta have that. You gotta --" If you feel good and you're doing the best you can, you know, things will take care of itself. It will take care of itself. So the same thing I said to that -- the tourism plan when people couldn't understand that, where I was coming from, and I say, "That's because you have two feet in that world. If you wanna know more about our world, then put your feet in our world." And there are a lot of visitors here now that participate in our world and they're beginning to understand our world that this is the way we identify, we have grown, we have been raised, and they wanna be a part of that. That's what they wanna be. They wanna be part of that ohana. They wanna be connected to the aina. You know they wanna feel the energy that makes our island a sacred place cause it's out there. People have gone all over the world looking for it. So there is a level but I don't know whether you're going to call it "tourism" or whatever cause I do have one rule down my place, I don't accept tourist, and they all go, "I thought you just said you have people?" That's right. "So how can I get to your place?" They either stay overnight, they get in the lo'i, and they go home with lepo under their nails and toes in between; otherwise, how can you connect and understand what we're talking about? If you came over there just to look at us like that, I say go Honolulu and look at their zoo. We're no on showcase for you to come over here and just look at us. Forget it.

Mr. Chaikin: Alright, well, thank you, Moki, you might get a lot more --

Mr. Kim: But something for them -- something for them to think about.

Mr. Chaikin: You might get a lot more travelers coming to your place after all the TVR's get shut down.

Mr. Vanderbilt: Okay, thank you, Moki. Next testifier is Ken Bear.

Mr. Ken Bear: Yeah, good evening. Yeah, I'm Ken Bear ...(inaudible)... I just had one -- I agree with everything that's been given to you as testimony this evening pretty much. The one thing that I would like to say is that there's been many people operating illegally and they bloody right well know it. I've only been on this island seven years and I knew it from the day I came here that it was not a thing that was okay to do on this island, basically, especially on the East End. And, yeah, there's people that tell you, "Oh, yeah, yeah, yeah." But really, you knew deep in your heart that it wasn't right. And what I don't wanna see happening is these people that are operating illegally be grandfathered in, given amnesty because they've been illegal. You know what I mean? I mean they should be

barred. I mean if you do do some kind of thing and let some of them be, those people should not be in the pool. I think given amnesty that way to flat out illegal operations is wrong and it's unjust and it's a sham on democracy, and that's -- that's what I wanted to say this evening. Thank you.

Mr. Vanderbilt: Thank you, Ken. Is there any questions for Ken? Hearing none, Maile is next.

Ms. Maile Ferreira: Aloha mai kakou . . . my name is Maile Ferreira. I'm currently a teacher at Kualapu`u School for Hawaiian Immersion and I'm a new resident of Molokai but I was born and raised on Oahu and I moved to Maui. I just wanted to share my experience being a new resident here. When I first moved here, I couldn't believe like the -- you actually have to go through a protocol type of acceptance of being a part of this community and I really didn't know how to take it at first. And after I really saw the beauty of it, that Molokai is very -- very concerned about who lives here and their intentions and why they're here. And it's different on Maui. It's different on Oahu. And I'm from Lahaina. Straight from Lahaina to here and, you know, you mention Kapalua, that area, and it just hit me because I remember Kapalua when never have Ritz-Carlton, and I remember when never have Kapalua Bay Hotel, and I remember the kupuna who lived there, and I see them still and things are just not the same. In Olowalu, close to my home, the Keahi family, very close to me, was restrict -- you know, bed and breakfast opened up right on the ocean front and papa used to take them their fishing right through, you know, that property and once Pioneer Mill closed down, new people bought it, opened bed and breakfast, the boys couldn't walk through the property to go fishing. They had to ask permission first. That's just a simple example, you know. I -- my home in Lahaina was next to a B&B. The beauty about Molokai is that I can go next door and go borrow eggs and flour and sugar when I run out. But when get one B&B next door, no can. It's different. It's different. You gotta go Safeway cause it's 24 hours, yeah. Different. Over here things close down and you -- you're -- that family bond, that neighborhood bond is automatic. It's not something that's fake. It's not something when I park my car next to my B&B neighbors that I have to smile and pretend "aloha" when I had a terrible day at work. You like vent to your neighbor. You know what I mean? Cause that's your ohana. And it's different over there. And so when I moved here, I finally got to experience that and it's a beautiful thing. I can let my kids go play and I no need worry. When we first moved here, I was like, "Oh, where they going? Oh, you know, I gotta make sure --" "Ah, baby, they'll be okay. We stay on Molokai now." But what going happen when one B&B open next door and I don't know who staying for the night? It's going to be different. So I'm just here to testify as an outer-island girl and now a Molokai girl, and my life has definitely changed for the better and I want it to stay that way for my keiki, my mo`opuna amau amau. Mahalo.

Mr. Vanderbilt: Thank you, Maile. Are there any questions for Maile? Hearing none. Is there anybody else here tonight that would like to provide some testimony? Okay.

Ms. Caparida: We can go again, right? This is the next section, hello.

Mr. Vanderbilt: Well -- Judy, I think we want -- we have some other ordinances to go over but --

Ms. Caparida: ...(inaudible)...

Mr. Vanderbilt: Oh, we got Loretta coming up and she's probably going to scold us, but, anyway --

Ms. Loretta Ritte: Thank you, Aunty Judy. Aloha mai kakou. My name is Loretta Ritte and I live in Hoolehua. And I think Maile kind of hit it on the head when she talked about ohana. You know, I lived here for almost 40 years, I was born and raised on Kauai, lived here for 40 years, remember those days when everything closed up at five, and you knew everybody who walked, you know, who walked in town, and, on Sundays, had only five cars on the road. Well things have really changed. And for Maile coming to Molokai, it's been good for her. For me, being on Molokai, I see changes that have made me really scared, really on the verge of being "hmm, not what?" So, to me, all of this like for all of these people who are doing vacation rentals, they shouldn't be given to the end of the year. That's not fair. They've been doing this illegally for many, many years. It should stop tomorrow. Tomorrow. Because I think they feel they have a power, like somebody used the word "amnesty," and they're going to use it. And all of these people are realtors. The majority of these people are realtors. They make it almost impossible for local people to get houses or to buy land cause they're looking for the investor with the money. I was told by a friend of mine who wanted to get a house but this person, this realtor, gave it to somebody else cause they had the money. They offered more. So it's real, okay. So that happens. I don't -- I don't think there should be any bed and breakfast's. I don't think our aina, our beauty should be business. This is our community. You come and you stay at the hotel. Stay where it's designated for those kinds of purposes. Your home is your home. It shouldn't be a business, I mean where people are coming in and out every two days, every -- somebody said three hundred days of the year they have occupancies in houses, and it's not fair to the community. In Kawela where there's an illegal bed and breakfast, the neighbors, my friends, have told me that they've been asked to stop their children from making noise at a certain hour, don't make -- the dogs are, you know, kind of like interfering with the peace and the -- of their people staying at their home, and it's a bed and breakfast. So I think those things don't belong in a community. I don't want to see them in agricultural places. I don't wanna see it at all, okay. And I really trust this committee cause I never do all my homework, you gotta do 'em for all of us, but I just think

Molokai shouldn't, you know, have to be based on business and we need to keep it as our community so we can continue to know everybody that comes and goes. Mahalo.

Mr. Vanderbilt: Thank you, Loretta. Are there any questions? You know, I'm going to -- I'm going to let Judy speak again.

Ms. Caparida: Short.

Mr. Vanderbilt: Short. And, wait, I just wanna explain why. We had asked and I was pushing and I was unsuccessful in getting the Planning Department to cancel the public hearing and having it all at night where everybody could be together. This has been the tale of two cities. Today, we had all the vacation owner rentals, except for a few, and they said their spiel, and if nobody was in the room, you'd think, "Oh that sounds pretty good." Then tonight we got another position statement that's consistent with everybody here tonight. And it would have been enlightening for both sides to hear each other and it would have helped our island and that's why we try and, again, I say to the Planning Department important issues to this island need to be scheduled at night and this won't happen again. I promise the community. Thank you. Okay, Judy, short.

Ms. Caparida: Okay, I wanna speak on behalf of Uncle Billy Kalipi. He had no transportation to come because he's in a wheelchair, and so he told me that he opposes the bed and breakfast and anything that is up at East End, and so that's why I came to tell you and he wants our board to be the ones to make sure all the plans we work hard for that you folks will get to decide on what we on Molokai wants and needs. Okay? Thank you.

Mr. Vanderbilt: Thank you, Judy. Okay, anybody else out there hadn't testified? Okay, hearing none. You know, I'm not going to close the public hearing at this time only because I wanna find out, before we go any further, how long this Commission has and when our time table starts and ends for making recommendations on these ordinances to the Council. Could somebody answer that?

Mr. Hopper: As I told you when you asked before, you have a 120 days from the date that the final public hearing ends. So if this isn't the final public hearing, if you keep it open till the next meeting, then you have a 120 days, which is four months, to make recommendations to Council. But if you decide you wanna leave the public hearing opened and have it continue to the next meeting, then I believe you'd have 120 days from the date of that meeting, and that's by the County Charter.

Mr. Alueta: Mr. Chairman, I ask a point of clarification with our Corporation Counsel

Mr. Vanderbilt: Yes.

Mr. Alueta: The proposed bills are director initiated, does that 120 days still apply as with Council initiated bills? I'm just trying to --

Mr. Hopper: Yes, if it's -- both director and Council initiated bills have that 120 day period. It doesn't matter where it comes from.

Mr. Alueta: Thank you very much.

Mr. Hopper: And, again, that's from the date of the final public hearing on the issue, when that's closed, and it don't close it today, it doesn't begin to run from today, according to the charter.

Mr. Vanderbilt: Okay, not knowing everything about all these public processes, I would ask that Corporation Counsel that if this is on our next agenda, which it'll have to be, it's on the -- cause we're not going to finish our work tonight, if it's on a future agenda, can anybody in the community testify on that item on the next agenda?

Mr. Hopper: Yes, you'd have to allow them, by State law, to testify at the next meeting.

Mr. Vanderbilt: Okay, just so maybe it'll leave us some flexibility, I'm not going to close the public hearing at this time cause I don't know quite where this is all going and I don't want our 120 days to start right now because there's a lot of stuff we gotta understand. So, at this point, if the Commission is okay with it, I'm going to just leave the public hearing open at least till the next meeting. Is there any problem with that? Commissioner Chaikin.

Mr. Chaikin: There's five bills that we have to take a look at. So far we've heard staff report on two of the bills -- or three of the bills, so we still have some more staff report to even understand the bills, so it'd be good if we actually could, you know, I don't know if you wanna do that, but we still have to listen to see what, you know, is being presented to us.

Mr. Vanderbilt: Yeah. No, I was just talking about, at this point, I'm not going to close the public hearing. I'm just going to go on into the --

Mr. Chaikin: Right, I guess the point that I was going to make is the public should have an opportunity to respond after they hear what's being presented by the Planning Department, you know, so they're going to make a presentation and then, maybe at future meeting or something, they might wanna respond to the -- to the bills that are before us.

Mr. Vanderbilt: Yes, and that's good. And I think there's been a lot of good stuff put on this -- the record, and we're going to be looking at this probably at the next meeting, and I would ask that the Planning Department do everything that it can to get us the minutes from this meeting to us by the next meeting. I really would hope that they -- they could do

that. And, with that, Joe, would you like to continue one? We finished the -- I believe we finished the vacation rental and the B&B ordinances, and we have three more left: the rural, the ag, and the conditional permit.

Mr. Alueta: That is correct. And I'd like to just -- I'm assuming we're going to go back to these bills and discuss them more in depth after I give my presentation.

Mr. Vanderbilt: Definitely. And I would like you to follow the same format as just give your presentation by going through the changes in the bills and then hit your summary at the end.

Mr. Alueta: Okay, that's fine.

Mr. Vanderbilt: So where are we starting?

Mr. Alueta: We are -- we'll hit the rural bill next, 19.29.

Mr. Vanderbilt: Where is that in the staff report?

Mr. Alueta: That is Exhibit 4 of the staff report. This for lands that are zoned County Rural and, for the most part, those are same lands that are zoned State Rural.

Mr. Vanderbilt: And, Joe, you don't know -- I think at that last -- one of our last meetings you mentioned that there's -- there's very little rural zoned land on Molokai at this point or did you make that statement? You did?

