

**MOLOKAI PLANNING COMMISSION
REGULAR MEETING
FEBRUARY 14, 2007**

A. CALL TO ORDER

The regular meeting of the Molokai Planning Commission (Commission) was called to order by Chairperson, Robert Ribao, at 12:38 p.m., Wednesday, February 14, 2007, Mitchell Pauole Center, Kaunakakai, Molokai, Hawaii.

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

Chairperson Robert Ribao read the February 14, 2007 Agenda into the record.

Mr. Robert Ribao: Okay, before we get started, do we have any public testimony on any item on the agenda that people have to leave early? Okay, if not seeing any, I'm going to table the approval of minutes until we are done with Item C. Okay, Joe?

C. PUBLIC HEARING (Action to be taken after public hearing.)

1. **MR. JEFFREY S. HUNT, Planning Director, transmitting Council Resolution No. 06-131 containing a Bill for an Ordinance Amending Chapter 19.04, Maui County Code, Pertaining to General Provisions and Definitions, and Chapter 19.36 Pertaining to Off-Street Parking and Loading. The purpose of the draft bill is to establish new definitions and standards for residential uses within a single project, in the Village Mixed Use District as allowed in a Project District, the B-2 Community Business District, the B-3 Central Business District, and the B-CT Country Town Business District. (J. Alueta)**

- a. **Public Hearing**
- b. **Action**

Mr. Joseph Alueta: Thank you, Mr. Chair. As some of you may know, I was trying to explain that, due to a flight constraints, I have to -- my flight out of Molokai is at 1:50 so that's why I had to go as quick as possible. What's important is and, as I talked to the Chair, was I'll do a brief overview of what's being presented before you and then if we can hold the questions and then what's important is to hold the public testimony cause that's what we noticed today, to have the public hearing today, hold the public hearing and I'll try to answer as many questions as I can, but we anticipate that there's going to be some discussion and possible some clarifications that you're going to want and rather than try to force something through, we would rather just recommend that we defer it if we can't -- if you guys are not completely satisfied, so there is an opportunity for us to come back and hold the meeting, but we did schedule this and we do have a public hearing that needs to get through.

So, if I can, I'll just briefly go over what's happened is that there's a resolution that's come down from Council, I've explained previously that bills can come -- either be generated by this board, by the Planning Department, or by the Council, and when it comes down from Council, we have 120 days to hold the public hearing and get our recommendations back.

We take to all three commissions. When it comes down from Council, the Planning Department pretty much goes into damage control. We review the bill, try to see if there is a conflict or if we have strong concerns over it. The bill that came down is regarding amending the 19.36, which is the off-street and loading parking ordinance. And, primarily, I guess the issue is there's a movement afoot, I guess, within the County to move toward more what we call neo traditional town planning, or new urbanism. It comes in a variety of different names and packages. And the primary issue there is to try to get people to live and work in the same area, or to try to use alternative modes of transportation other than driving in the car. And when you have these designs or developments that encourage or incorporate new urbanism concepts of the live/work in the same area, the parking demand can be – should be less, the parking requirement, and that's what this, the proposed amendments that came down from Council, is hoping to accomplish is: one is to encourage village mixed use or residential mixed use developments, as well as to just relook at the ordinance itself.

Besides that whole concept that they had, there was four things they asked the commissions to look at and that was: ways to address enforcement; stacking up cars to maximize space, as they do in Japan, these are what they said; landscaping, and whether there is a need for compact stalls.

The department is supportive of the idea of trying to reduce the amount of stalls that is required by the businesses, if it makes sense, and the overall concept. And the pieces and structure they have, it makes sense, but it's like one piece of the, like I said, the whole concept of new urbanism. So my classic example is just because you add -- create a residential mixed use development in the middle of a commercial core, you add like five apartments to the top of K-Mart, that is not going to have a significant reduction in the parking demand because -- so there's a lot of things that go into what creates parking demand. And if you look at my staff report, on the second page, I go over those, the four principles of what any project, when you analyze a project, of what that parking demand would be. It talks about development type and size, the population and development densities, the availability of transportation choices, such as, you know, is there buses, bikeways, or walking paths, as well as the surrounding land use and mixed use. If you've never been to Wailuku, Wailuku Town is a Class-A example of residential mixed use. We have residence, apartments, and commercial core. The parking demand for those commercial buildings are a lot less because a lot of the clientele is located within walking distance of those businesses. Lanai City is another Class-A example where you residential mixed uses nearby or within commercial areas and the parking demand as indicated. I'm not sure about Kaunakakai. I know Kaunakakai has a strong commercial core. I'm not sure whether or not there is a strong residential mix. From my eyeballing it, I don't see that. There was an ordinance previously which was to allow the B-CT, allow residence within the business district, and when it came through this council, the amendments, basically, you eliminated that concept. Okay, so you eliminated the possibility of having residences above commercial. So, in that sense, you're going to -- it's going to be very difficult for someone to do this, to take advantage of what's proposed in this ordinance, okay. So I'm just going to be, you know -- if you ever change that ordinance again and allow people to either build apartments above commercial complexes here in Molokai, I mean Kaunakakai or in Maunaloa, then there's a possibility that they would be able to take advantage of some of the concepts in here.

In the department's review of the Council's bill, like I said, we support the general concept, however, sticking this into the County Code, in its current structure, didn't make any sense. And the way they added it, they just basically would have added four pages to the back-end of the County Parking Ordinance that would establish these separate parking standards for residential mixed use developments. We didn't think that was appropriate. So what the department did is we, basically, rewrote the whole Title 19.36. We went back through 19.36 and made some updates and changes to it so --

Mr. DeGray Vanderbilt: And that's Exhibit 3?

Mr. Alueta: And that is Exhibit 3, correct. So Exhibit 3, and this is basically our -- Exhibit 1 is the Council's proposal; Exhibit 3 is the Planning Department's proposal to you, and that is we like some of the new definitions for residential mixed use, we took out the minimum standard of having the 30,000, we didn't see any rationale there, but we wanted to create those definitions in 19.04. And in 19.36, what we did was we liked the structure that they proposed, which was doing a table format. We felt that was an easier read, it simplified the code, and so if you look through all the standards that's the table format, that's straight out of the existing code. I didn't change -- for the most part, none of that has changed as far as parking requirements; none of that has changed from the existing parking code. All I did was put it into a table format and made it easier to read rather than the current structure. The real meat, the real meat of the changes that the department is proposing is further on, and that is where you see the underlined sections, and what I did was, throughout this code there's a splattering of industrial parking waiver, meaning if you do an industrial subdivision or industrial development, we allowed for an applicant to come before the planning commission or the director to get parking stalls waived because you're an industrial development and the standards that they required didn't necessarily meet you. There was also waivers for churches. There was also waivers, parking reduction waivers for commercial businesses that were near a public parking lot. Well, what I did was I consolidated all those different ones that were splattered throughout the existing code and consolidated them down into a new section called "Parking Reduction or Waiver," and that's 19.36.130, so -- and that's in the back toward the -- about four pages in from the backside of Exhibit 3, and that's all that underlined. So that's the real meat, those next two pages, or one page is the real meat of what the department is proposing, and that allows for parking waivers if you qualify and, basically, what I did was I took that industrial parking -- that existing waiver that existed within the code of the industrial one, the church one, as well as -- and moved into one section and left it up to the director to give up to 30 percent and set up a criteria, and that's Section B, which -- what the director should be looking at in determining whether or not something should be granted a waiver, a reduction or waiver, and we think that's critical. As I indicated, when evaluating parking demand for any commercial, there's four key components, which I outlined in my staff report, and we think that the director and the Planning staff is better equipped to do that, to look at those and see whether or not it makes sense to grant any waivers, and it limits the director's ability to grant only up to 30 percent.

And one of the interesting things that we looked at is that one way that they could provide -- landscaped area in excess of what they are currently required, we could -- they could have that as a sort of a reserve, so the director would say, "Well, you provided the land area for parking, you just haven't paved it and striped it, but you provided an area on the property that's landscaped or is a green open area that could, potentially, be converted

to parking if needed.” And so what happens is, that’s kinda like the fudge-factor, that way, you know, yeah we grant you the waiver of 30 percent but you’re providing that area that you would have used to pave over, you make it into a grassed area and then if later on in the future we, you know, parking demand for that project is greater than we anticipated, that area that you set aside could then be paved and striped to create your parking.

One of the issues that we have, at least on Maui and I think you potentially could have, is that people wanna provide more parking than is required. If some of you have been to my example that the inspectors give me is Home Depot on Maui. There’s 610 stalls, 610 parking, that’s a lot of asphalt. Their parking requirement is 305. They provided double the parking spaces. And if you’ve ever been to Home Depot, it’s empty. I mean the stalls all near the store are filled, but everything else is empty. The same thing can be said for Wal-Mart, same thing can be said for Kaahumanu Center, okay. There’s a lot of stalls there. And we feel that we would rather see more efficient use of land rather than paving it, we wanna prohibit people from doing that or from big corporations, big boxes from saying, look, I need to have so many stalls here because that’s what we demand, and, in reality, we know better, I mean the local community is going to know better that, hey, you don’t really need that many stalls. You’re going to have a lot people either across -- crossing over from existing or walking there, and so we wanna have the ability to prevent excess stalls and areas being paved for no reason.