Mr. Alueta: You have some -- you have some RU-0.5 lands on Molokai and you don't have any "County Rural" lands on Molokai and I'll let -- Clayton seems to be -- might be fishing for some information that he might be able to help me out with but --

Mr. Vanderbilt: Well, anyway, we don't have a whole lot of rural lands.

Mr. Alueta: Yeah, and -- but what this ordinance does is it allow for bed and breakfast operations within the rural districts restricted to the provisions of 19.64. Again, the difference in -- the difference in what this bill does is that it eliminates the need for a conditional permit as well as the State special use permit for those people who wish to operate a bed and breakfast operation. In -- as far as summary, if you go back to my -- into my staff report where I address --

Mr. Vanderbilt: So, Joe?

Mr. Alueta: Yes?

Mr. Vanderbilt: The bills stays the same except now bed and breakfast are going to be allowed as a permitted use and that's shown on the top of Page 3 of the bill by adding that one line "six bedroom bed and breakfast operation subject to the provisions and restrictions to 19.64." Is that correct?

Mr. Alueta: It allows it as an accessory use to a single-family structure and it would be subject to the provisions of --

Mr. Vanderbilt: Sorry - accessory use.

Mr. Alueta: Subject to the provisions of 19.64, which is the bed and breakfast ordinance, so you would have to get a B&B permit. It's not going to be a outrightly allowed use; it'll be a use that will be permitted through a B&B permit.

Mr. Vanderbilt: Okay. Thank you.

Mr. Alueta: And like I say, one of the key points of adding it to the rural district is that it eliminates the -- the need for a State -- County conditional permit and also the need for a State special use permit. And then from a summary standpoint, from agency comments, we have one of the most key comments, I guess you could say, is that Office of Planning believes that you -- excuse me --

Mr. Vanderbilt: So, Joe, your summary is coming from what part of the staff report?

Mr. Alueta: On Page 15. If you look at my summary comments from agencies.

Mr. Vanderbilt: Page 15 of the staff report. Okay.

Mr. Alueta: Page 15 of the staff report you have, of the significant comments that we received, again Parks and Recreation did not support the expansion of the B&B to the rural district; Finance Department wanted to have some type of reporting to keep track of these; Office of Planning felt that you still needed to get a State special use permit; however, in our conference with the Director of the State Land Use Commission, he agreed with our interpretation that -- that we could allow for it as an accessory use and not require a special use permit because, again, we would be considering it as an accessory use to the single-family structure, which in the State Rural District, single-family homes are an allowed use. The Office of Hawaiian Affairs, again, I think reflecting a lot of things that we heard tonight regarding rural Hawaiian communities which generally oppose the location of B&B's in their communities, their opposition -- excuse me, opposition lies in the increase of tourism, loss of affordable rentals, and access to -- and the possibility of increase in housing cost in their communities. So those are the comments that we received from Office of Hawaiian Affairs regarding our proposal.

Ms. DeCoite: Joe, this was a majority of the Office of Hawaiian Affairs?

Mr. Alueta: I'm sorry. No, on the bottom of Page 15 --

Ms. DeCoite: Yeah.

Mr. Alueta: Office of Hawaiian Affairs; that's their comments. And then when you look at where it says -- you're talking about Current Division? Which parts are you looking at?

Ms. DeCoite: I'm looking at the summary comments on Page 15 where you have Office of Hawaiian Affairs concern over the possible impacts.

Mr. Alueta: Correct. So that's their issue. I mean so they're giving us --

Ms. DeCoite: They're doing it themselves. I mean the -- sorry, I not even going touch that.

Mr. Alueta: Okay. Well, anyway, that's their comments to us so they obviously -- we're providing you the comments from the various agencies that had concerns or comments on it. From our Current Division standpoint, as you know, any law -- any ordinance, you know, and permit process, our Current Division is going to have to process so we ask them how -- we have a pool of professional planners within our office, obviously, it's good to take -- get their input on these both the -- from a policy standpoint but also from an implementation standpoint. Staff planners voted four to three in favor of the proposed amendments. Those opposed to allowing B&B's in the rural district would support the amendment if standards on limiting the number and density were established via 19.64. So they had a concern with regards to protecting the rural lifestyle of the rural district, that was the intent, as well as limiting how many are allowed in each district, either by community plans -- again, and you say that also with the Hana Community Plan, excuse me, Hana Advisory Committee with regards to potentially limiting the number by community plan region, and you say those comments originally under the B&B code. And that's -- that's my summary on the rural -- on that bill.

Mr. Vanderbilt: Are there any comments for Joe at this time? Commissioner Chaikin.

Mr. Chaikin: I think we talked earlier about, you know, the lack of maps so we can't really see where on Molokai there is rural lands so it's difficult to really assess this. Is that something you're going to be able to get to us, actually some kind of a zoning map so we can actually see what impact this ordinance would have on this island?

Mr. Alueta: Yes, we'll do our best to get you, as far as the rural district. Again, there is no -- Molokai never started out with a zoning map so every zoning has come in piecemeal. You do have, like I say, a State Rural and -- and then you had like a lot of interim. As I

alluded to earlier was that the only times that we have actual zoning, where things are comprehensively zoned to eliminate interim, was when we did the agricultural bill. We said that if it was community plan ag, we zoned it County Ag, and the same thing when we had the rural bill. The rural bill said that if you were County Interim, which was a lot of Molokai, and State Rural and Community Plan rural, you were automatically zoned like an RU-0.5. I went over this during that whole rural bill -- other amendments to the rural bill. So all of those areas, a lot of -- there is, I would say there is quite a bit of rural land on Molokai scattered throughout.

Mr. Chaikin: So, I'll take that as a yes, you will try to get us a map.

Mr. Alueta: Yes, I will.

Mr. Chaikin: Another thing. I have another issue with this. It sounds like this bill for ordinance is on kinda shaky ground. As your -- the State Office of Planning is saying you can't do what you are proposing. So you went to another State agency and they said, "Oh, no, yeah you can do that." So you got some people saying, "No, you can't do this." You got some people saying, "Yes, you can do this." You guys are going along with the people that saying, "Yes, you can do this." So what's -- can we get Corp. Counsel maybe to come in on this? Can you give us an interpretation or ask how we could get a more definitive answer as to whether or not you can, you know, do this B&B rural permits, I guess, administratively rather than going through the conditional use or the --

Mr. Alueta: State special use permit.

Mr. Chaikin: State special use permit process? And then maybe who would be the ultimate authority within the State to give us some kind of a definitive answer to that question.

Mr. Alueta: If I may, Mr. Chair, the permit that the Office of Planning is talking about is called the -- is called the State special use permit and those permits are reviewed primarily by the State Land Use Commission. They delegate that authority to the counties for anything less than -- for permits less than 15 acres, okay. So Office of Planning is not the State Land Use Commission. I called the State Land Use Commission whose permit we are -- the County is designated to process for them and they're saying, "No, you don't need to do a State special use permit," and that's -- that was coming from the head of the State Land Use Commission, the administrator, Tony Ching. So like I say, we're going to talk about -- I mean when I get to this ag bill, ag portion, I have the same issue. But, again, these are our proposals, we obviously have some comments coming from, not just Office of Planning, but, you know, Office of Hawaiian Affairs, Parks and Rec, various agencies, so we're just -- we're showing you the good, the bad, and the ugly on this.

Mr. Chaikin: So when the State Land Use Commission says that, no, you don't have to go through that process, and they pass it down to the, I guess, the county level, does it go to the Planning Commission or does it go to the director?

Mr. Alueta: If a State special use permit is needed or administratively?

Mr. Chaikin: Well, I guess they said if it's less than 15 acres, that you can do it at the county level, right?

Mr. Alueta: Correct. If a State special use permit is required, and it's less than 15 acres, the final authority is the planning commissions, okay. Now if what office of -- what the State -- sorry, what the State Land Use Commission is saying is that you have -- the counties do have the authority to define certain uses that are under as an accessory use to what's listed as a principle use within those districts. Because we -- because single-family residences are allowed in the rural district, just like single-family residences as allowed in the residential district, and we define a bed and breakfast as being accessory to that residential use and we're processing it through a B&B permit, the State Land Use Commission says, "We agree that that is an accessory use."

Mr. Chaikin: Okay, I'll go with that.

Mr. Vanderbilt: Are there any other question for Joe? Joe, on the State Land Use Commission it said you got a phone call and a phone call with Tony Ching or the Director of the State Land Use Commission. Is he going to follow up with a letter? Do you know?

Mr. Alueta: Yeah, he told me he'd send me either a letter or email on --

Mr. Vanderbilt: And then you'll pass that on to us?

Mr. Alueta: Yes.

Mr. Vanderbilt: Okay, thank you.

Mr. Alueta: And remember, Mr Chair, if somehow he changes his mind or somebody comes along and says, "Hey, no, you actually need one," regardless, we still have to -- if he says we have to do it, regardless of what our ordinance says and we say you have to get a permit, you're still going to have get a permit.

Mr. Vanderbilt: One last question. It said, "The staff planners voted four to three." Was our Molokai Planner involved in that vote, Nancy McPherson?

Mr. Alueta: I wasn't privy to that discussion. I wasn't involved in the discussion so I'm not aware of it.

Mr. Vanderbilt: Director, do you know if our planner was involved?

Mr. Hunt: I don't know if she was at that particular meeting. The standard procedure is to hold those discussions on Friday and have Nancy come over. Generally speaking, she is involved in those. I can't say absolutely she was in this case.

Mr. Vanderbilt: Okay, thank you. Okay, if there's no other questions by the Commission on this point, we'll move on to the ag, the amendment to the ag ordinance regarding vacation rentals.

Mr. Alueta: Well, it's not really regarding --

Mr. Vanderbilt: ...(inaudible)... wanna go?

Mr. Alueta: Huh?

Mr. Vanderbilt: Is that --

Mr. Alueta: Yep.

Mr. Vanderbilt: Okay.

Mr. Alueta: It's not really regarding -- it's regarding bed and breakfast's.

Mr. Vanderbilt: Oh, bed and breakfast, excuse me, I --

Mr. Alueta: Again, we're proposing to -- when we get to the next bill, the last bill, which is 19.40, we are eliminating the opportunity to do a transient vacation rental outside of the areas that we covered earlier, but within the agricultural district, we're allowing the potential or the ability to apply for a bed and breakfast permit in the agricultural districts provided you have certain criteria and the two criteria that we're looking, on top of those criteria we establish within 19.64, in the ag district because, again the ag is for ag, that's the principle use, any --

Mr. Vanderbilt: Joe, what exhibit is this in the staff report?

Mr. Alueta: If you're -- Exhibit 5.

Mr. Vanderbilt: It's Exhibit 5. Thank you.

Mr. Alueta: And Page 7 of Exhibit 5. And, again, if you are within the agricultural district, agricultural activities or farming, as listed within the State and within the County, the principle uses, those are what's allowed within the agricultural district. Structures such -- farm -- or what people are calling "farm dwellings" and accessory structures or farm dwellings, they need to be accessory to the principle use which is farming, okay. So if you're not farming, your structure is basically an existing nonconforming use. So you have -- like I say, you have many structures that are out there that have -- are in the agricultural district and they, technically, if they're not farming, then they are -- they're an existing nonconforming use, okay.