Temporary parking and special event parking. That’s issue we’ve always grappled with. I think Molokai, Lanai, every island’s going to have this issue is that you have a special event, either a bazaar, some kind of festival, and Maui is the Taste of Lahaina, hula festival here that you don’t have enough parking or there’s an x-amount of parking required and you wanna establish a temporary parking lot. Well, we don’t -- there is no provision for that. It’s either pave the thing or not. And so we wanna be able to establish off-site temporary parking and have it graveled and allow for that use to exist and have the director issue a temporary allowance for that and that way these events can accommodate their parking but they’re not going to have to pave something or create something. And also we get -- in some -- whenever there’s a big construction project, a lot of times construction workers take up a lot of -- maybe take up, for us, it takes up beach access parking, which we constantly fight, and what we did was we required them to establish an off-site parking location, and so what they do is they’re there, and then the employer shuttles the construction employees to the site, and thus reducing the impact on the local residents who are trying to get to the beach or just -- and the local on-street parking that is normally used for overflow for other uses.

So having said that, there’s three things that I wanna add into what you have in front of you, your printed document, and those are, in my haste to do this, I neglected, I eliminated loading spaces, the requirement for loading spaces, and, basically, I would just add a new section to the end, which would be 19.36.160, and that would be called “Loading Zones,” and I would basically be adding in Section 34, or 19.36.010, Paragraph 34, and that’s the existing language that’s in your code. If you look on in my staff report, there’s a thing called “Loading Spaces,” and I’ll just take that and put that into a new section. Another thing we wanna make sure that, under 19.36.130(A)(2), that’s where I talked about that parking reduction, it talks about commercial or mixed use facilities. What we’re talking about is commercial or residential mixed use. I wanna make it clear that that should be residential mixed use facilities so just -- you can write in “residential” on that line and that’s

under 19.36.130, under Parking reduction or waiver, and under A.2., it says, "Commercial or mixed use facilities;" it should be "Commercial or residential mixed use." Cause, once again, we're trying to establish a residential core within a residential portion within the commercial core. And, as I indicated, you know, part of that neo traditional town planning, a lot of the parking -- parking studies, most of the driving that people do are discretionary, meaning it's after work. I mean non-discretionary travel is I gotta go to work and I gotta come back from work. That's a given. That's why you have your peak hours, a.m. and p.m. traffic demands. But a lot of the trips that people take are discretionary, meaning, okay, I wanna go shopping right now, I wanna go to the beach, I wanna go to a restaurant now, or dine, you know, whatever, and that where they have an opportunity to chose when and where they go and that's the type of travel that is significantly reduced when you have a residential component in a commercial mixed use area.

For two years I lived right in Wailuku, the heart of Wailuku. I walked to work, walked to the bar, walked to my bookkeeper, walked to my bank. I never drove because I lived right in the heart of Wailuku in the commercial core and everything I needed was in walking distance, okay. So the only time I drove was when I had to go down to Home Depot and so it's, you know, what I mean? And that's the kind of thing that County of Maui and the Council has indicated they're trying to promote, and they promoted that, one, by sending this down but as well as approving, one, the amendments to the business country town district and the business ordinance, which allowed for residential districts now in -- residential components within the business districts as well as approving village mixed uses in project districts, such as Maui Lani as well as Kapalua, Kaanapali, Maui Land and Pine has Pulelehua, which is a big neo traditional town concept.

So I believe the -- those are the changes that we have. Again, it only impacts Molokai if there is a residential mixed use component or if someone comes and says, "I want a parking reduction," and they can show to the department why they should be granted a reduction and it limits this to 30 percent. Okay, and that's all I have for now.

Mr. Ribao: Okay, thank you. Any questions from the commissioners at this point? Okay, if not, then -- okay, DeGray, I knew you would have a question. Go ahead.

Mr. DeGray Vanderbilt: Will he be available after the public hearing, if you wanna have the public hearing first?

Mr. Ribao: Yeah, we're going to do the public hearing but we're on a time restraint here so we'll see how long that goes.

Mr. Vanderbilt: ...(inaudible)... public hearing.

Mr. Alueta: And I'll try to, thank you, and I'll try to answer as many as I can after the public hearing. Thank you.

a. Public Hearing

Mr. Ribao: Okay, anyone wants to testify from the public regarding this issue? Okay, can someone help him up here and, sir, when you come up to the mike, could you please state your name please.

Mr. Rudy Tolentino: Committee, my name is Rudy Tolentino, and I was born and raised here in Molokai. So far I've been living in Kaunakakai Town lately, and see the parking here, when you walk down the street on -- next to the store, we get too many bumpers right over the walkway. Can you put a lump, a stall that going take a lot of space for the people that walks by on the sidewalk. We need some kind of guideline in that area. And because I'm in the situation of my condition, my blindness, on a walkway, could you put a line straight directly to across the walkway that I can guide with my stick so I know I'm going to the right direction that moving up the direction from the walkway. And I just wanted to suggest that and see if you guys can do anything about that. Aloha. Mahalo.

Mr. Ribao: Thank you. Any questions for Mr. Tolentino? Go ahead, DeGray.

Mr. Vanderbilt: Yeah, the line that you were talking about across the crosswalk, that would be just slightly raised over the pavement area?

Mr. Tolentino: No, it can be dent like so, don't have to be a lump, something that we can hit and just follow that direction.

Mr. Vanderbilt: Okay, thank you.

Mr. Ribao: Okay, thank you, sir. Any further public testimony?

Ms. Lori Buchanan: Hi. My name is Lori Buchanan. Sorry, I didn't read this, to be honest. I just picked it up last night, but I just wanted to not rush into coming up with a motion on approving this draft right away unless we really or you guys really took time to look at it because I was kinda wondering, from Joe, what the impact from this would be on developments, like the mcmansions we have in Kahului by Maui High School where you have a build out capacity of residences. If you don't know what a mcmansion is it's a total build out of your lot, two-story homes. On a recent trip to Maui, I stayed at a residence in the back of Maui High School and noticed that this is starting to spring up all over Maui and the driving force is, of course, high land prices. So pretty soon you have several two-story homes with maybe four or five families living in a 10,000 square feet lot and all you have is street parking. I ended up parking two-and-a-half blocks away from the house I was staying in Kahului cause there was no parking. It's becoming a huge problem. You know, people cannot afford to live so all the kids are moving back home, and you're building two-stories, and pretty soon you have no yard and your whole yard is cement, and all you have is one garage with one car or two cars, but you have five families and they all driving one car with no place to park. I don't know what kind of impact that would have. That is very different from where Joe was brought up where he never need one car cause he was just walking here and there. But if he lived little bit far, then it's a problem. Eventually this going impact Molokai so before -- I just wanna make sure that we really take a look at it.

And while I'm in favor of open grassed areas as oppose to asphalt, I think, in the future, for developers who do wanna pave and have to do required paving, there is porous paving now that you can do to help with storm water and drainage. It's a little bit more expensive but, hell, if you wanna do a project and you wanna do a good project, you might as well make that a condition of the project. So that would be my concern because already you

have some places like Ranch Camp that you can already see where that might have an impact.

And, again, I caution us about giving all the decision-making to our director to be saying, okay, from Maui, yeah, misses so and so in Ranch Camp, you no need that extra parking stall because they don't live here again. I would like to see that decision come back here and to have it worded as such in this thing. Thank you.

Mr. Ribao: Thank you. Any questions for Lori? No? Anyone else wants to testify? If not, I'll open up this to the commissioners if they have any questions for Joe or any motion if they wanna -- yeah, we're going to close public testimony at this point. Now I'm opening it up to the commissioners for any questions to Joe or you wanna make a motion or anything like that.

Mr. Bill Feeter: Yeah, thank you, Mr. Chair. Two comments. First is that is there any regulations pending that would restrict vehicles or alternatives to that. Secondly, boats and trailers and wrecks, a car is a car is a car, and they're taking up spaces on our streets that is boats, wrecks, and trailers, and anything with wheels as far as that goes. So I would like and encourage some solution to that.

Mr. Alueta: Okay, no, there's nothing in this ordinance or any proposed ordinance that would restrict the amount of vehicles that are coming in or that can be owned by anyone else. And, yes, that is an issue. Mostly, as indicated by the last testifier, we call them Manila mansions, instead of mcmansions in Kahului, at least in Kahului. Or Filipino condominiums. Since I'm Filipino I can say that. But that's pretty much -- it is prevalent and it's happening, like I say, in the residential areas. This bill does not impact the residential, it does not change the residential parking standard. Where it calls for residential mixed use, they're talking mostly about like apartments, and if you look at the code, we're not proposing that you reduce the amount of stalls that a residence is required. We're still requiring that you provide two parking stalls for a residence. In the Council's proposal, they were proposing to reduce the number of stalls required by residential dwellings for one-bedroom and studio apartments from two to one. Having also lived at Lao Parkside in a one-bedroom condo, I bought an extra stall because I knew one stall was not enough, so I had two stalls. And in a lot of areas in condominium complexes where some people -- where the old code used to allow for less parking for one-bedroom units, you will see lots of parking on the street. So we know from practice that people nowadays are doubling up or tripling up because of the high rents and high mortgages and also, like I said, the lifestyle of -- you have a couple who can live in a one-bedroom one-bath unit, but they both have two jobs, I mean they all have to go to work and they all have to have their own vehicle. So we recognize the realities of that. And, like I say, our proposal as well as, you know, even Council's proposal doesn't eliminate parking all together for some things, it just allows for the reduction and, as I said, Council's proposal would give it an outright elimination of that stall. The Planning Department's proposal is to have each case analyzed, set up a criteria in which you are trying to justify the reduction in parking, and limits the reduction to 30 percent of the overall demand, and I think that's key and I think that's important because, from a planning aspect, there are key principles, like I say, there's four key principles in establishing how much parking a project is going to generate. We think the Council's proposal only looks at two and we feel that you need to look at all

four issues of what -- of how much a parking demand is going to be needed for any specific commercial development.

Mr. Ribao: Okay, Kip.

Mr. Kip Dunbar: Joe, question. You say the basic concept behind why mixed use development would require less parking is because the people in the area that already live there will be working there so they don't have to drive.

Mr. Alueta: Some will work, but also primarily will be using, as I said, their non-discretionary trips would be --

Mr. Dunbar: Someplace to someplace else.

Mr. Alueta: Yeah. Normally, like during your -- when you get home from work, sometimes you have to go shopping, sometimes you have to go to eat out. If you have those amenities nearby, you're not going to have to get in the car, drive and park somewhere, park at the restaurant. So if you have a restaurant nearby, you're going to leave your car parked in the stall that was required because you have a residence there and you will walk to that restaurant. Now, we're not saying that every -- why we're only saying -- proposing a percentage reduction is because we don't think everybody who lives in that area and if they have a restaurant next door, the entire market or the entire customer base for that restaurant is going to be those only living there. We recognize you're still going to have people who have to drive there from outside of the area so --

Mr. Dunbar: Who developed this basic concept? Is this coming from you folks in the Planning Department?

Mr. Alueta: Which one? The overall concept? The neo traditional town planning?

Mr. Dunbar: Well, yeah, just the fact that whoever is going to live next to this place is going to be working at that place and I'm not so sure that that's true because they probably -- if they're already living there, they probably got a job and not working there so someone else gotta drive in there to work there.

Mr. Alueta: Right.

Mr. Dunbar: And now --

Mr. Alueta: We don't think that there's going to be, like I said, 100 percent --

Mr. Dunbar: I agree with you with the big parking lots. I mean if you got -- if you can cut the parking lot in half, what is the concept of that? Is it -- they would rather build it and pave it and put a parking lot on it so they don't have to maintain the landscaping or what's the rationale behind it? Such as Home Depot. I mean I've been to Home Depot where, you know, three-quarters of it is. I've also been to Wal-Mart and that's packed to the gills.

Mr. Alueta: Yeah, okay, so there's two questions --

Mr. Dunbar: Yeah, two questions in one.

Mr. Alueta: Two questions that you had there. The first question was we recognize that there's not going to be a one-to-one ratio and that's why we don't think that the code that they're proposing is one hundred percent. There's more to it than just if I live -- I'm going to live next to where I work. We understand that's not going to happen, not all the time. So that code in the reduction that was proposed by the Council didn't give it a 100 percent reduction is you had residence in there, and we also recognize that. However, village mixed uses or towns that have a residential population intermixed within a commercial core see that the parking demand is reduced and it's up to 30 percent, and that has been shown, that has been done by national studies as well as studies that we've done in relationship when we wrote the Wailuku Small Town Code, okay. So there is factual -- there's factual studies done across the country that shows that so that's where that 30 percent came from, that's also where I talk about the four key components that make up a parking demand. Why they chose to pave or put more parking stalls than is needed? Sometimes the Mainland, well, I call it the I-5 mentality. They build signs to be visible from Interstate 5 and they build parking lots so that they can have everybody and their uncle come to it because they think they're going to have that much demand, and I think, you know, a lot of people when they do a business plan, you're very optimistic that everybody is going to come and buy your product and you're going to have the world's best sushi or musubi and everybody on Maui or Molokai is going to come to your shop and eat your loco moco. It ain't going to happen, alright. And so you come and you think you're going to need all this parking. In reality, you're not going to have as much business as you anticipate, and I think that's true for most businesses, and I think Home Depot is that.

Mr. Dunbar: Okay, final question. Your situation where you're living and they wanna reduce, you know, the one-on-one parking stalls where you are and you find yourself that, well, you know if you have a girlfriend or wife and she's living with you and she needs a car so that's why you got two stalls, well, how do you -- how does this ordinance clean up that situation?

Mr. Alueta: It --

Mr. Dunbar: Or does it?

Mr. Alueta: Well, it does because we're not changing the parking requirement for residential or we're not reducing the parking requirement for a one-bedroom or studio apartment, okay. They're still required two stalls. In the case -- two stalls. The proposal from Council is proposing to reduce it to one. We know --

Mr. Dunbar: ...(inaudible)... that's not part of this?

Mr. Alueta: That's not part of -- well that's their proposal and that's why we ended up rewriting the ordinance saying, "No, we don't want to reduce that. We don't want to." Council's proposal also wanted to use on-street parking to count toward required parking and we're saying, "No." On-street parking is our fudge factor, meaning if you screw up or we screw up in our parking estimates, and you do have the world's best loco moco and everybody and their uncle wants to come, we wanna be able to have on-street parking for that overflow, and what that is is we consider on-street parking the Christmas day crowd,

you know, a few times a year where you're going to have everybody congregate and go shopping, but we don't wanna have people building parking lots, like Home Depot, for that Christmas crowd. We think that's not -- I mean because then 99 percent of the time it sits empty, and it doesn't look nice, and it creates more runoff than needed.

Mr. Dunbar: Okay, right, I agree with that. So the final question I have then is that what you're -- what you folks are proposing in this is -- is not accepting Council's reduction --

Mr. Alueta: Correct.

Mr. Dunbar: One-to-one and it's going to remain at one-to-two but that's in this ordinance?

Mr. Alueta: That's in our proposal, not in Council's.

Mr. Dunbar: Okay. But we're dealing with your proposal today?

Mr. Alueta: Well, you're dealing -- actually, you're technically dealing with Council's, okay?

Mr. Dunbar: Right.

Mr. Alueta: But we, as a department, we are recommending that you consider ours as an alternative.

Mr. Dunbar: Correct, and so if done so, then we are not accepting or we would chose not to accept Council's reduction of one-bedroom/one parking versus your folks suggestion of one-bedroom or maintenance of one-bedroom/two parking?

Mr. Alueta: That is correct, as well as all the other concepts that we have.

Mr. Dunbar: As well as all the other -- okay, thanks.

Mr. Ribao: Okay, let me point out. If we take no action today, this is coming back to us anyway, you know, we can have more time to review this document, yeah. Okay, DeGray, you have any comments?

Mr. Vanderbilt: Yeah, Joe, you mentioned to get this 30 percent reduction, you gotta sort of be one of these mixed use residential type situations, right, and you would qualify for it, right?

Mr. Alueta: You would have to be not purely a residential mixed use. No.

Mr. Vanderbilt: Okay. Well, what I'm trying to get at is that you said Lanai City was a good example that would be a mixed use residential area. Is that true?

Mr. Alueta: Yeah, I believe there's a lot of residential areas.

Mr. Vanderbilt: Okay. Now how does that different from Maunaloa or Kualapu`u?

Mr. Alueta: I don't think it differs from Kualapu`u. I don't think it -- from my knowledge, you know, I don't live here all the time so I don't see the circulation or the demand, but I've been to Kualapu`u and that's a good example of where you have a very small commercial core --

Mr. Vanderbilt: Alright. How about Maunaloa?

Mr. Alueta: Maunaloa. The old Maunaloa or the -- the new Maunaloa is --

Mr. Vanderbilt: Same footprint. Same footprint.

Mr. Alueta: To me it's a little different because your commercial core is a little farther away than your walking distance. It still has -- it's still within five minutes --

Mr. Vanderbilt: Okay. Alright --

Mr. Alueta: But I think if there's any more expansion --

Mr. Vanderbilt: Well, we're not going to get into details. What I'm asking is you say, "a reasonable walking distance." When you talk about reasonable walking distance, how far is that?