Mr. Vanderbilt: Joe, they're not farming --

Mr. Alueta: Okay, so, once again, if you're an existing -- if you are in the ag district and you're not farming, the department is not of the position that we should grant you additional entitlements. Remember, a bed and breakfast permit is a land use -- is an additional land use entitlement above what is allowed in the district. Because farming is -- I mean because the ag district is limited to farming, we feel that if you're doing a -- if you wanna have the ability to apply, you need to be a bona fide farmer. We've set the threshold of what we consider to be a bonafide farmer as having a gross income of \$35,000 from farm activities. At the same time, the State Land Use Agricultural District encourages the retention, restoration, rehabilitation of historic structures, okay. I've done restoration of historic structures and it's a very time consuming and expensive endeavor. But we feel if someone is willing to undertake that, we -- in the agricultural district and they have a State Registered and a National Registered Historic Structure, we would -- you would be allowed to apply for a bed and breakfast permit application. And those are the only two criteria that we've established. In addition to what you see in 19.64, those are the additional criteria that you need to have before you apply to allow you to apply for a bed and breakfast permit. Okay, Joe, just let me ask you. On Page 4, there's a -- there's a chart that says how many different lots you can subdivide ag parcels into. Now on the internet, there's a ag parcel on the East End, 500 acre ag parcel in Manae somewhere for 2.9 million dollars. Based on this chart, how many lots could they get on that 500 acres? How does this chart work? It would be more than 92 acres, it'd be 500 acres, so they could get 13 or 14 two-acre lots? How does it go? I mean --

Mr. Alueta: Okay, again, that's not part of our proposal, that's the existing agricultural --

Mr. Vanderbilt: No, I'm just trying to -- you know, that's one thing, we have no control over subdivisions on this island and there's big tracks coming up at very attractive prices compared to Maui, and you got guys in that can go and say, "Well, if I buy this, I don't have to go before the Planning Commission. I can subdivide into 30 or 40 or 50 or 60 lots. And if I can figure out how to make, you know, 35,000 or whatever, potentially, I could get --"

and I think that's what -- you know, sometimes we don't get the big picture and I'm just trying to relate that example.

Mr. Alueta: Okay. Provide that that lot was not subdivided previously --

Mr. Vanderbilt: Yeah.

Mr. Alueta: And you had all off -- it was an original subdivision, you would -- as you said, you would get 12 lots plus one additional lot for each 40 acres above 92 acres. So the first 92 --

Mr. Vanderbilt: Not to exceed 14.

Mr. Alueta: Now you're really going to make me do math, aren't you now?

Mr. Vanderbilt: No, no, but you can get 14 two-acre lots. And then you go to the next one and you could get -- well -- so you could get about 20 or 25 lots, right? Somewhere in there. I mean I'm not going to hold you to it. I know there's a chart somewhere.

Mr. Alueta: I'll go with that.

Mr. Vanderbilt: Yeah, so somebody could come in and say, "Alright, I'm going to buy it for this and I can make all of these lots and they're going to be 500 feet apart because they're all two, three acre lots probably?"

Mr. Alueta: Not all of them. You would be limited to, I believe, 14 two-acre lots. The additional lots would be larger lots and be --

Mr. Vanderbilt: Well, no, you could make the two-acre lots larger lots. They can't be below. You can make them whatever configuration you want.

Mr. Alueta: That is correct.

Mr. Vanderbilt: Okay. So, anyway, let's just assume. So there -- and that's the kind of thing that's happening now. We're just getting -- people are playing monopoly with the island and has nothing to do with the lifestyle or the East End Policy Statement or our community plan. It's just what's going on on both sides of us in Maui and Oahu. So it's really going to take us some time to go through this. Excuse me, Director Hunt?

Mr. Hunt: The sliding scale, as it's commonly referred to, is an existing provision that's on the books right now, was adopted I believe in '98, and the concerns that you have expressed we've heard from other boards and officials and citizens in the County. The

Planning Department has been discussing with the County Council and we're going -- we are going to be exploring -- exploring options on how we can address these concerns in the very near future.

Mr. Vanderbilt: Okay, and while you're up there, one of the concerns we have, forget the bed and breakfast, just the mcmansions, just say you could get 25 lots here, you could get 25 mcmansions and they wouldn't have to implement even a farm plan. Is that correct?

Mr. Hunt: Under our existing administration of the code, that's correct.

Mr. Vanderbilt: And then if they wanted to get a second house on each lot, they would have to implement a farm plan, which could be as little as not doing anything with have their acres and leaving it in ag land conservation. Is that --

Mr. Hunt: I hate to say it, I don't endorse it, but you are correct.

Mr. Vanderbilt: Okay, so there's -- it's a real grave situation. So there's so many things hitting this community and so, you know, if you feel a little frustrated with us or anything, you can see what. It's just tough. I'm around this a lot and I get confused, so if -- you know, most people aren't as anal as I am, so it's just going to -- it's just very tough for all of us to get a grasp of this but we're trying the best we can.

Mr. Hunt: And, again, we are going to be exploring options to address these ag subdivisions in the near future. It is a separate issue. We would encourage you folks to look -- focus on the bills that Joe has drafted. And if we propose some kind of ordinance regarding ag subdivisions, ag lands, it'll have to come through this Commission.

Mr. Vanderbilt: No, the only reason I brought that up just to put it in perspective. I mean we're not just talking about one little ag lot here. Thanks. Are there any other questions on the ag -- for Joe on the ag rural bill? Commissioner Chaikin.

Mr. Chaikin: Yeah, this bill for an ordinance is similar to the last one and I think when you -- when you put these together, you send out to all these different agencies for them to report back to you on what they think, and you send it again to the State Department of Planning, they send you a letter back and saying, "You can't do what you're proposing to do." And so then you call up the Land Use board and say, "Hey, what's this? You know, can we do this?" And they say, "Yes." Can you explain that?

Mr. Alueta: Because the State Land Use Commission is the final authority. It's their permit. It's their rules that I'm processing. I mean that's -- it's a permit -- it's their permit. It's not Office of Planning.

Mr. Chaikin: Okay, can you just explain the position of the State Planning Department why they're saying what they were saying.

Mr. Alueta: Okay, as indicated, do you guys remember when the Bob Carroll bill came through? Okay, well, anyway, during that time, one of the justification that I -- the department used in opposing that bill that would have allowed for transient vacation rentals as a -- as a permissible use within the agricultural district was that the State Legislature, at the time, was taking up what they called "ag tourism." And during that time, they had -- were trying to -- they put limitations on what could be allowed and they kind of, more specifically, said, "No overnight accommodations within the agricultural district," okay. And I used that as part of my justification for the department to say, "Hey look, the State -- it's an issue on the State level that the Legislature had -- are passing bill or reviewing a bill," and it did get passed, okay. Now, that's kinda like a guide as to what's going on on the State level and that there is an issue of concern with regards to ag tourism and not having our agricultural district turn into tourism areas or tourism destination areas. However, they didn't close the loophole or the process of using a State special use permit, okay, that's under -- so they put the restriction under - I don't want to bore you to death - under 205.4.5, which is the standards for what's permitted in the agricultural district; 205-6 is another section called "State special use permit," okay, and that's where most people come in and get what is considered to be an unusual and usual use within the agricultural district. That's -- and so -- but Office of Planning took an interpretation saying, "Hey, the legislation gave you a guide and they said, no, you can't do it. You can't even --" They're saying, "You can't even issue a State special use permit within the agricultural district for overnight accommodations. Regardless of whether it's a TVR or a B&B, you can't issue a State special use permit. Overnight accommodations prohibited period." The State Land Use Commission, whose permit I'm processing or is in charge of that and review of uses within the ag and rural districts, says, "No. Yes, the State Legislature banned it as being allowed under a County plan ag tourism bill, but it didn't say you can't issue State special use permits," and that's why the State is saying, "Yes, you could still get one but you gotta get a State special use permit." And so they're just saying that, from a County standpoint, you can grant -- you could do a B&B permit and set this criteria, however, you still need to let -- an applicant still needs to get a State special use permit, okay.

Mr. Chaikin: Okay, so how do they get that permit?

Mr. Alueta: Through this Commission.

Mr. Chaikin: Okay. Yeah, another -- I guess there's a number of different issues that, you know, I wanted to bring up with regard to this, and one is, you know, how do we interpret whether or not we have a bonafide agricultural operation? And you've set a bar of \$35,000. Well, I'm just trying think, you know, some of these guys are bringing in \$250,000 a year on their little TVR thing and then we have a little manini \$35,000, you know, bar that

they've gotta pass, I mean the way that the excise tax works is that you can actually whole sale your product and pay .005 percent, which is basically next to nothing, you can pay your taxes and you can say the 35,000 as long as you got some money to write off the money, you know, it almost pays for the guys to go ahead to do that. So I think we really need to put some additional language in there that to make sure that it is actually remains in a, you know, a minority part of the operation, like 51 percent of the income or more would need to come from the agricultural operation to make sure the bed and breakfast doesn't become the dominant activity on that ag parcel.

Mr. Alueta: Interesting perspective and if that's what the Commission wants to do, that's the comments that we're going to take back, but that's a good point.

Mr. Chaikin: Yeah, and I -- and I just -- my own personal perspective on this thing is that is that I think it's really -- agricultural is really important and it's really important cause we're sitting out here in the middle of this Pacific Ocean, on these basic life boats, okay, and we get drop shipments of food coming in, you know, every what? Few days. And if for some reason we stop getting these drop shipments of food, we're in big trouble real fast. So it's really important that we encourage agriculture at all cost and the reason we have to do that is cause nobody wants to do it, okay. You look around, there's very little ag going around and it really might be a matter of life and death at some point. So we need to go way out of our way to encourage agriculture, you know, on -- throughout all the Hawaiian Islands. I think it's extremely important. We just have to make sure that we put in the safeguards, like the ones that I've just mentioned, to make sure that it's not abused, that people don't, you know, tweak the system to try to, you know, use ag and do something else. And there's a bunch of other things that we have to, you know, I don't wanna get off the subject but, you know, we got a lot of big big ag stuff going on here on this island that, you know, that's -- that's really another subject but, you know, and I'll save those comments for another day. Thank you.

Mr. Vanderbilt: Excuse me, Commissioner Chaikin, I'd just like to -- if you look on Page 7 of the bill, it says, "35,000 gross income from agricultural products," and what you're saying is in the definition of where that comes from, that's as shown on your general excise form. So you're saying somebody could just go ahead and pay what is that? .005 percent is that --

Mr. Chaikin: That is correct for whole sale.

Mr. Vanderbilt: Yeah, so he could just have no product, go ahead and pay the tax on nothing, even though he didn't grow anything and he doesn't owe the tax, just pay it on there, submit that, and everything would be alright. Is there a law against paying the government money when you don't owe it? I mean this is funny but this is -- this is how convoluted some of these things get.

Mr. Alueta: I spend a lot of time looking for loopholes and that's, you know, that's one of the loopholes. I was thinking – I don't wanna – my loophole was one bed and breakfast operator takes two mangoes over and says, "Here's two mangoes." The other TVR – I mean bed and breakfast operator writes him a check for \$35,000 and that's his sale. The other guy brings – then that bed and breakfast operator brings him two avocados and he writes him a check for \$35,000 and then he go, "here you go." That's way I would look at it because then – then there's a check exchanging hands at a sale and someone will always come up with some way if they really want to bend the rules. I can only do my best within what the scope that I have to try to fashion something. If you feel that, you know, you have some other methodology –

Mr. Vanderbilt: No –

Mr. Alueta: I more than welcome it.

Mr. Vanderbilt: And we see it all the time, the loopholes, and when you got people with money, they hire consultants, this is their only deal, and they look at the laws, and you guys know there's just ways to get around anything if your heart's not in the right place. And, Joe, you didn't put that scenario in your staff report. That's alright. That's okay.

Mr. Chaikin: Joe, I just wanted to follow up a little bit on that, on the accessory use. You know, it seems like a bit of interpretation to see – to say that somehow a bed and breakfast is an accessory use of farming. It's a – there's a little bit of a stretch there. But I think if somehow we can tie in the educational component into the whole thing, part of the reason they're staying at that farm is to become educated about farming and to kinda spread the word of farming. So somehow if we can get that component into this part, it'll make it a true accessory use of ag, and that would be education. The other thing that I wanted to point out is that on an, you know, for – we talked about whether or not they have a legitimate operation, and I think that the onus comes on this Planning Commission when we originally give them the permit. But then, a year later when they come to renew the permit, you know, I think that, you know, that's a real critical time for either the director of this Commission to take a pretty close look at what is really going on on that ag property.

Mr. Alueta: That's a good point. As far as the educational goes, we have a few farms, several farms on Maui, especially in Haiku, one in Kipahulu, that does educational on growing of organic crops and/or growing of bamboo, there's a big bamboo farm out on the back side of east side on Maui that brings in students, you know, in agriculture growing – learning about how to propagate these rare bamboo species and so we – we're not concerned with those. I think those can come through and will come through some type of State special use permit and will show what they're doing to show that they are truly an educational or accessory to the agricultural district and they not just letting these guys stay here and they're being – I mean a lot of them are people are actually paying, it's more of

a tuition or a class, and I think that, you know, I think all the commissions are pretty smart in reviewing that. I think the department is also as far as what's real and what's fake.