Mr. Alueta: I've seen standards using five --

Mr. Vanderbilt: What was used here to say the basic concept is behind within walking distance of residential units? Now, walking distance, people on Molokai can walk a lot further than people on Maui and Oahu cause they're in better shape and, you know, but -- so, you know, you look at Kualapu`u, Maunaloa, even Kaunakakai, there's a tremendous amount of residential areas within walking distance of town so this basic concept is based on some parameter. What is that?

Mr. Alueta: Yes, it is. Off the top of my head, I believe that it is 1000 feet or a ten-minute walk.

Mr. Vanderbilt: Okay. Alright. Thanks.

Mr. Alueta: And for -- I don't disagree with you that they can walk far on Molokai and I think that, you know, if a project came in on Molokai and they wanna explain and have that justification, the department would take it into consideration.

Mr. Vanderbilt: When you say, "a project coming into Molokai," do you mean within our existing towns or a new project like --

Mr. Alueta: Any -- anywhere that they would qualify for this. It could be within the urban core. It could be adjacent to, you know, anywhere as long as it had the correct zoning.

Mr. Vanderbilt: Thank you.

Mr. Ribao: Okay, no further comments from the commissioners? Anyone wanna make a motion to table this? We don't have to even take action, I guess, at this point.

Mr. Dunbar: Why don't we make a motion to approve it?

Mr. Ribao: Yeah, that can be done too. Whatever you decide, yeah. That's your choice. Okay, I'm going to entertain a motion at this point.

Mr. Vanderbilt: I move that we defer action on this Resolution 06-131, amendments to the Maui County Code.

Mr. Ribao: Okay, I have one question to that motion. Do we have a time frame on this?

Mr. Alueta: We do, but if we bring it back to the next meeting, we'll be good.

Mr. Ribao: Okay. So your motion was to defer it to the next meeting. Am I correct, Commissioner DeGray?

Mr. Vanderbilt: Yes.

Mr. Ribao: Okay, any -- I need a second, then we can have some discussion.

Mr. Steven Chaikin: I'll second it.

Mr. Ribao: Okay, we have a second. Now it's open for discussion.

Mr. Vanderbilt: Yeah, Mr. Chairman, thank you. You know, we're in the -- we're just in the throws of starting the general plan review and our community plan review will follow right after that, and I -- Commissioner Dunbar mentioned earlier about where this basic concept originated from; well, it didn't originate from Molokai, and I'd just like to understand this thing a little bit more of how it impacts our current businesses, like the Mid-Nite Inn, and if they came back into business, could they meet this 30 percent reduction because, actually, Kaunakakai, most all the residents are within a ten-minute use, so there just seems to be so much in here that I'm not prepared to vote because I don't understand it. Thank you, Mr. Chairman.

Mr. Ribao: Okay, any further comments by the commissioners?

Mr. Dunbar: Yeah, I'd be prepared to vote for it. I don't -- you know, I don't know what we're going to learn by the next meeting's discussion over what we have and already been able to read or what was presented. So I'm, you know, I mean the fact that the Planning Department is recommending that we approve this apart from some of the ordinance changes that the Council wanted to make that seem to me were totally inaccurate. It seemed that they have reviewed those, found those be inaccurate, and I, personally, don't know how much -- how much more you're going to add between now and two weeks. What sort of discussion would you come back with next week? Is there something in here that -- that we've missed or --

Mr. Alueta: No, I can come back with a cleaner document for you and I could also, if desired, I could come back with the specific distances that is being used as far as the walking -- what's considered a walking distance, you know, for a core, I mean to --

Mr. Dunbar: I think that kinda depends on the carrot. You know, if your girlfriend is 10,000 feet, you're going to walk there, you know. Either that or you have her drive to you pick you up.

Mr. Alueta: I think one of the biggest strikes against the concept being effectively used in Kaunakakai, in Kaunakakai itself, is that the Commission wanted -- voted at the last go-around for the B-CT district not to allow residential uses if you're within the business country -- so, because of that, that's one strike against using the whole concept of residential mixed use because the concept is that it's within a close proximity and now I understand there are single-family residences up here on the hill and nearby and they, as you say, maybe walk, or, by DeGray's standard, is walking distance but to be fully effective, it needs to be, you know, a little -- I think a little closer but I'm going to get some more exact distances and walking time frames for you.

Mr. Dunbar: And how it would be specific to Kaunakakai or Molokai?

Mr. Alueta: I can try to plot it on a map, you know, on a map that shows where the urban core is, where your residential, and do a ring that shows a walking ring, we've done that before.

Mr. Dunbar: Okay.

Mr. Ribao: Okay, go ahead, Steve.

Mr. Chaikin: Yeah, I was just supporting the deferring this because the -- the Council is really looking to this Commission to provide comments and recommendations and the Planning Department has come forward with their set of recommendations but I haven't seen an recommendations coming out of this Commission, so I would just like a little more time to look at this and see if there's anything that we wanted to add to that. That's all.

Mr. Ribao: Okay, there's a motion on the floor to defer this to our next meeting. I'm going to take a vote now.

There being no further discussion, the motion was put to a vote.

It has been moved by Mr. Vanderbilt, seconded by Mr. Chaikin, then

VOTED: to defer Council Resolution 06-131 to the February 28, 2007 meeting.
(Assenting: B. Feeter; J. Kalipi; S. Chaikin; D. Vanderbilt; R.Ribao)
(Dissenting: K. Dunbar)
(Excused: J. Kalanihuia; L. DeCoite)

Mr. Ribao: Okay, motion carried. Thank you. I'm going to move back to Item B, which is approval of minutes for the January 10, 24, and the continuation meeting on the 30th. This is just approval of the minutes. Okay, I need a motion to approve the minutes, please. Well, let's do the January 10 first.

B. APPROVAL OF MINUTES OF THE JANUARY 10, 2007, JANUARY 24, 2007, AND JANUARY 30, 2007 MEETINGS

Mr. Chaikin: Okay, I'll make a motion that we approve the minutes from the January 10 meeting.

Mr. Ribao: Second? Second by --

There being no discussion, the motion was put to a vote.

It has been moved by Mr. Chaikin, seconded by Mr. Feeter, then unanimously

VOTED: to approve the minutes of the January 10, 2007 meeting.

Mr. Ribao: Okay, minutes approved. Now the January 24, 30 meeting, we'll combine those because that's the continuation of the same meeting. I need a motion to approve the minutes. Bill. Second? Second by Steve.

There being no further discussion, the motion was put to a vote.

It has been moved by Mr. Chaikin, seconded by Mr. Feeter, then unanimously

VOTED: to approve the minutes of the January 24, 2007 and January 30, 2007 meetings.

Mr. Ribao: Okay, minutes approved. Okay, moving to Item D, Unfinished Business, Molokai Properties. I know at the last two meetings, on the 24th and the one that continued to the 30th, there was a lot of public testimony, it's all shown in the minutes here, which was very thick, so what we're going to decide on today is that if we're going to accept the public testimony from the interested members of the public. If you take notice in your --

Mr. Dunbar: Mr. Chair, excuse me one moment but --

Mr. Ribao: Yes?

Mr. Dunbar: Are we not -- this is the one that was the January 30 one, but it's recessed, so we're still just onto that and we just carry minutes over or --

Mr. Ribao: We're carrying minutes over so the last approval of minutes for the 24th, 30th cause it's a combination. Okay, on Item a., under Section D.1.a., the Molokai Planning Commission may accept public testimony from interested members of the public, okay. Under Item b., the Molokai Planning Commission may take action to provide additional comments, if they do have, regarding the draft impact statement. And the site visit was

cancelled so if you folks wanna reschedule that, we can do that, or if you folks don't wanna do it, that's fine also, okay.

But let it be note that Nancy drew up a document here that you have indicating the major point in the public testimony. I hope you folks had a chance to review this, okay. Okay, any comments from the commissioners, or motion, whatever you folks wanna do? Oh, Nancy, you wanna give a talk first?

Ms. Nancy McPherson: Can I?

Mr. Ribao: Go ahead. I'm sorry.

D. UNFINISHED BUSINESS

1. **MOLOKAI PROPERTIES, LIMITED** requesting comments from the Molokai Planning Commission on the Draft Environmental Impact Statement (DEIS) prepared for the Laau Point project located at TMK 5-1-002:030 (portion), Kaluakoi, Island of Molokai. (EAC 2006/0017) (CPA 2006/009) (CIZ 2006/0015) (SM1 2006/0040) (CUP 2006/0005) (N. McPherson) (The Draft EIS was sent to the Commissioners in the second half of December 2006. Commissioners: Please bring the DEIS with you.) (Deferred at the January 10, 2007, January 24, 2007, and the January 30, 2007 continuation of the January 24, 2007 meetings.)

The accepting authority for the EIS is the State Land Use Commission. The deadline to receive comments on the DEIS has been extended to February 23, 2007.

The EIS is a supporting document for the State Land Use District Boundary Amendment with the State Land Use Commission and various county land use applications. The county land use applications are for a Community Plan Amendment, Change in Zoning, Special Management Area Use Permit, and County Special Use Permit. The County land use applications will be reviewed by the Molokai Planning Commission some time after the EIS process has been completed by the applicant with the State Land Use Commission.

- a. The Molokai Planning Commission may accept public testimony from interested members of the public on the DEIS.
- b. The Molokai Planning Commission may take action to provide its additional comments on the Draft Environmental Impact Statement (DEIS). The Commission voted at the January 30, 2007 meeting to submit its initial comments on the DEIS.
- c. Possible rescheduling of the cancelled February 7, 2007 site inspection. The Commission may take action to reschedule the site inspection.

Ms. McPherson: Hi. Good afternoon, commissioners, Chair Ribao. Nancy McPherson, Staff Planner, Molokai. I went ahead and distributed two additional sets of comments, the Planning Commission commissioner comments to you just now so you'll have to take some time to look those over. We do -- this is our fourth time of looking at this Draft EIS and we have until the 23rd of February to submit written comments. We would like to get approval of what's been formatted for you so far. We had an approval of a previous set of comments that was transmitted to the applicant and to the consultant after your last meeting. And I realize you won't have time to review the ones that you've just gotten just yet but, hopefully, you've reviewed the set that I drafted for your that came with your packet so, perhaps, you can discuss that today.

Mr. Ribao: Okay. Thank you. Any questions for Nancy? I'm going to open this for public testimony, if anyone wants to say anything at this point, then what I'm going to do is I'm going to call a recess and let the commissioners review, hopefully, the documents they get today, I don't know if that's enough time, and then we'll just see what happens from there. Anyone wants to say anything else? Go ahead, sir. Please state your name.

Mr. Steve Morgan: This is in regard to the EIS?

Mr. Ribao: Correct. Yes.

Mr. Morgan: Aloha kakou. My name is Steve Morgan. I just wanna say that I do not believe that it's necessary for Molokai Ranch to sell the land parcels at Laau in order to fund the refurbishing of the Kaluakoi Hotel. From the beginning of MPL's intent to develop Laau, the Molokai community has been reminded that the sales of Laau lots are crucial to the funding of Kaluakoi Hotel renovations and the Molokai Ranch has been operating at a loss 3.7 million dollars annually. There is no real declaration as to what these losses include so we are left in the dark in this matter. Regardless, we not only need to know the expenses of MPL, we also need to know sales and inventory figures so that we can understand the real profit loss statement of this company. In the case of a company whose primary business is real estate, the value of the inventory or their equitable holdings is the single most important aspect of their financial statement and this is being entirely ignored.

In 2001, MPL made the single greatest real estate investment ever made on Molokai. At an all-time market low, the Kaluakoi Resort was sold far below even the market value of that time for amount of nine million dollars. Few people understood the real worth of this investment or what it included. Within a few years following this purchase, under the names of Kaluakoi Properties and Molokai Land Acquisition, MPL retrieved approximately 24 million dollars in the sales of residential ag lands as a result of this purchase. This was only the tip of the iceberg, however. The purchase not only included the residential properties of Kaluakoi and the existing hotel, this investment also included more than a dozen other subdivisions including six more hotel sites and several residential subdivisions, which could potentially allow for the development of 500 to 1000 additional homes.

It doesn't take much imagination to understand the enormous equitable increase that has taken place in MPL's land holdings as a result of this investment. Income received by Molokai Ranch, between 2003-2006, includes the following: Sales of properties at Kaluakoi, approximately 25 million dollars; sales of properties at Maunaloa, approximately 9 million dollars; profits of BIL, the parent company, 214 million dollars; the equitable

increases on land holdings, we simply don't know. With these types of assets combined with the overall financial health of BIL, the parent company, why is it the MPL cannot afford to finance the refurbishing of their own hotel? Also, how was it that BIL was able to purchase the well-known gambling casino, Claremont Club, in London, last August, 2006, for the amount of 60 million dollars, and yet there is supposedly no moneys to facilitate the 35 million refurbishment of the Kaluakoi Hotel. Also, the annual report by BIL shows Molokai Properties to be cash positive. This is in contrary to what has been told to the Molokai community. And I'd like to be able to reserve an additional three minutes by stopping at this point.

Mr. Ribao: Okay, thank you. Anyone else wanna say anything? Okay, sir, you can finish up.

Mr. Morgan: My next question is: Where is Isaac Hall? Isaac was hired for his expertise in the environmental assessment process that your Commission and our community are going through right now. He was at the meeting that the ranch called back in August 2005 to better understand the comments the ranch received on the environmental impact statement preparatory notice. I attended this meeting and so did DeGray Vanderbilt. Where is Mr. Hall and what was he hired for? He is listed as one of the two attorneys for Molokai Ranch on the environmental impact statement preparatory notice. The other attorney listed is Ms. Lynn Nishioka, who I understand passed away several months ago. You heard testimony that some of the community believe the ranch hired Mr. Hall so that a community group called -- so that a community group could not hire him. In the promotional video that the ranch sent to everyone, Mr. Hall states on camera how he represented the community against the development Kawakui, the Ranch's Campground, Highlands Golf Course project, and the proposed development on ranch land, as well as Kaiaka Rock development in the past. So my question is where is Mr. Hall? I have not seen him at anytime during this EIS process. I'd like to submit this as well as a newspaper article that was done in *The Molokai Dispatch* that explained that first meeting. I would hope that the LUC would take a serious look at how this EIS process has developed. The very first meeting we had Isaac Hall -- we received a letter that stated that we would be discussing the various questions that we had, that the consultant parties had in regards to the EIS process. When all of us showed up, Mr. Hall did not show up with any of our questions and said, "Well, the only purpose of the meeting was to discuss the process." This was not what it stated in our letter. So I would like to submit the newspaper article as well as I would like to also submit, not too long ago I gave to you the recent residential ag subdivision that was taking -- that had taken place on the west end, the property that was up for sale. The owner of that property has now raised the value of that property for 1.6 million to 1.9 million, which probably is close to market value at this time, to give you an idea of what we need to be concerned about, as well as probably what we're seeing in the way of property values at Laau. I'm also submitting a statement, I won't read this at this time, but that is in regards to how the Molokai Land Trust, none of the lands of the Molokai Land Trust that's set aside will go to the community of Molokai. This is a private land trust, self-perpetuated in which none of the community -- there was nothing built into it that allows the community to make decisions in regard to these 51,000 acres that will be supposedly donated to the community, and of course half of those lands Molokai Ranch themselves will be hanging on to. So I have extensive information on that that I will also hand over to the Commission. Thank you very much.

Mr. Ribao: Thank you. Any questions for this speaker? Okay, Steve.

Mr. Chaikin: Yeah, Steve, you bring up some valid points. Are you going to formulate your testimony into comments and submit them yourself to the applicant?

Mr. Morgan: Yes, I will as well.

Mr. Chaikin: Okay.

Mr. Morgan: I'm just trying to make sure I...(inaudible)...

Mr. Chaikin: Kind of like in a time -- we're probably going to have to make a move today on a list of comments here and I don't know if we're going to get, necessarily get all the things that you've just talked about down in our comments, so I'm just, you know, I just urge you to make sure that you submit those.

Mr. Morgan: I will be submitting personally.

Mr. Ribao: Okay, thank you. Thank you, sir. Okay, I'm going to close public testimony at this point and -- oh, someone -- you wanna testify, sir? Okay, go ahead. Could someone give him a hand, please. Thank you.

Mr. Tolentino: Commission, I want to comment on some avenues on the million dollars being...(inaudible)... in Molokai, just concerning to the people of Molokai that the economy is not going to ride because of the housing of the millionaire that we have to compete with them to as well. What I wanted to find out if we have produce of all these millionaire dollar homes and all that, of the people that has the -- like -- the people are building houses getting houses and our houses we compete with them, like 200, \$300,000, are we able to reach that climate because we compete those people that are building million dollar houses up in Molokai. Because the people here want their culture to be -- to have a kamaaina rate on the housing because the housing it's so old that they're building up at \$200,000 when you have bought the houses for \$38,000 with 6,000 square foot and now they're raising it up so many high. Are we facing that type of competing with the millionaire people? We live here all my life and I like -- this the only island that I see is not going like in Honolulu and all the rest of the islands culture had to remain as many, many years ago and let it remain because we live here and because we have the culture that we can have growing our fishpond and all these things that we no have to get that, what you call, fishes that had the disease like lead or anything like that, we can grown our own and we no have to compete. Could we have kamaaina rate because people just buying the houses \$300,000 and you're selling it for more than the price. But if we had the kamaaina rate and they say they're trying to sell the house for more what you have to they will be subjected to be put away for that kamaaina rate. But because we cannot compete the minimum wage here the whole area in Molokai as well around the island of Hawaii is \$7.00 an hour. We cannot compete with the millionaire people in that area. We not against them. We not against the real estate. The real estate, they thinking about themselves, they not thinking of us. We live here. We have to -- we cannot be pushed out down in the sand area where we cannot buy houses, low-income houses, and affordable homes. We need to get people that can afford to rent the home here then they will have the kamaaina rate in Molokai, around the island of Hawaii. They have to change the structure of the law in that area