Mr. Vanderbilt: Yeah, and maybe room rate limit could be along the lines of these scales set by Moki Kim. Are there any other comments?

Ms DeCoite: Joe, so if – well, you said the State law was made so that there was no overnight staying on the ag lands. Why would we wanna put one special use permit in there?

Mr. Alueta: The –

Ms. DeCoite: I mean if you want the overnight stay, stay at the hotel. This is ag lands we're talking about.

Mr. Alueta: Right.

Ms. DeCoite: You know so can the recommendation come back the Commission saying we no want no special use coming in on overnight stay on ag lands?

Mr. Alueta: That is your prerogative. I mean you can – or say that you don't want B&B's to be allowed within the – in the agricultural district. I mean that is echoed by several – several agencies regarding that. Again, we were – when you look at small farms, I don't know how many of you are farmers or come from a farming background, my family does, but you know you need to have, you know, four things: primary cheap land; cheap labor; cheap water; and access to markets. Those are your primary four components that you need to be a successful farmer and it – in Hawaii in general, land is not cheap; access to markets are not cheap because of the – I mean unless you're selling locally, and water, obviously, is – you know access given the plantation, past plantation culture of – and diversion of water, meaning traditional Hawaiian lands and lands have been blocked from getting water. So it makes it difficult. And so I think that you're trying to, in our case, most of the land is very expensive and so – but there are a few farmers out there that are really trying and they've got – they spend a lot of money on their land just to be a farmer and – and water and we wanted to give them – to have some form of way to supplement that income, maybe they have a three bedroom two bath farm dwelling and they can rent out one of their rooms –

Ms. DeCoite: Joe, I think I can understand the farming concept on that one. What I saying is that if promotes illegal bed and breakfast in any aspect on whether it be ag, rural, and whatever. What I'm saying is why does the special use permit kick in at this point in time when it's illegal as is?

Mr. Vanderbilt: Commissioner DeCoite, I don't mean to interrupt, but –

Ms. DeCoite: Then don't.

Mr. Vanderbilt: No, but Joe – Joe, the ordinance is just here proposing something and – and we're the ones that have to discuss it. If we don't want it or we do want it –

Ms. DeCoite: Well, I just trying to figure that out from him.

Mr. Vanderbilt: What that was put in there?

Ms. DeCoite: Why – why is a special use permit being used when we already know that the vacation rental in the areas are illegal? It's like we evading the process.

Mr. Alueta: Remember there's – currently, if you wanna do a bed and breakfast within the agricultural district, County and State Agricultural Districts, you need to obtain a County Conditional Permit as well as a State Land Use Special Use Permit, so you need those two permits. The State special use permit, if it's less than 15 acres, it's the jurisdiction of this board. If it's a conditional permit, it's the jurisdiction of the County Council. By putting it in the bed and breakfast, by saying you can obtain a B&B subject to the B&B ordinance, right, what that does is that takes it out of the purview of the Council, so that eliminates the County side. It doesn't eliminate the State side cause the State still has that special use permit, you know, kinda like how the County has their conditional permit, the State has a special use permit, okay, and so I can't control what the State openings have as far as that but, you know, like I say, if you don't feel that B&B's are appropriate, you can close the loophole as far as what we're saying for allowing a B&B through a B&B permit process as well as closing the loophole of the conditional permit, which is what we do have on our books that we are proposing today – tonight. And then from a State special use permit, if they can't get – you gotta have two – it takes two to dance. If you have State Ag and County Ag, right, to meet the County requirement, you're going to have to get that conditional permit. If you close the loophole for a conditional permit, you close the – that opportunity. So regardless of whether or not they applied for a State special use permit, they can't get the other side of the leg; they can't get the other dance partner.

Mr. Vanderbilt: Okay, thanks for asking the question. I was out of line. Okay, are there any more comments on this? If not, we can get to this last ordinance, which I believe is to remove the conditional permit which is, basically, for things that aren't allowed in districts as a means of getting a bed and breakfast.

Mr. Alueta: Yeah, transient vacation rental.

Mr. Vanderbilt: Transient vacation rental.

Mr. Alueta: But I mean, not to muddy the water anymore than I have tonight, a B&B is still sort of like a transient vacation rental, it's just that we've set parameters of what a B&B is, meaning you live in the house, but unless I get corrected by Corporation Counsel, by eliminating that provision that you can't obtain a conditional permit to obtain a transient vacation rental operation via the conditional permit process, that would close the door also for B&B's.

Mr. Vanderbilt: Yeah –

Mr. Hopper: Commissioner DeCoite brought up a good point. In the case of TVR's, you have actually, as you know, Joe, as the Commissioners should know, there's actually a provision that states flat out that TVR's are not a permitted use anywhere except for hotel districts currently. That's a bit different than other uses for – that can be obtained for a conditional use permit because you could have a – what you essentially have in your zoning category is it'll be a zoning category and then it'll say all the uses that are permitted in that zoning category, and then it has a list of all of the uses that are permitted in that zoning category with a special use permit. I think some examples are churches in residential neighborhoods or certain – certain uses that Council has found that these may be appropriate in these cases. And then you'll have uses that aren't listed at all. To operate those uses, generally the tradition has been that Council and the Planning Department and the planning commissions have allowed a conditional use permit if certain criteria are met. And then you have certain uses, TVR's, which are – TVR, which is one, and I'm not sure if there are many others, that actually say in the code this is not a permitted use anywhere. It's not that it's a use that's not mentioned. It's actually mentioned and stated it is not permitted anywhere. However, with that interpretation, the Council and the planning commissions and the – the department has taken the position that it's going to pass those applications for conditional use permits to operate that use even though in the code it says you cannot operate that use if certain criteria are met, if the planning commissions and the County Council grant the permit. That's one of the reasons why it takes such a long time is because it's a – a use that is expressly not permitted and in order for someone to basically grant the permit to say that it is permitted, there is a very long and arduous review process for that and there's absolute no guarantee it's going to be granted. It's actually a very heavy burden to meet because you're saying despite the fact in the County Code you're saying it's not permitted, you're going to allow it in this particular case. What this law would do is take that option away. You could not apply for a conditional use permit for a transient vacation rental; part of the rationale being, I believe, is that the – the use is not permitted. It's one that's actually stated this is a use that is illegal and if a conditional use permit cannot be obtained for a transient vacation rental, there would be no way for someone to operate a transient vacation rental absent it being allowed some other place. A conditional use permit, by the way, can be obtained by the interpretation of the department and the County Council and the planning commissions for anything, for any use provided that other laws are provided, but anything you wanted to do,

essentially, and that's why it's such a broad permit and why there's such an arduous review process for that.

Mr. Vanderbilt: Thankyou, Mike.

Mr. Alueta: Commissioner Vanderbilt, I just got clarification. At least the way we have it, this prohibition on no transient vacation rental operation shall be established via the conditional permit process, then I got clarification that that does not preclude, you know, bed and breakfast's.

Mr. Vanderbilt: Well that was my question.

Mr. Alueta: Yeah.

Mr. Vanderbilt: We're being asked to consider bed and breakfast in say the rural district, and then just say we don't go along with that so they're not a permitted use in the rural district. In order for them not to be able to come through and get a conditional permit in the rural district, we would have to include on this ordinance say – it would say no transient vacation rental operation or B&B operation shall be established via the conditional permit process.

Mr. Alueta: That is correct. If you want to preclude someone from obtaining a B&B or TVR outside of the areas where you specifically list them as being allowed, that is what you would need to recommend.

Mr. Vanderbilt: Is there any reason that you didn't include that or is it because the B&B basically was allowed in most – most of the zoning?

Mr. Alueta: Correct. We are trying to steer some of our illegal operators to conform to a bed and breakfast type operation because, again, we feel that a bed and breakfast operation under the limitation still preserves that single-family structure, still allows for someone to live and have a home and it doesn't lose that housing unit to the tourism industry as oppose to a TVR, you've lost that single-family housing unit to the tourism industry purely.

Mr. Vanderbilt: Thank you, Joe. Are there any other comments for Joe at this time? If not, thank you, Joe. You know, what I'd like to do is just do some wrap up stuff. We need to go back through these ordinances at – at another date and I don't know – there's a charter plane. What time does the charter plane leave, Clayton? 10:30? So you need to be out of here by 9 – well, you gotta break down and get the equipment, 915? Alright, that gives us an hour. I think everybody's – we're not going to get through all of these anyway. I think we've got a lot to digest. But I would – I would like to do a couple of things. One,

hold on a minute. I'm trying to find my – okay. One, by the next meeting, I'd like to have our minutes, if we're going to take up this again because there was a lot of outstanding information, I wanna thank Joe and Director Hunt for being here and providing that, and it'll really help us to go back and look at some stuff as we're trying to get through, and maybe, you know, we won't have the benefit of having Joe and the director here again. I also, in this staff report, it does say that the meeting on the Bob Carroll, which we took a public hearing and we had discussions, was at our June 28, 2006 Planning Commission meeting, and I would like to have sent out in our packets at the next meeting, whenever we're going to discuss this, the minutes from those – from that public hearing just so if anybody wants to read through it, they can.

D. UNFINISHED BUSINESS

1. MR. JEFFREY S. HUNT, AICP, Planning Director, transmitting the 2030 Countywide Policy Plan (Plan) to the Molokai Planning Commission pursuant to the provisions of Chapter 2.80B of the Maui County Code.

(The Plan was mailed previously. Commissioners: Please bring your copy.)

The Molokai Planning Commission may review and provide recommendations on Section IV (Goals, Objectives, & Policies) of the Plan, which was revised to reflect the recommendations of the Maui, Molokai and Lana`i General Plan Advisory Committees. Emphasis will be placed on the revised Sustainable Land Use and Population Management, Housing, Physical Infrastructure, and Parks and Public Facilities Sections.

The draft Policy Plan is divided into 11 sections: Education, Social and Health Care Services, Natural Environment, Local Culture and Traditions, Land Use and Population, Infrastructure, Housing, Parks and Public Facilities, Good Governance, and Transportation. The public is permitted to testify on any section of the draft Policy Plan at any of the Commission's meetings when the Policy Plan is reviewed.

First public hearing was conducted on August 22, 2007.

- a. Public Testimony
- b. Action

To view Section IV (Goals, Objectives, & Policies) and revisions proposed by the three General Plan Advisory Committees, see Maui County website at:

http://www.mauicounty.gov/departments/Planning/pdf/Full_Directors_Report.pdf

A copy of the draft Policy Plan may also be reviewed on Molokai at the Molokai Library, and at the Department of Planning Office at the Mitchell Pauole Center (553-3221).

Mr. Vanderbilt: The other thing is we – the – the Maui Planning Commission wasn't able to get to their policy plan review, we are not going to be able to, they set a special session for another day, a special meeting, we're going to have to do the same thing, and we have anybody from Long Range here? Well, they're not here right now. I'm not sure. Our next meeting is when? The 24th of October. Would there be any chance of having a special meeting? We were looking at some dates when Planning could get here. Simone mentioned to 'em would be Mondays, like Monday the – the 17th and Monday the 22nd. What's this Commission's purview as far as trying to have a special meeting to keep up?

Mr. Chaikin: I'm open. It's okay with me.

Mr. Vanderbilt: Linda?

Ms. Linda Kauhane: Commissioner Vanderbilt?

Mr. Vanderbilt: Yes?

Ms. Kauhane: That's a little difficult for me because I'm commuting to Maui and I'm a setting a time – setting time to participate in these meetings on Wednesdays. I'm not sure how other folks feel about that, but I feel rather uncomfortable having to miss the meetings because of my work schedule and if you do it on a Monday, that makes it more difficult for me, but if we could try to work around maybe a Wednesday. I'm just throwing that out that I don't like to have to miss the meetings ...(inaudible)...

Mr. Vanderbilt: Well, Monday is the date the Planning Department – can you make it on the odd Wednesdays that we don't have a meeting or do you guys have already established commitments? No, no, that's okay, Simone.