where we not going be pushed out and be homeless because we have children here, our grandchildren. We need to support that. We aren't against with the real estate, they can make all the money, but put that kamaaina rate on us cause we cannot afford that old houses was built 21 years and then they repair it and sell it for more. I can't believe. With a brand new house they can produce that. But you know what we get? I get -- our payroll is only set income and there's people who are low-income. Those people with \$200 a month, they should get ...(inaudible)... and general and land taxes that's ...(inaudible)... you gotta get some kind of guideline and we don't have the guideline. Everything is sweeping up to the sky ...(inaudible)... and we're here. We're stuck. And, for me, I'm 73 years old. Are they thinking of people like us, handicap, and we have couple of children and we have to live down on the beach where we get pushed out and put us in prison where we belong cause we cannot compete with the millionaire people? Now I want some kind of understanding, pay in the island of Molokai, of all the Hawaii, they need to change the law, they have the kamaaina rate ...(inaudible)... some kind of balance here, you know. Everything is raising up in the United States, gas and everything. Now we gotta get some kind of balance. The welfare had the food stamps go up; money go down. Money go up; food stamps go down. Can we have that same kind balance here? I'm kind of tired of seeing people just building up and pushing us to the brink cause I love my fish, I love my clams where we live ...(inaudible)... look at Honolulu, of all the areas, we're the only island here lack to support the whole people here. Now I'm not against with the real estate. They can make all the money they want but ...(inaudible)... that we have the kamaaina rate that they cannot raise up unless they have some kind of payroll and if they get different steps, low income, middle income, and high income. Can we have that kind of balance like that that we can work together and live together as a American citizen, and just grab it all and just ...(inaudible)... we gotta think of all the people here in Molokai ...(inaudible)...

Mr. Ribao: Okay, Mr. Tolentino, your time is up, yeah.

Mr. Tolentino: So I wanted to just ask that. If anybody has a comment on me right now. I, you know, end the comment. If anyone has a question on me? I willing to answer the question.

Mr. Ribao: Any questions for Mr. Tolentino? No questions. Thank you, sir. Okay, I'm going to call a recess but -- go ahead. Okay, wait. Before I call the recess, I just wanna let the commissioners know a decision has to be made what we're going to send to the ranch to review on the EIS today because our deadline is the 23rd, yeah? Okay. I have a comment from Corp. Counsel here.

Mr. Michael Hopper: Just I believe since this recess is for the purpose of reviewing the comments you have, I just wanted to remind you the review has to be done as individuals. You all individually have to review. You can't have any discussions while we're in recess about the comments. Now when you get back together, you can ask questions, you know, and talk about the comments, but just make sure you review them each individually and don't have any discussions off the record about the comments as you review them.

Mr. Ribao: Okay, we're taking a recess, 15 minutes, till about 2:00, then we'll resume. Thank you.

(A recess was called at 1:43 p.m., and reconvened at 2:00 p.m.)

Mr. Ribao: How you guys doing, commissioners? I'm going to get started. I think whatever there was to be read has possibly been read. There's a lot of documents here, a lot of information. At this point, I'm going to open it for any comments unless Nancy wants to say something. Where's Nancy? She's not here. Okay, any comments from the commissioners or recommendations or motions? It's open for discussion, Mr. DeGray, go ahead.

Mr. Vanderbilt: Yeah, well, I'd like to make a motion that -- move that the commissioners accept the comments that its received to date from the commissioners and the public that have been documented by Molokai Planner, Nancy McPherson, as well as those handed out at today's meeting, and, further, that the Commission approves allowing Molokai Planner, Nancy McPherson, the discretion to edit the comments received for clarity and consolidation of like comments and to submit the edited comments, through our Chairman Ribao, to the applicant, Molokai Properties, the State Land Use Commission, and the State Office of Environmental Quality Control.

Mr. Ribao: So, can you be more clear on what specific documents cause we have a lot of stuff in front of us?

Mr. Vanderbilt: We have comments that I turned in regarding alternative to Laau Development. We have comments that were turned in today by Commissioner Chaikin. We have comments that were made on the record, but I guess it's going to be hard to adopt those if they're not in writing, but we have -- we also have a copy of the letter from the U.S. Department of Commerce, which has quite a bit of information in there regarding the endangered monk seal that was handed out. So, basically, those were the items that I was referring to in the motion, Mr. Chair.

Mr. Hopper: And just to be clear, you want to adopt those comments as the comments of the Commission?

Mr. Vanderbilt: Yes.

Mr. Ribao: Okay, so we have three documents. Are you accepting this draft one too?

Mr. Vanderbilt: Well, in my motion, I said, "accept all the comments it received to date from commissioners and the public that have been documented by Molokai Planner, Nancy McPherson," and I don't know what specific dates those are. There's one dated February 8, and there's a later one dated -- what was the latest one you sent, Nancy? Maybe you could help us out here. February 8, yeah.

Ms. McPherson: February 8. Yes.

Mr. Vanderbilt: That came in today's package. So those would be also added.

Mr. Dunbar: What about the January 16 comments that were sent to you? Have they been incorporated in the February 8?

Mr. Vanderbilt: Yeah, we --

Ms. McPherson: Those were sent earlier. You've already approved those and the letter was sent by Suzette. So those have been submitted.

Mr. Ribao: Okay, we have a motion, we haven't had a second, but just to clarify the motion, document by Nancy McPherson, February 8, to be sent; letter from the U.S. Department of Commerce to be sent -- Commerce, I'm sorry, thank you, Corp. Counsel; letter from Commissioner Chaikin, and comments from Commissioner DeGray. Okay, I need a second this motion. Second by Steve. Any discussion? Okay, Billy.

Mr. Joseph Kalipi: Did you miss the one by -- this one is from DeGray or from Matt Yamashita?

Mr. Ribao: My --

Mr. Vanderbilt: It's from me responding to his -- he asked the Commission to try to get some information regarding the alternative of buying out Laau and what was behind that, and he presented to us, at the last meeting, a document he received from the ranch and asked us if we could look into trying to find out what some of the line item descriptions were.

Mr. Ribao: Okay, we already had a second by Steve and it's open for any further discussion. Okay, Steve.

Mr. Chaikin: I think the Maui County Planning Department came up with some recommendations and, I'm not sure, we never incorporated those recommendations. Is that something that you guys send in on your own?

Ms. McPherson: Yeah, that's -- Nancy McPherson, Staff Planner, Molokai. This is -- those are what -- on behalf of the department so, mainly, looking at adequacy of the document, community plan issues, scope of coverage of the different planning documents for the County, that sort of thing was mainly what I was looking at for those comments, and those have already been sent in. I may submit additional comments as well before the deadline on behalf of the department. It's possible.

Mr. Ribao: Okay, thank you. Any further discussion? If not, I'm going to put it up for a vote.

There being no further discussion, the motion was put to a vote.

It has been moved by Mr. Vanderbilt, seconded by Mr. Chaikin, then unanimously

VOTED: that the Commission accept the comments that it received to date from the commissioners and the public, which includes the document from Molokai Planner, Nancy McPherson, dated February 8, 2007; letter from the U.S. Department of Commerce; letter from Commissioner Chaikin, and comments from Commissioner DeGray as comments of the Commission. And, further, that the Commission approves allowing Molokai Planner, Nancy McPherson, the discretion to edit the comments received

for clarity and consolidation of like comments and to submit the edited comments through our Chairman Ribao to the applicant, Molokai Properties, the State Land Use Commission, and the State Office of Environmental Quality Control.

Mr. Ribao: Motion carried. Thank you. Under Unfinished Business, we did Items a. and b. under No. 1, now we're doing --

Mr. Dunbar: Mr. Chair, yeah so we had discussion.

Mr. Ribao: Go ahead.

Mr. Dunbar: I have a question now.

Mr. Ribao: Okay, we already voted --

Mr. Dunbar: Oh, no, excuse me. Okay.

Mr. Ribao: Yeah, we already voted and approved the -- okay. Okay, under Items a. and b., we're done, so we're looking at Item c., which is possible rescheduling of the cancelled February 7 site inspection, okay. Let me point out that if we're going to reschedule this, it has to be done probably by the 23rd, I agree, of February, okay. No? Okay. I'm going to open this for discussion or any comments.

Mr. Hopper: Just to also clarify, you could have a site visit in the future as, you know, as the permitting process moves on. It's just -- it appears to be late to do it for the 23rd, but if you wanted a further site visit, to do that as a limited meeting, you could vote to do that at a future date.

Mr. Chaikin: Yeah, I was -- that's, basically, what I was going to say is in the event that this particular item comes back around to this Commission for some further action or further comments, that would probably be the time to bring this up and reconsider whether or not we wanna have a site visit.

Mr. Ribao: Okay, DeGray?

Mr. Vanderbilt: Yeah, I would like to have a site visit before the Land Use Commission proceedings start. I know the Land Use Commission members try to have a site visit on important issues like this. So they'll probably try to schedule something. But at least from my standpoint, I think it's very important that the Planning Commission take the time to -- to go down there and -- but I think we need to get some things straightened out with Molokai Ranch because we're going to be -- we can't allow the public to go if they're going to continue to require waivers or any other requirement that the County doesn't seem willing to adopt, and so I think we need to get that straightened out before we even think about scheduling a meeting or we're just going to get down the road and come to that roadblock.

Ms. McPherson: Chair? Nancy McPherson, Staff Planner, Molokai. Well that was the purpose of this memo to you. I tried to outline all of the issues. I did ask a representative

from the ranch to be here today to possibly answer questions and we -- our issue is that, you know, the County is not able to provide indemnity, you know, to the public on private land. We're rather limited on what we can provide for the public on a -- for a public meeting like this. We can't provide security, let's say. So that put's the County in a difficult position. It makes it difficult for -- but, you know, Molokai Properties, Limited, is also in a difficult position because of liability issues. So, you know, we've discussed this and -- with Corp. Counsel and so all the issues are outlined in this memo. If you have any questions about the memo, I or Corp. Counsel can hopefully answer them or Molokai Properties, Limited, representative might be able to answer them for you but, at this point, my recommendation is to try to have a limited meeting if you want to go down and do a site visit. There's also the opportunity to go down individually as individual commissioners, MPL has expressed willingness to do that, and so it's really up to this Commission as to what you wanna do as far as the site visit. If you do want to do a limited meeting, then we'll have to get approval from the Attorney General in order to do that. So I think Corp. Counsel would like to add to that.

Mr. Hopper: Yeah, that's accurate and we explained the differences between a limited and open meeting and that the limited meeting would have to be based on a finding that the area was unsafe, dangerous to the public, as explained in the prior meetings.

Mr. Vanderbilt: Have you gotten -- thank you, Mr. Chairman. Have you gotten anything from the ranch that would say, if we had a limited meeting, what their requirements would be? Would they require the indemnification? Would they require us to be out -- in and out by a certain time?

Ms. McPherson: The message on that is that a limited meeting would be much easier to manage, it would be a smaller group; we could be there, basically, from sun up to sun down, so during daylight hours, and it would be much more easily facilitated.

Mr. Vanderbilt: So what would be the requirements? There were several requirements for the open meeting, which were security, indemnification, no vehicles --

Ms. McPherson: Right.

Mr. Vanderbilt: And waiver signing. So what of those would or would not apply to a limited meeting?

Ms. McPherson: Well, my understanding would be none of those would apply, but I would like to give Molokai Properties representative an opportunity to affirm that if necessary.

Mr. John Sabas: John Sabas, Molokai Ranch. Basically, how we would handle it, if it is a limited meeting, is the same we handled it when the department staff came to our properties where very short notice, you know, less than three days actually. You know, we were able to, you know, provide access to the staff and the new director and the planning director, so, you know, we could do that, you know, and just work around the times you think that would be agreeable to both parties and have it taken care of that way.

Mr. Ribao: Okay, any questions? Kip.

Mr. Dunbar: Yeah, John, I have a question. If -- the other choice was to do it individually, so under a limited meeting, it would have to be videotaped and then showed at the next regular held meeting, and so if we did it individually, who do we contact?

Mr. Sabas: You know, and that's something too I think you would need to seek, you know, advice from your attorney, but the ranch is willing to do it individually and you would contact me.

Mr. Ribao: Okay.

Mr. Dunbar: Thanks.

Mr. Vanderbilt: And everybody would get approval to go in?

Mr. Sabas: We don't see any problem cause you're -- you'll be visiting in your official capacity, you know, as a commissioner, the County has its own liability on those kinds of visits, so, you know, it's when, as we've stated the last time we were here, when it's open to the public, it's rough country, you know, and we can't be held liable for any harm that may come to the general public or anyone else so, you know, if it's a limited meeting, you know, I think we can work that out.

Mr. Vanderbilt: Well, John, how did 400 people, ranging in ages from 5 to 80, go in there? There was no waiver --

Mr. Sabas: Well, basically, they didn't -- yeah, yeah.

Mr. Vanderbilt: And you guys helped them out.

Mr. Sabas: Yeah, basically, they were not approved to come, but knowing as they were going to come anyway, we didn't make it an issue. Yeah, basically, they were going on our properties without our approval.

Mr. Vanderbilt: But you helped them out by setting up water stands and everything?

Mr. Sabas: Yes.

Mr. Vanderbilt: So you must have approved it or you wouldn't have helped them out.

Mr. Sabas: No, we didn't. We didn't approve it.

Mr. Vanderbilt: Oh, okay. Thank you.

Mr. Ribao: Okay, any further questions? Thank you, Mr. Sabas. Yeah, let me ask Nancy a question. This is going in front the Land Use Commission. What's the, again, we're going back to what's the time frame if we gotta do this?

Ms. McPherson: Okay, I might need some help here with that one. Clayton, could -- I'm not sure. I know it's a while.

Mr. Clayton Yoshida: Mr. Chair, members of the Commission, I guess the Land Use Commission will be the accepting authority on the Final EIS, and then if they decide to accept the Final EIS, there would be a -- well, there's a 60-day challenge period. If there's no challenge, then the decision of the Land Use Commission on the acceptance of the EIS stands. From there, that's what's needed to make the district boundary amendment application complete. Once the Land Use Commission deems the boundary reclassification application to be complete, then they have 365 days to make a decision.

Mr. Ribao: Okay, before anything comes back to us, what's that time frame we have to make that -- that should be ...(inaudible)...

Mr. Yoshida: Well, one of the applications that Molokai Properties has applied for is the community plan amendment, which is another trigger under Chapter 343. Before the -- this body can deal with the community plan amendment, there has to be a completion of the Chapter 343 process, meaning an accepted Environmental Impact Statement. The -- well, the County could, once the Environmental Impact Statement is accepted and survive any judicial challenge, the County could bring the community plan amendment or the series of applications, the community plan amendment, zoning change, SMA permit, and the County special use permit before the Commission, or they could handle them separately. But at least the community plan amendment because that's the land use decision-making guide for the County.

Mr. Ribao: Time wise? That was my question. You know why I bring this question forward? Because there's some of us here that will not be on the Commission and for us to go down there make a site visit and we're not here to make any decision, would be kind of a, you know, not, you know, not the right way to do it, so that's the reason I wanna kinda time frame on this.

Mr. Yoshida: It's kind of hard to pinpoint. It depends on when Molokai Properties, Limited, submits their Final Environmental Impact Statement to the State Land Use Commission and when the action is taken by the Land Use Commission, which starts the clock for an appeal or -- and how that goes through the judicial process and when that's resolved.

Mr. Ribao: So can you give us a time frame of 90 days, 60 days, 30 days? The shortest time frame? No? If you cannot, that's fine, don't do it.

Mr. Yoshida: I'm saying at least maybe four months or more.

Mr. Ribao: Okay, that's all, Clayton. You have any questions for him?

Mr. Vanderbilt: Yeah, thank you, Mr. Chairman. No, I didn't have a question for Clayton or maybe if Corp. Counsel can't answer. But I was wondering, the Land Use Commission has said they are coming over to Molokai to determine the adequacy of the Final EIS as prepared by the ranch and are we, as far as that's concerned, are we, as commissioners, allowed to testify at that -- that hearing regarding the adequacy of the document?

Mr. Hopper: What I would recommend is that if you've made comments that you don't -- that you believe haven't been responded to for whatever reason, you could -- you could testify; however, you need to be careful in making any public statements either for or

against the project that could prejudice you later on in the process, particularly if you get to the community plan amendment where you adopt comments, or particularly the SMA process where you may be acting in a judicial capacity whether or not to grant or deny the permit. You would not want to publicly express anything that would lead -- lead anyone to believe that you are not an impartial decision-maker when the time comes later on or else you may be forced to recuse yourself in the future proceedings.

Mr. Vanderbilt: And, Clayton, so how much notice does the Land Use Commission have to give before that meeting on the adequacy? Do you know about?

Mr. Yoshida: Let's see. I believe the minimum would be six days, according to the Sunshine Law, but I believe they would try to give more than six days because they're going to have, logistically, schedule the travel to Molokai if the meeting is going to be held on Molokai.

Mr. Vanderbilt: ...(inaudible)... but I had a motion that -- after comments.

Mr. Ribao: Okay, let me see if there's any further discussion. Any further discussion on this site visit? Okay, Steve.

Mr. Chaikin: I just wanted a clarification from Corp. Counsel. We have three options, one, if we want to visit the site, and that's to have an open meeting, a limited meeting, or go as individuals. If we go as individuals, how many of us can go at one time?