Mr. Yoshida: I think the first and third Wednesdays will be difficult because we have the Lanai Planning Commission meeting twice a month because they're on the same 120-day cycle on the countywide policy plan, so the Long Range Division is kind of devoted to that on the first and third Wednesdays of the month; to the Molokai Planning Commission on the second and fourth Wednesdays of the month.

Mr. Vanderbilt: Okay. Okay, Linda, is there any other day beside Wednesday or is – I know it was even hard to get Wednesday for you. Well, you know, I think, Linda, we have – we're going to go through – that's the first round, then it's, once we catch up, at some of the later meetings, we can visit any one of those sections at any time.

Ms. Kauhane: What about – what about a meeting later in the afternoon, like today when we're – we're already here and – I mean, not to infringe on other people's valuable time,

but since you're doing meetings on Wednesdays, if we devoted some time later in the afternoon on the save evening. Would that be a possibility?

Mr. Vanderbilt: That could be. We could start a little earlier, maybe at 10:00, and go till 6 or 7, take a break. Alright, why don't – why don't we tentatively – okay, is that okay with Long Range if we could – our next meeting maybe start at 10:00?

Ms. Simone Bosco: As long as there's a flight, we can do it.

Mr. Vanderbilt: And a quorum, okay. There is a flight that leaves here – what's the last – the Pacific Wings?

Ms. Bosco: 8:00.

Mr. Vanderbilt: 8:00? Okay.

Ms. Bosco: 8:00.

Mr. Vanderbilt: Well, maybe you can try to get that. And then maybe – I don't know what other things we have on the agenda, whether we wanna get into this TVR, but we'll have – we'll have to look at that as we go along.

Ms. Bosco: Okay, so just so I understand.

Mr. Vanderbilt: We're looking at the next meeting.

Ms. Bosco: Okay, and that would be the – is that 24th? 24th.

Mr. Vanderbilt: But if we catch up at that meeting, we're still falling behind because we don't do what we were supposed to do at that meeting.

Ms. Bosco: Yeah, right now there's four sections that you have – you need to still complete and catch up on. There's four more sections.

Mr. Vanderbilt: But so how many does Maui need to catch up on?

Ms. Bosco: Same thing. But they've set a special meeting, an all day meeting.

Mr. Vanderbilt: Before their next meeting?

Ms. Bosco: Yes, they have an all day special meeting to do that.

Mr. Vanderbilt: So – well, I think there's no point in us having it at the next meeting and falling – not catching up. The idea of the special meeting would be to catch up. No, no, well we gotta go through this too and I just – so I think we're going to have to have a special meeting and, Linda, I'm sorry if we have to do that but we're just going to – it's going to be tough, and what I would recommend because you have the knowledge of documents and everything, we're going to go through to catch up and we're going to go through probably fairly fast with the understanding that we can revisit each of those sections in one or two final review sessions.

Ms. Kauhane: That's okay. Just please accept my apologies for not being able to attend.

Mr. Vanderbilt: No, no need to apologize. No need to apologize. Thank you for the input.

Ms. Bosco: Staff would recommend setting a special meeting since there's so many sections to catch up on and if you need perspective dates that work, Monday –

Mr. Vanderbilt: Does anybody have any problem with Monday the 17th and we'll set a time on that?

Ms. Bosco: The 15th?

Mr. Vanderbilt: Monday the 15th, that's what I said. Corp. Counsel didn't hear me so it's the 15th, Monday the 15th. Is that okay?

Mr. Yoshida: I think we would have problems with Sunshine Law because we have to post the agenda six days prior to the meeting. We're less than six days prior to meeting if we have the meeting on the 15th as today is the 10th. We could recess but, you know, again, we would have to check if we can get the facility. I think we can get the facility in the evening. That's what we were checking for. But I don't know if we can get the facility during the day time.

Mr. Vanderbilt: Okay, at this time, we'll set it for the 15th, Monday the 15, and we'll recess this meeting till Monday the 15th.

Ms. Bosco: I just – I have to mention that there's a concern about if staff is available. I won't be here so I can't speak for who might be covering me, so I need to – that's very tentative until I know staff can cover the 15th.

Mr. Vanderbilt: Well, what other day –

Ms. Bosco: I would recommend if the 22nd is available for the Commission or the 29th.

Mr. Vanderbilt: But then we have our meeting on the 24th again, right? When is Maui's special meeting?

Ms. Bosco: The 16th. That's next Tuesday, yeah.

Mr. Vanderbilt: Now how did they get the 16th and we can't get the 15th?

Ms. Bosco: We posted the agenda – we posted the agenda today, actually.

Mr. Vanderbilt: Well, but we're not asking you to post an agenda, we're just going to recess.

Ms. Bosco: You can do that. Like I said, I can't guarantee staff is available on the 15th so I need to make sure –

Mr. Vanderbilt: No staff or –

Ms. Bosco: I – it's not going to be me. I'm not here. So I need to make sure –

Mr. Vanderbilt: Alright, well let's tentatively set it for the 15th and if not, we'll come up with another day and poll the Commissioners.

Ms. Bosco: Okay.

Mr. Vanderbilt: Is that okay?

Mr. Chaikin: Mr. Chair, it would be good if she was actually here at the meeting cause she's been conducting us all the way through –

Mr. Vanderbilt: Oh, definitely.

Mr. Chaikin: Than to switch somebody, you know. I mean if we could just pick another day that she could attend, then, you know, it would be, you know, she was suggesting what the 22nd?

Ms. Bosco: The 22nd.

Mr. Chaikin: Is there a reason why that we couldn't have it on the 22nd as oppose to the 15th?

Mr. Vanderbilt: Alright, if we do it on the 22nd, what is the pleasure, that'll be the only thing on the agenda, so we wanna start early and get it over with instead of starting at 12:30? Can we start at –

Ms. Bosco: If we can fly in, we'll make the meeting as early as possible ...(inaudible)...

Mr. Vanderbilt: Okay, well there's plenty of flights over here early in the morning, so how many people could be here say at 9:00 on the Monday morning? I mean – the 22nd. It's a Monday. Bill? Lynn? Yep, yep, yep. No? Well we have – somebody won't be here so – one, two, three –

Ms. Bosco: There's also the 29th, which is the following Monday. Is Monday just not good for you? Or Friday's or Thursday's. I mean those are good too.

Mr. Vanderbilt: Friday?

Ms. Bosco: Friday.

Mr. Vanderbilt: Alright, we're going to do this on Monday. We're going to try to – and then the rest of the meetings are all scheduled during – as part of our regular Planning Commission meeting?

Ms. Bosco: That's true.

Mr. Vanderbilt: That's really tough. Okay. Well, we'll try it for Monday the 15th?

Ms. Bosco: The 22nd.

Mr. Vanderbilt: The 22nd. Alright. The 22nd. Okay. Hello. Hello. The 22nd.

Ms. Bosco: The 22nd and we'll try for an all day meeting here. We'll set it up and we have quorum, sounds like, unfortunately not everybody can be here, but if you can be here part of the meeting, that's great too, but we need quorum for – to take action so –

Mr. Vanderbilt: We'll work – we'll work on the quorum.

Ms. DeCoite: What time, DeGray? What time we starting?

Mr. Vanderbilt: 9:00.

Ms. DeCoite: And we're going to –

Mr. Vanderbilt: That's when the Maui Planning Commission –

Ms. DeCoite: What time we going to?

Mr. Vanderbilt: Nina has a –

Ms. Nina Kawano: Monday's are ...(inaudible)...

Ms. Bosco: Okay, that's fine.

Mr. Vanderbilt: Okay, we'll schedule it for ten then. Thank you, Nina.

Ms. Bosco: Okay, 10:00.

Mr. Vanderbilt: Okay, 10:00.

Ms. Bosco: 10:00 - thank you. And we'll take – we'll take –

Ms. DeCoite: Are we getting fed?

Ms. Bosco: If the Commission has no objection, we'll assume we'll take all the same sections that we were to review today on that day. Is that right? So we'll catch up. Those four sections on today's agenda.

Mr. Vanderbilt: Let's leave that open. No, no, because there's four hard sections and maybe – we might want to throw a too easy section because I think this whole schedule's all fouled up anyway with Lanai wanting three and so –

Ms. Bosco: Okay, so – okay.

Mr. Vanderbilt: We'll do two of the hard ones and two easy ones.

Ms. Bosco: Okay, so, Mr. Chairperson, I will have to place six subjects on the agenda so you have that flexibility, that's what I'll do, and you can choose the two hard subjects and the two easy of those six.

Mr. Vanderbilt: We can't – well there's not going to be any agenda – oh, yeah, there will be an agenda posted.

Ms. Bosco: There has to be an agenda. Yeah.

Mr. Vanderbilt: Well, work with me on that cause we can put four on there. Will the Commission allow me to pick the two easy ones?

Mr. Chaikin: Yeah, that's fine. And also, Mr. Chair, I might – maybe you can clarify them with about the agenda that before they actually publish the agenda they could check with you on the agenda to make sure everything's okay before it comes out to publish?

Mr. Vanderbilt: Yeah, I'll bring that subject up. Thank you.

Ms. Bosco: Thank you. Okay, thanks very much.

Mr. Chaikin: So, Mr. Chair, I had a concern getting back to the TVR thing. The TVR right. Yeah, I – I'm not sure if at our next meeting we're going to have the pleasure of having the director here, but if he's actually not going to be at our next meeting, this might be an opportune time to get an update on the enforcement just because he's really the one that's spearheading that whole operation. I don't know if you wanna get into that, but he's actually here now.

Mr. Vanderbilt: No, we have the time and I do wanna get into that and we do have a couple of other things. I think Clayton wanted us to figure out when we were going to take up a bill to either not allow or allow superstores on Molokai.

Ms. Bosco: Mr. Chairperson?

Mr. Vanderbilt: Oh, to not allow.

Ms. Bosco: Pardon me, I just need to make very clear that the start time of the meeting on the 22nd is either 10:00 – is it 10:00?

Mr. Vanderbilt: 10:00 – 10:00 in the morning.

Ms. Bosco: Okay. Thank you.

Mr. Vanderbilt: Well, we'll do it at 10:30. 10:30, yeah, because –

Mr. Chaikin: Final answer.

Mr. Vanderbilt: They're not going to be right out at ten and – wait a minute. Can't we do it in – Nina, is this little room open?

Ms. Kawano: I don't know. I have to check with Parks tomorrow. Everything is depending on them.

Mr. Vanderbilt: Okay. Well, could we start at nine if that room is open? The little room.

Mr. Chaikin: Yeah, you know, as far as I'm concerned, I'm willing to give you the discretion, whatever happens to come up after this meeting is closed that I'm, you know, as far as where I'm concerned, I'll give the discretion that you can make those decisions on my behalf.

Mr. Vanderbilt: Well, I'll work with Nina on the reservations then and we'll try for – for nine or ten and we'll clarify that real quick tomorrow and get back to you, okay? Alright. Thanks. Okay, on the agenda, wherever it is, yeah on the agenda we do have a item under the Chairperson's Report, A status of the summary of the current enforcement policy on Molokai regarding transient vacation rentals, for example, steps involved with the procedure, time table for implementing each step. Now you might not be able to get into that much detail but could you give us an idea about, at this point, what the County's enforcement plan is and what leeway you have, one way or the other, based on recommendations from this Commission?

E. CHAIRPERSON'S REPORT

1. Status of summary of the current enforcement policy on Molokai regarding Transient Vacation Rentals (i.e. steps involved with procedure, timetable for implementing each step.)

Mr. Hunt: As I said earlier, the Planning Department believes we were directed by the Council to enforce against unpermitted or illegal vacation rentals, and this occurred earlier in the year. We went to them several meetings in a row and discussed possible options and there was support, my interpretation is there was support. I try not speak for Council so if I'm hedging my words. So my interpretation was Council agreed with the direction we were headed. We laid it out. It wasn't done on one meeting. It wasn't done quickly. It wasn't done all of sudden. It was a very laborious and thought out process intentionally. We did it that way intentionally. And, eventually, on July, we announced that we would be enforcing against unpermitted vacation rentals.

It's a complex situation. It's not as simple as it sounds. There were a number of vacation rentals who made application under the – their understanding that the County would not enforce if they merely submitted an application and that is subject to a lawsuit and I don't want to go into it in great detail, but there is that perception that they were – there was an agreement that the County would not enforce against them under previous administrations. The current administration doesn't believe that that, in any way, bound us or tied our hands, so we are enforcing but in order to be fair against those – in order to be fair for those people who believe they were given some kind of a amnesty is the word that has

been tossed around, we have given them a grace period till January 1, so that's the January 1 deadline that you hear about commonly.

The people who never bothered to apply have not been granted any grace period and, technically, they're subject to enforcement right now immediately. There is an attempt by the Planning Department to be fair for these people. We don't want to give them a notice and immediately have them shut down. The law actually, our interpretation of the law, actually requires us to give them notice and then adequate time to correct the violation and so we've -- we've been trying to work with these people, trying to be fair and reasonable, and give them an adequate time to close bookings, to find alternative rentals, long-term rentals, hopefully, and so we're working with them, we're trying to give them a reasonable amount of time, it's probably not reasonable from their perspective, but some people said the media has words like "shut down immediately," and that's not the case. We're not telling anyone to shut down immediately.

The whole enforcement issue came about, in my mind, because the Council received so many concerns either expressed informally or however. It's not complaint driven in the sense that there's complaints that are registered with us formally as a letter and it goes into our permitting system and so I think that's based on the proliferation that occurred. There's studies that show that, in 2000, there was an estimated 600 unpermitted vacation rentals, that includes B&B's and TVR's, and by the year 2005, that had mushroomed to, oh I think, over 800, and we estimate by now, assuming it didn't all just stop at 2005, that it's up to 1100, and so that's a significant impact. And there's -- there was talk today earlier about how we're -- we're picking on the vacation rentals and ignoring or letting go other illegal operations, and that's not the case. We are focusing on the vacation rentals. There seems to be direction from the Council and there's -- it's common for public agencies to give -- give a added resources to have campaign against a perceived social problem. The example we give commonly is the Police Department on Maui recently had a campaign against aggressive drivers; sometimes they'll have a campaign on drunk driving. That doesn't mean they're not enforcing the law fairly. It's, you know, there's an issue, let's address the issue.

The complain about or the concern about well there's other illegal activities going on. There's a difference between a policy that, in the past, said we will not enforce as oppose to just not having the resources to enforce as well as we should. And under the previous administrations, there was a direction, to some extent, we will not enforce, and that's different than just simply saying there's a home occupation, a car repair that's operating out of someone's garage and we don't have the resources to get them all or enforce them all. If any illegal business comes to our attention, we will enforce it. To be honest with you, and I've said to the Council and others and I'll say again, we don't have the resources to enforce as well as we should. It's a difficult thankless task. These people go out and they're dealing with confrontation and controversy and people who are in their face all day

long. That's their job and put yourself in their shoes. You got up and start to enforce against somebody and, of course, they don't always take it very kindly and invite you in for a cup of coffee and sit down and talk about it. So it's difficult to get enforcement officers as a result. It's not a glamorous job. It's a difficult job. We've got four-and-a-half enforcement officers for all three islands. And I think last year we were on track to have over 1100 or 1200 complaints that they had to investigate. So it's -- it's -- we are trying to implement the direction from Council to step up enforcement on vacation rentals. We're trying to have a stronger enforcement across the board. We've asked for two additional enforcement positions in our budget this year and Council granted that. We haven't filled those positions yet. Again, it's difficult to find people who wanna do that kinda work. But, nonetheless, that's our goal is we're trying to step up enforcement. We're trying to have more of an atmosphere of compliance rather than disregard for the County's laws and our approach is if you don't like the laws, you change them. You don't just ignore them or violate them.

Mr. Vanderbilt: Commissioner Chaikin.

Mr. Chaikin: Yeah, thank you for that update. You know, I have to say, you know, when I receive these ordinances, and I read them, I was kind of looking to see what you were going to do on the enforcement side and I was really surprised that you kind of avoided the whole enforcement issue, you know, for the most part in these ordinances cause I was thinking that, you know, the absolute worse case scenario for you is to have to enforce. You don't wanna have to enforce. You wanna deter people from doing it in the first place. So I don't understand why you didn't come out with an ordinance that was really scary, really intimidating. This thing sounds like you're tiptoeing through the tulips. You use words like "discouraging" and stuff like that. Can't you come out with an ordinance that says that, you know, it is unlawful to have, you know, a TVR. If you even attempt to have one and even attempt to rent it out, it's going to be \$10,000 and then after notification, it's going to be \$50,000, and it goes on up, and it's even, you know, for every day that you have it, you know, advertised, it's going to be a thousand dollars per day that you have this and on and on and on and on, so people would never even wanna consider having a TVR. But the way it is right now, when you look at the enforcement provision in Chapter 19, even if you were going to fine them, it's a thousand dollar fine. You know, until their first notice, then if they continue to do it, then it gets to be like a thousand dollars per day. At least that's the way I read the thing. So if I was an owner of a TVR and I wanted to continue doing it, it would almost pay to just keep doing it until I got caught. So I was just surprised that you didn't make a tougher ordinance.

Mr. Hunt: Our hands our bound by the existing laws and there's laws that empower us but there's also limits on that empowerment and there should be limits on government. We've all seen abuses of government. This country was founded on abuses of the English rule. You know, taxation without representation, the Boston Tea Party, all that kind of thing.

There should be limits on our power. We shouldn't have a outright unlimited power to go and enforce laws. So it's good thing to have limits on government power. If those --

Mr. Hopper: Commissioner Chaikin, I just wanted to note, I mean, currently, it says in the law you can't do a TVR, you're subject to a thousand dollar initial fine if you're issued a notice of violation, and a thousand dollars per day of a fine. Now if you'd like to initiate a higher fine, you could certainly do that. In addition, the past due fine, if it's not appealed within 30 days, can be added to your taxes and charged as taxes against your property and that's one way of collection as well as the fact that you can go into court, if there's not an appeal again within 30 days of that fine, and have that court enforce fine and enforce the violation without any discussion of the merits of the case. That's what the current provisions allow for. There's some other things that we can look at. I was just at the Statewide Municipal Attorneys Conference and the City and County of Honolulu, for example -- oh, and by the way, the operating of transient vacation rental is also punishable by criminal penalties. You can actually into -- you have to go into court for these. You don't just issue a notice of violation. But if you get a summons, it is punishable, in certain circumstances, by jail time. If you do, not just a TVR, but any zoning violation. But in addition, some perspective enforcement procedures that I think we may be looking, I may be looking at drafting after talking with an attorney for the City and County of Honolulu, is that the government can also file liens against people's property if the fines remain unpaid and there's been no appeal of that issuance of the fine. I think Honolulu has a couple of cases. In one case, they are looking to foreclose against a property for 1.4 million dollars in order to have a -- for a zoning violation fine. So those are available to the department right now. The key issue is is there enforcement. One issue that I've dealt with in that regard is what happens after you issue the notice of violation? What happens when there's an appeal of that decision? That appeal goes to the Board of Variances and Appeals, okay. So it doesn't go to court. It goes to the Board of Variances and Appeals, which is on Maui and they have a meeting to determine the appeal of the director's decision. One thing that we have done, as far as enforcement, was change the rules with regard to zoning violations and building code violations that the Board of Variances and Appeals hears. Right now, they deal with an expedited process to hear those appeals. Before, one of the problems was that if you went before the Board of Variances and Appeals, you had unlimited discovery. You could basically have depositions, in arragatories, request for production of documents and, in addition, the case was basically farmed out to a hearings officer, and that would cost the County fifteen to \$25,000 to have that hearings officer hear the case, make a recommendation to the Board of Variances and Appeals, and even if the Planning Department was -- their decision was upheld for the notice of violation, it would cost them that much money even if they won that case. What has been changed, under the rules which was recently done, and I can get you a copy of the new rules, is that the hearings happen very quickly. There's no hearings officer involved and there's not discovery allowed in those hearings, which is absolutely key to zoning enforcement, not just with TVR's, but with all zoning violations, that you have a

quick process where you can determine, much like getting -- it's not like getting a -- it's like getting a traffic ticket, it's not like a Supreme Court case every single time someone's issued with a zoning violation. Either you were in compliance with the laws or you weren't, and the BVA can determine that quite quickly. That's change has been put in place and I can tell you, I started working on that at the beginning of the year cause we noticed there was a problem, we're going to have those same rules come before you for SMA violations because we've got similar concerns there. But, at this point, again a zoning violation, a use violation, by the administrative rules, is a thousand dollars per day fine, that's the maximum fine allowed currently by the County Code for a zoning violation. And if you wanted to look at changing that, you could certainly, you know, try to recommend to the Council that they increase that amount but, currently, I believe the Planning Department believes that a thousand dollar initial fine followed by a daily fine of a thousand dollar a day, which gets up there pretty quickly, and that is per violation, by the way, if they have multiple violations, it \$2,000, \$3,000 per day, those fines can get up there quite quickly. We've got cases where the fines are in the couple of millions of dollars right now.

Mr. Chaikin: Well, it sounds like you think those are big fines, that's only two days of renting out your TVR. They get five or \$600 a day. So a thousand dollar fine is not a big fine. But I agree with you. Those are all excellent points and I think that -- that really goes that, you know, one of the problems we have is he brought up some great points but there's no TVR owners here and they don't know any of that stuff, so it really gets down to communication and education, and what I always thought is that you guys should be communicating more with the community through a newsletter that gets stuck into the tax assessment stuff or whatever, and it goes, and let everybody know because they're not sitting there at home reading the ordinances. They really don't know. So if you explain it to 'em and maybe it sounds real scary, then you won't have to come and enforce and they just won't do it.

Mr. Vanderbilt: Thank you.

Mr. Hunt: We would certainly be open to any of your suggestions that enforcement be increase, that the fines be increased. You can include that in your package. Again, I would caution you against trying to craft an actual enforcement policy, but the Planning Department would pass those comments on to the Council. We believe that we have gotten the word out. If anything, we're getting hammered in the Maui press. I mean we're getting hit hard. And your argument that you just presented is not getting out. So part of it is, yeah, part of it our communication but part of it is also the communication of people who have -- who share your opinion. You need to get your word out also cause, right now, the only word that's getting out is the Planning Department is being, you know, Gestapo tactics and coming down unfairly against these poor little innocent vacation owners and we're putting them out of business, and there's tears, and there's bankruptcy.

Mr. Vanderbilt: Well, the problem is, on Maui, is the Maui press that you have to deal with is the *Maui News* and the *Maui News* gets a ton of money in advertisement from vacation rentals so they're not doing a very fair or unbiased journalism. I mean it's all about dollars for them and so, anyway, that's just my take on that. You go to their website and it's all over their website, you go to all the papers, so -- and they're getting a ton of ads, I understand, from the vacation rentals guys now, half-page, full page ads in the *Maui News* trying to urge people to support their position on these ordinances so --

Mr. Chaikin: Another point that I wanted to make out is you take -- your point is well taken that we should get out word out and then you guys should get your word out because enforcement is only one piece of a big puzzle. There's a whole bunch of pieces in the puzzle and one is the ordinance. You gotta have, you know, a pretty -- an ordinance with some teeth in it so you can really hang your head on that ordinance and people will get, you know, discouraged from doing TVR's, but there's a lot of other pieces of the puzzle. One of 'em, is the real estate brokers and the real estate sales people. They're the ones that are doing all of the booking of these things. Those are people that are held at a very high level in terms of what they're supposed to do with this community. They have a fiduciary duty to, you know, the public and trust them with large amounts of money, so when they go to get their real estate license, whether it be a sales person or a broker, they have to take real estate law classes, they have to take ethics classes, they have to do continued education and take ethics classes every two years, and when they're conducting illegal activities as a normal and ordinary part of their business, that's something that needs to come to the attention of the real estate commissioner cause they're the ones that are, you know, that's a State organization that's in charge of enforcement of their licensees, and so you need to work closely with them so they start revoking and suspending some licenses to get, you know, the real estate brokers, instead of having them be part of them of the problem, get them to be part of the solution.

Mr. Vanderbilt: Okay, thank you.

Mr. Hunt: We would wish that the realtors were trying to be part of the solution but from all -- from their appearances and actions, they're taking the opposite tactic ...(inaudible)...

Mr. Chaikin: No, I'm telling you to go straight to the State, to the people that regulate them, and get those guys to do what they're supposed to be doing, enforcing their people that are doing illegal activities on a regular daily basis. When, you know, they're -- they're held at a higher level. They're not some contractor. They're people that have to take law classes, they have to take ethics classes, and, you know, they should have licenses suspended or revoked for illegal activities like this. So your responsibility is go to the State and get them to do their job.

Mr. Vanderbilt: Okay --

Ms. DeCoite: Wait, I get something to say.

Mr. Vanderbilt: Commissioner DeCoite.

Ms. DeCoite: Jeff, I think these realtors, come on, they know what they're doing is wrong and they just going under the radar and doing what they do best is just evading the whole process. I mean enforcement is only as good as the person enforcing and if we implement the penalties and fines and, yeah, you know, we gotta be fair, we give them to January of '08, now let's hit them with the penalties and that's where the resources come in to pay for the maybe Aunty Ruthy's and the Aunty Judy's who wanna go over there and jump in their face but -- but I mean if you're looking for two people, what are the requirements or they have to go online and figure it out? But they going keep doing 'em. I mean the realtors and the illegals, we just saw case in point and earlier this afternoon the women that came before us, which is why we requested the evening meetings, they simply lying to us right out front, you know, that their neighborhood agrees with this stuff, you know, and you saw that first hand and Molokai is too tight of a community to let things slide pass. I mean you can be on one end of the island, you can fut, and by the time you reach Kaunakakai, we know what you did already, you know, and that's how bad this community is. This is like coconut wireless. I mean so if something is happening, believe me, we hear it at the Commission level. I mean you cannot even drive down the road, they stop in front your car and you get attacked. It's like: "What you guys doing?" So, you know, I really wanna see that the fines, if the violations is like Corp. Counsel say, thousand dollar a day, then let's give 'em a thousand dollar a day bills. And if they wanna sue us, go right ahead. That's the law. We're trying to follow the law, yet we're getting the flack of it, you know, and I think if we give 'em some teeth and we start biting instead of barking, you know we probably going, you know, get somewhere.

Mr. Vanderbilt: Thank you, Commissioner DeCoite. Jeff, I just had a couple of things: one, the -- as far as the additional enforcement guys, is two really enough?

Mr. Hunt: No.

Mr. Vanderbilt: No?

Mr. Hunt: But the difficulty we have is when we got to the budget committee and we say we need two additional officers, the first they ask is how many vacancies do you have, and it's a legitimate question. Why should we ask for five or six new positions if we're having trouble filling the one or two that we have vacant right now.

Mr. Vanderbilt: Well, is the pay just based on a certain level in the County Government or is there a war pay, you now, for greater risk? I mean do they get a bonus --

Mr. Hunt: Hazard pay maybe?

Mr. Vanderbilt: Hazardous pay, that's what I was trying to --

Mr. Hunt: The wages are -- the wages are set by the State and there's a little bit of creativity we can use, we're trying to explore recruitment incentives and bonuses, we're trying to explore different ways to get the word out. We are trying to address this issue. It's a difficult situation.

Mr. Vanderbilt: Molokai is always is kind of waiting because things are so busy on Maui, that's just the way it is. A lot of times we say, well, we can't quite get quite to this because of Maui. I would just like to make a request because you hit on it a little bit about how a thankless job this is and it can be pretty scary. We have a planner on Molokai that's trying her best and I think people in the community really appreciate her efforts. She doesn't know how to say "no." She tries to cover everything. She's just overworked. We don't wanna lose her. And I just don't want to have her be an enforcement officer for these TVR's and I'm asking you if -- if you can stop that action. I don't know if it's in her job description or what. But it's just not fair to her. She's on -- she's just trying to do a great job and I don't want to see her put in that position if possible. If you could take that back with you.

Mr. Hunt: We're aware of the difficulty that she's in and that extra burden on enforcement. We're trying to manage it. We're taking a fresh look at it and we're going to re-evaluate it. In all likelihood, she'll probably do a little bit of initial enforcement in bringing something to the attention of the inspectors because the inspectors aren't on the island, so she'd be more like the eyes and ears, but, hopefully, not get into actual investigations and confrontational situations.

Mr. Vanderbilt: Well, I mean, hopefully, not get into -- I'm asking you, I don't know what, if I find out she's enforcing, I'm going to take it upon myself to just create havoc over there in Maui, and I don't mean to sound like I'm boating, I can create havoc, and it's just not right and she's got so much to do here and she's trying to do the best she can, and I don't wanna see her put in that situation. If you can, please, try to work with me on that.

Mr. Hunt: We'll work with you. And, again, we're aware of the situation. We're trying to give service to Molokai as best we can given our limited resources so one of the ideas is to have Nancy at least do a tiny portion, you know, and manage that -- that portion so, therefore, Molokai gets better enforcement. We're getting a lot of complaints about Molokai, especially filling along the coastline, you know, which is --

Mr. Vanderbilt: Fill along the coastline. Okay, I'm talking about the TVR's. I don't care about enforcing the fill, I mean she's good at that, but I don't want her going up and doing

any enforcement on these TVR's and if so, I would like to see what priorities you guys have for enforcement. Is it illegal grading on the shoreline or is TVR's more important? You see, to me, grading on the shoreline is more of a priority in enforcement than the TVR's but -- I don't know if you guys have a priority list . . . short staffed -- let's go -- let's go after these type of violators versus these, you know.

Mr. Hunt: I think it's more of a we take 'em as a first come first serve. We don't have like a categorization where this whole category is prioritized over this one because the second one would then get ignored all together.

Mr. Vanderbilt: Well, what would be your idea of a little work? Like if somebody came to her and said there's an illegal vacation or would you want her searching the web and following up trying to investigate as many as she could find?

Mr. Hunt: That's a good question. The whole issue of Nancy's role and enforcement is being managed right now as we go. I can't give you an exact answer on where we draw that line. Where we draw that line is worthy of discussion.

Mr. Vanderbilt: Can you work with me so we understand what's happening?

Mr. Hunt: Yes.

Mr. Vanderbilt: Appreciate it. Thank you. Commissioner Chaikin.

Mr. Chaikin: Yeah, Director Hunt, just so you're aware, you don't come to our meetings, but we've got two very qualified enforcement officers sitting right there. We got Aunty Ruth and Aunty Judy. They're just chomping at bit to do some enforcement so when you're ready.

Mr. Hunt: Well, a lot of it -- a lot of the enforcement actions are based on citizen help. If citizens feel comfortable coming forward and giving their name and a contact number as a witness, that really helps out the enforcement. A lot of people are reluctant for obvious reasons.

Mr. Vanderbilt: Thank you. Okay --

Ms. DeCoite: What is the actual requirement of a enforcer? Can they carry a sidearm? I mean I serious, you know, because they dealt with confrontation so would they have to be requirements like a officer or a --

Mr. Hunt: I'm not aware of our zoning inspectors carrying firearms. If it gets -- if it gets that confrontational, we will ask for a police officer to escort or something like that. I mean, hopefully, it doesn't get that bad.

Mr. Vanderbilt: Well, thank you.

Ms. Ruth Manu: What is the qualifications ...(inaudible)...

F. DIRECTOR'S REPORT

- 1. 2007 Hawaii Congress of Planning Officials (HCPO) Conference, September 26-28, 2007, Hapuna Prince Hotel**
- 2. Open Molokai Applications List**
- 3. Closed Molokai Applications**
- 4. Scheduling of Review of Council Resolution regarding Superstores (A copy was mailed with the September 24, 2007 agenda packet.)**

Mr. Vanderbilt: Alright. Alright, let's get back here now. Okay, we got -- we got -- okay, if that -- anymore questions for Director Hunt on this? If not, we got a couple of more items and then we can get out of here. One of the things -- is Clayton -- oh, yeah, there's Clayton. Clayton, you wanted to try to schedule for the review of a Council resolution regarding superstores on Molokai or everywhere but --

Mr. Yoshida: Well, I think it's superstores in Maui County.

Mr. Vanderbilt: Oh, not Molokai?

Mr. Yoshida: Which includes Molokai. Molokai is part of Maui County.

Mr. Vanderbilt: Oh, it does? Oh, okay. I didn't know that. So what is our role on a resolution from the Council? This isn't an ordinance is it?

Mr. Yoshida: Similar to the Bob Carroll bill, the Council referred it to the three Planning Commissions, the Hana Advisory Committee, and the Cultural Resources Commission. Your role is to conduct a public hearing, provide comments and recommendations to the Council, and submit them back within 120 days after the department has received the resolution. The department received the resolution on September 10, you have a 120 days from that date to submit your recommendations to the Council.

Mr. Vanderbilt: Okay, I got the resolution here that was dated September 7, you got it September 10, you sent it to us last meeting.

Mr. Yoshida: That was when we received, the department received the resolution from the Council. We circulated it to the commissions at the -- in the packet for your last meeting on September 24.

Mr. Vanderbilt: Now, did you have a staff report on top of that with your recommendations?

Mr. Yoshida: It was just whatever the Council had transmitted to the three Planning Commissions; in this particular case, to the Molokai Planning Commission.

Mr. Vanderbilt: Are you guys planning to do a covering staff report on this?

Mr. Yoshida: Mr. Alueta is handling this matter and I believe he will do a staff report as he did for the Bob Carroll bill.

Mr. Vanderbilt: Well, hopefully, it's not 82 pages. I don't think we need a lot of background on this one. But anyway, Joe?

Mr. Alueta: Yeah, I'll just be sending it out for agency comments and our comments and concerns, pretty much what we echoed at the Council level with regards to some of the flaws in the bill that we feel need to be tightened up.

Mr. Vanderbilt: So, as far as a date, you were talking about a date, Clayton, for this, Joe's gotta send out for agency comments, when's the earliest that you could see that we would put this on our agenda?

Mr. Yoshida: I believe it'll be your one regularly scheduled meeting in December.

Mr. Vanderbilt: Oh, in December? So that's --

Mr. Yoshida: Yeah, that is sort of when you're supposed to conclude your 120-day review of the countywide policy plan.

Mr. Vanderbilt: Okay, so -- alright, so you're recommending a schedule --

Mr. Yoshida: December 12.

Mr. Vanderbilt: December 12. Okay. Alright. Is there any other announcements for this Commission?

Mr. Yoshida: I thought, Mr. Chair, since attendance at the Hawaii Congress of Planning Officials Conference is fresh in the minds of the Commissioners, since it was conducted

on September 26 through 28, maybe some of the members who attended can share with the other members their experience.

Ms. DeCoite: I thought that was a really good conference and that -- and because we brought up TVR's and bed and breakfast's, and I think the major topic for me was controlled development. We've heard from Mayor Kim at -- in Kona and his thing was that development has just gotten out of hand and the lack of resources and infrastructures to accommodate this type of stuff. Basically, the wake up call was what have we done? What the hell have we done to Hawaii? We need to step back, rethink what we doing, and I think vacation rentals plays a big part in this issue, in my eyes; 2050 sustainability also was one hot topic and it's resources. I mean it was really good. The breakout sessions was unreal, but you could only be one place at a time so you kinda went run ten minutes here, twenty minutes -- I mean you just was like running all over. I mean it was really good so we tried to get one Commissioner in one area, the other Commissioner the other area, but I think being with 2050 coming down and the sustainability and these natural disasters taking place around the State, that went hit home. Our food shelf was based on three days. In case of a natural disaster, Hawaii has three days of food on the shelf. The State will be under lock down pretty much, no imports and no exports except from what - FEMA. And it's kinda scary because my thing was agriculture, we do not have the food supply. We do not have enough farming going on to substantiate one natural disaster in Hawaii. And that was really scary. But we do have the 2050 follow up on Molokai Thursday and I think that's at Kaunakakai cafeteria and, hopefully, the community comes out because it's based on your input of what you wanna see Hawaii to be and I think the biggest thing for me was that Molokai is the actual pilot program and they're looking at Molokai actually lasting the longest in resources. So I think that -- that kinda -- those subjects have touched me and played one real important role on my decision-making as a Commissioner on upcoming topics for this island and the community plan, and I brought back DeGray one pile information, like how he give me when I come to these meetings, so you haven't seen enough yet, DeGray. Thank you.

Mr. Vanderbilt: Thank you, Commissioner DeCoite. Is there anybody else that would like to share any thoughts on the meeting? Commissioner Chaikin.

Mr. Chaikin: I'll just say something real short. The one thing that, I guess, really struck me was that, you know, the whole -- the whole conference was based on sustainability, that was kind of like the theme of the conference, and then I saw, you know, directors get up there and say, "Look, we're planning this great growth that's going to be directed growth and it's going to be smart growth," and there just seemed to be a disconnect between sustainability and this growth. That's it. Thanks.

Mr. Vanderbilt: Good point. Anybody else? Anybody else have anything? Okay, yeah, come on, Bill, you're up.

Mr. Bill Feeter: Thank you's are in order from the Planning Department. You obviously made it possible for us to go. And it was interesting that people look at your name tag and they don't see your name tag, they just see "Molokai," and theirs, you know, sighs and that sort of thing, but I would just echo what the other folks have said that the trips that we took on day one and saw -- I've gotta admit, I think the high point that first day was seeing Marie MacDonald and making tapa, and she went through it just faithfully, and it just -- that was definitely a high point to see that reflection and going back to the old days, sort of speak, and then -- but then the sustainability is -- it's scary. To think that here we are in the wonderful islands and we haven't got enough food to eat for more than a week and we've got to pick that slack up. "We" meaning everybody collectively. Which brings up the point, we've gotta be united. We gotta be united as a community. I see some cracks in that and we've gotta increase our productivity, we gotta produce, not only food, but we gotta produce leaders, and we desperately need leaders. Our young people are in the wings for that and I see, going to this conference, an opportunity for us to come back and encourage educators, leaders, and managers in our community, and that would be my point is we've got to start being leaders and we gotta -- they're going to look at us and say ...(inaudible)... a leader or why do you want me to be a leader, and leaders make things happen. So I appreciate that. Thank you.

Mr. Vanderbilt: Okay, Mikiala? Commissioner Pescaia.

Ms. Pescaia: I went. Thank you for allowing me the opportunity to attend the conference. I was greatly enlightened. Came home with a lot of ideas or I saw a lot of room for improvement in our communities. They're doing exciting and wonderful things, especially in the Kohala, Waimea area that we visited. It was exciting to hear other people's ideas, talking story with other regular kanaka type people from across the islands who have the same challenges and have creative ideas and perspective. Just seeing that perspective and being able to offer what we do here and the kinds of things we think about. It was nice to network and see our -- cause we come to these meetings and we deal with things, we take Maui's vision and ideas and we try to apply it to us home here and sometime we forget the even bigger picture of the State and what's going on with, you know, other islands and other communities because, believe it or not, on Oahu there are pockets of -- you know, people who have our lifestyle and so they have a hard time relating, you know, on Kauai, they have a hard time relating or finding peers, I guess, that understand their challenges. So that was nice. But, again, back to the sustainability thing, having a farming background, living in homestead, you know, and just having this subsistence lifestyle, we think we subsist a lot and we think we farm a lot, we depend a lot, but there's so much more room and we actually have way more resources available to us to do more, and there are people out there who wanna do more, they just -- they just don't have the tools, the land, the water, and we do. And more than anything, I think we have passion and we have our keiki to inspire us. And so I came back jazzed up actually wanting to come back and sit at this table for nine hours, you know, just cause I was like, "okay, I got a job to do," and

I'm going to take what I learned and experienced in that short three days and apply it to many different parts of -- all the different roles I play in the community, I wear plenty hats, and I came back being able to share that experience with lots of people, even my students, I mean everywhere, so mahalo.

Mr. Vanderbilt: Thank you, Commissioners, for --

Mr. Feeter: Chair?

Mr. Vanderbilt: Yeah?

Mr. Feeter: I just had one comment.

Mr. Vanderbilt: Commissioner Feeter.

Mr. Feeter: Early one morning I strolled out of our really luxurious accommodations over there, there was Jeffrey Hunt. He was clad in his outdoor activity and after greeting each other, we walked another what? Three miles was it down the hallway? They were the longest hallways in the world. But, anyway, enough being silly. Jeff said, "Think about next year because Maui is going to be the host," and would you make some comments on that?

Mr. Hunt: Yeah, thanks, Bill. The HCPO conference is rotated every five years and Maui gets it and so it's our turn next year. If you have any ideas on a theme, like earlier it was mentioned that theme for this year's conference was sustainability, we'd be open to that. If you have anything that you want to have as a session, a breakout session or something to demonstrate the good and or the bad of Molokai, it'd be an opportunity to share that with the rest of the planners and planning officials in the State.

G. ANNOUNCEMENTS

Mr. Vanderbilt: Thank you. And that's good food for thought for us and the Commissioners that went down there, and I thank everybody for giving the update. And I guess, with that, the only -- the 2050 Plan, Lynn, is tomorrow night at Kaunakakai School, starting about 6, at 6? And, Director Hunt, what is -- we're working on the policy plan, which is the General Plan, which is going into the community plan, where does the 2050 Plan fit in and do our plans have to be consistent with that?

Mr. Hunt: The 2050 Plan is an update of the existing State Plan, it augments it, it's not going to replace it. There's no requirement or it doesn't set out any mandatory action from any of the counties underneath it. There's no consistency requirement that our General

Plan has to meet that. I think it's a good idea to take a look at the 2050 as we're doing our plans.

Mr. Vanderbilt: If there's a glaring conflict?

Mr. Hunt: Well, it sets out general guidelines and policies for issues regarding sustainability from a Statewide perspective so it would make sense to look at that plan as we're updating ours. Maui County citizens were represented very high proportionally in the plan in the citizen input, both in the web survey and in the meetings, and so I think it's -- it's easy to say, oh, it's a State plan or an Oahu plan because the majority of the population's there; in a lot of ways, it's a Maui plan and I think we can -- we should take a look at it. One of things that it does propose is to set up a sustainability counsel which would then monitor the future indicators that the plan has. One last comment, from a planning perspective, is it's a letter to the editor I wrote and it describes it as "refreshingly concise" The tension between -- there's a tension generally when you're doing a -- a community plan document to try and address every conceivable issue and address it with a policy and what happens is the document gets so big and verbose that it's unwieldy, it's awkward to administer.

Mr. Vanderbilt: Like our policy plan.

Mr. Hunt: Frankly. What the 2050 task force took was a different approach. They said rather than having a whole chapter on housing, let's just key in some of the key issues on how we can provide housing, same with education, same with the economy. So they tried to distill it down to what are a few key concepts. So, for instance, instead of talking about increasing teachers wages or something, they said, well, let's set a goal of reducing high school drop out cause really does it matter what our teacher's wages are? Really what matters is the high school graduation rate, which should if you have good teachers, then you should have a better high school graduation rate.

Mr. Vanderbilt: So maybe some of the yet to come input on our policy plan may be to look at this 2050 Plan and maybe bring down the policy plan a little bit because it's just -- it's got so many policies in it that --

Mr. Hunt: I think it's a good plan to look at and take into consideration and make sure that the issues that the 2050 raises that we're addressing them at the County level, but it doesn't require us to do that.

Mr. Vanderbilt: Okay, thank you. Alright, one last announcement is that there is a -- it seems to be out in the community that the Land Use Commission is going to be here on the third and fourth Thursday and Friday of November, I think it's the 15th and 16th of November, to hold hearings on Molokai for one specific issue that's their consideration of

whether or not to accept the final environmental impact statement on Laau Point. And I guess the, from what I understand, the document won't be made available to the community, and it's over 3,000 pages long, until Molokai Ranch has filed it officially with the Land Use Commission, and this is according to one of the guys I spoke with at the Land Use Commission, so I don't know when that date will be but, apparently, Director's Hunt letter to the ranch's consultant which ask that every comment that was made, the ranch answered the responses right under the comment rather than you having to flip back and forth; apparently the ranch's consultant and the ranch went along with that so that'll make it a lot easier to review. And, other than, we'll just wait and see what comes out.

Mr. Yoshida: Mr. Chair, before adjourning, can we talk about Item H, your next meeting on October 24?

Mr. Vanderbilt: Sure.

Mr. Yoshida: I don't know what will happen at your special meeting of October 22, I do know I have to file the agenda before that meeting for October 24, and we have two items on the agenda, I guess at this point; one is the continued public hearing on the TVR/bed and breakfast package, and the other is the countywide policy plan, and I was just wondering if the Commission had a preference as to which item it wants to consider first.

Mr. Vanderbilt: Well, I'd like -- yeah, let's -- let's start fresh with the TVR first.

Mr. Yoshida: TVR at 12:30?

Mr. Vanderbilt: Yeah, and, well, this is on the 24th. And it would it really be helpful, I think, to refresh ourselves because if I don't have those minutes by the next meeting, I'm going to suggest that we defer action. I mean it's really important and I hope you can understand that. We've heard a lot of good information from Planning, we heard a lot of good testimony, we had 30 or 40 specific recommendations, and I just think it would be helpful to have those minutes available on the -- on the TVR section.

Mr. Hopper: Clayton, is there any chance that you can have minutes prepared in two weeks? I mean because if -- if --

Mr. Yoshida: Well, I think if -- if we think we'd put it on the agenda, we probably have to have the minutes prepared in one week for an eight-hour meeting, I mean eight-and-a-half hour meeting, which would be pretty difficult given the amount of testimony.

Mr. Hopper: I mean because if that's -- if you need that to make a decision, it'll keep having a snowball effect and the next meeting you'll have a long discussion potentially and then if you need the minutes from that meeting to come next, I mean you could perhaps

just have a gap there and not have a meeting a while to process all the minutes if you wanted to, I mean that's an option.

Mr. Vanderbilt: Okay. Alright. This is a sore subject here on Molokai a little bit, at least with me. On -- on -- in Maui, I talked to some of the Commissioners and when the court reporters do it, a lot of times they get their minutes the next meeting and I -- and I guess it's not -- the court reporters got a lot of equipment and it's not an eight-hour meeting, that might be a little long, but is there any reason that we need to take up the TVR at the next meeting and couldn't do it at the following meeting and give us a couple of weeks to digest all this material?

Mr. Yoshida: Well, I think it's still fresh in the memory of the Commissioners, I mean it's up to the Commission, you know, when they wanna deal with these thing. We don't have a court reporter at every Maui Planning Commission meeting and --

Mr. Vanderbilt: No, wait. No, I know. But is there any reason why we couldn't put this off till the first meeting in November to give us a chance to really read through this and, hopefully, and have the minutes and -- or what's the pleasure? Give me some help.

Mr. Chaikin: I mean my personal preference is while all this stuff is sort of fresh in my mind to just to keep going on it until we complete and, you know, unless there's some real reason to defer it, you know, it'd be good to keep on it until we make some kind of a decision.

Mr. Vanderbilt: Okay, is everybody okay with that then? Okay. So, at the next meeting, we'll start with the TVR's and, hopefully, we can get Long Range to catch the 8:00 plane back so have -- have some time.

Mr. Yoshida: Yes.

Mr. Vanderbilt: Is that okay?

Mr. Yoshida: Yeah, that's fine.

Mr. Vanderbilt: Okay, thank you Commissioners for the input. If there's no other announcements, any objection for adjourning this meeting? Alright. No, we're going to -- we're going to -- and just to make things clear, we did not recess, we did not close the public hearing. Okay, thank you. Meeting adjourned. Thank you, Commissioners. Thank you, everybody.

I. ADJOURNMENT

There being no further business brought before the Commission, the meeting was adjourned at 9:15 p.m.

Submitted by,

SUZETTE L. ESMERALDA
Secretary to Boards and Commissions

RECORD OF ATTENDANCE

Present

DeGray Vanderbilt, Chairperson
Steve Chaikin, Vice-Chairperson
Lynn DeCoite
Bill Feeter
Joseph Kalipi
Linda Kauhane
Sherman Napoleon, Jr.
Mikiala Pescaia

Excused

Kip Dunbar

Others

Jeffrey Hunt, Planning Director
Clayton Yoshida, Planning Program Administrator
Joseph Alueta, Administrative Planning Officer
Simone Bosco, Staff Planner
Julia Staley, Staff Planner
Michael Hopper, Deputy Corporation Counsel
Ralph Nagamine, Administrator, Development Services Administration, DPW