Mr. Hopper: I would like to get clarification from OIP on that. I have not heard any precedent for individuals going down. Under the Sunshine Law, it would have to be, unless you voted to have a special committee to, you know, investigative committee, which would require at least three meetings to go through that process under the Sunshine Law, I think you'd have to go as individuals because I'm not aware of anything in the Sunshine Law that prohibits an individual commissioner with no other contacts from conducting whatever activity, but the OIP has made some decisions that, to me, were not intuitive in reading the Sunshine Law. So, before you would decide to go down as individuals, I would like to get a clarification from the OIP on whether or not an individual can go in their capacity as a -- as a member of the Planning Commission to go down there on their own for Commission business. I believe they would be able to, but I would want to be absolutely certain on that before you would go.

Mr. Chaikin: Thank you.

Mr. Ribao: Okay, Kip?

Mr. Dunbar: This is for our Counsel also. I thought you were prohibited from, while you sat on the Commission, to purposely go to a site that was to be heard, you know, some -- you're going to hear a proposal and you were precluded from purposely going to that site to gain inside information without it being, you know, publicly known that you were doing it?

Mr. Hopper: I think, as I read the Sunshine Law, that it depends on your communications with other members of the Commission. But in your individual capacity and on your own

research, I'm not certain of the limitations there that's why I need to get clarification from OIP on what you can do individually, but it's my understanding, under HRS 92, the Sunshine Law, that as long as you're doing the activity as an individual that, and only for information gathering purposes, that I wouldn't necessarily see a problem with it. But that's why I do want to discuss that with OIP.

Mr. Dunbar: Okay, one other question for you then. If an individual wanted to go down and say testify in front of the State Land Use, is it okay if they went individually and not named the Commission as their -- as their avenue or I mean if you went down as Lance Dunbar but not as Lance Dunbar, a Molokai commissioner?

Mr. Hopper: I would recommend against going in your capacity as a commissioner because, technically, the Commission can only take action as a deliberative body, you have to have at least five votes to take an action, and I would possibly interpret an action as being your comments to the Land Use Commission, so perhaps a more prudent way is to adopt as a Commission a statement to the State Land Use Commission as a letter, much in the same you're adopting the comments to the Draft EIS, specifying which of your comments you believe were not adequately addressed.

Mr. Dunbar: Okay, so your same response as it was to --

Mr. Hopper: I'm sorry. I couldn't hear that.

Mr. Dunbar: I mean it was your same response to DeGray. Thanks.

Mr. Hopper: Yeah, okay.

Mr. Ribao: Okay, any further discussion? This is on the rescheduling. Go ahead.

Mr. Vanderbilt: Thank you, Mr. Chair. I'd like to make a motion that this Commission schedule a limited public meeting, not immediately, but sometime around when the Land Use Commission announces its intentions of coming over to Molokai for the meeting to determine the adequacy of the Draft EIS because I think it's important that the Commission, from the public standpoint, show that they have gone down, people have suggested it'd be important for us to go down, and I think, as a body, it would -- it's something we know we can do today based on testimony of Mr. Sabas who said that they would allow a limited site visit without the conditions that they would put on a open site visit. So that would be my motion.

Mr. Ribao: Clarification by Corp. Counsel.

Mr. Hopper: Once again, as we dealt with this the last time, the first step is to make a finding that the area would be hazardous to the public health and safety and that finding has to be transmitted to the Attorney General who then concurs with that finding. I've spoken with the Attorney General and that can be a relatively quick process. But I'd recommend, before you take action on a motion, that Nancy McPherson has in the past, the Planning Department has in the past conducted, basically, an evaluation of the site to determine there are some factors that may potentially be a justification for why it's dangerous to the public health and safety to have it as an open meeting; that is a

prerequisite for being able to have a limited meeting under HRS 92, and so you would need to, you know, make that finding, perhaps Nancy could make a presentation now if you were looking to do that.

Mr. Vanderbilt: Well, then if Nancy gives me the conditions, I can just read those into the motion. The motion hadn't been seconded.

Mr. Hopper: Yeah, you could read that into the motion and then you could -- that would have to be transmitted to the Attorney General and the concurrence received prior to the date of the meeting. Just to clarify.

Mr. Vanderbilt: So can I amend my motion, Mr. Chair.

Mr. Ribao: I guess you can, it's not seconded, so you can ...(inaudible)...

Mr. Vanderbilt: Yeah, Mr. Chair, I'd like to make a motion that the Planning Commission, at a future date, schedule a limited site visit to the Laau Point area and the reason for it being a limited meeting is that the location is dangerous to the public health and safety for several reasons: The area is remote, far from emergency service and is accessed, in some cases, by four-wheel drive vehicles only; the area is along the exposed coastline so it's subject to high wave and tidal action, storm surges, and tsunami; vehicular access is not possible along the majority of the coastline, and the existing pathway along the coastline is unimproved, uneven, and in close proximity to the shoreline; sections of the coastline are rocky and consist of escarpments and cliffs, therefore, making coastal access difficult and hazardous; and, finally, in the winter months, the coastline is subject to high wind and wave action including high winter swells and storm surf, therefore, creating a higher hazard level.

Mr. Ribao: Okay, I need a second. Second by Steve. Any discussion?

Mr. Vanderbilt: Do you need a date or don't you need a date?

Mr. Hopper: With the issue of the specific date is I'm going to have to transmit this to the Attorney General to tell them we're going to have a site visit. Whether or not they need a date for that, I'm not certain. You know, I just don't know if it would be a good idea to ask for a simply open-ended approval to have the site visit although --

Mr. Vanderbilt: How about in the month of May?

Mr. Hopper: I think that would be adequate.

Mr. Vanderbilt: Okay, the motion would be to have a limited site visit sometime during the month of May and the reason for the limited site visit is the location is dangerous to public health and safety for the reasons that I stated earlier.

Mr. Ribao: Okay, Steve, you still second that motion with the addition to May? Okay? Any discussion on that?

There being no further discussion, the motion was put to a vote.

It has been moved by Mr. Vanderbilt, seconded by Mr. Chaikin, then

VOTED: that the Molokai Planning Commission schedule a limited site visit to the Laau Point area sometime in May 2007, and the reason for it being a limited meeting is that the location is dangerous to the public health and safety for several reasons: The area is remote, far from emergency service and is accessed, in some cases, by four-wheel drive vehicles only; the area is along the exposed coastline so it's subject to high wave and tidal action, storm surges, and tsunami; vehicular access is not possible along the majority of the coastline, and the existing pathway along the coastline is unimproved, uneven, and in close proximity to the shoreline; sections of the coastline are rocky and consist of escarpments and cliffs, therefore, making coastal access difficult and hazardous; and, finally, in the winter months, the coastline is subject to high wind and wave action including high winter swells and storm surf, therefore, creating a higher hazard level.
(Assenting: R. Ribao; B. Feeter; J. Kalipi; S. Chaikin; D. Vanderbilt)
(Dissenting: K. Dunbar)
(Excused: J. Kalanihulia; L. DeCoite; S. Napoleon, Jr.)

Mr. Ribao: Okay, motion carried. Thank you. Okay, under Communications, status report as requested by Molokai Planning Commission at the January 30 – Mr. Abbott, you're on.

E. COMMUNICATIONS

- 1. Status report as requested by the Molokai Planning Commission at the January 30, 2007 continuation of the January 24, 2007 meeting on the Study to Amend the Special Management Area Use Permit Boundaries for the Island of Molokai. (T. Abbott)**

Mr. Thorne Abbott: Good day, commissioners. Thank you very much for seeing us today and always a pleasure to come to Molokai, especially when it's nice weather, and get the heck out of Maui. I wanted to respond to a January 30 letter to the Commission that was requesting information on the SMA boundary review study. I should say Jeff Hunt provided a letter in response, and I don't know if there's a representative from that group here today but if they are, I'd encourage them to communicate with us as well. I think it's really good that someone brought up -- brought this again to the agenda. As my letter states, this Commission requested, as you can by your SMA rules and HRS 205A, the idea of perhaps expanding the SMA boundaries to enhance regulation. And under your SMA rules, under Chapter 302-18 -- I'm sorry, 12-302-22, Adoption and amendment of special management area boundaries and maps, Item F, it says:

"The commission may amend the special management area boundaries only upon the finding that amendments will further the objectives and policies of Chapter 205A, HRS, and that that will be consistent with the General Plan, including the Molokai Community Plan, and other regulations."

So what we did, you asked the director to initiate a study, the study -- the director then did the first thing -- I should say you asked to amend your boundaries. Prior to doing that, you have to show, according to your rules, that it will further coastal management objectives; to do that, you need a study; to do a study, you need people and money. So the first thing we did is we started writing some grants and we started rebudgeting within the County's budget. As you know, the County's budget takes easily a year, even to get up to Council. So that was kind of stage one. We went through that. We have secured funding for the project. The next thing was to secure people to do the project, so that requires that you develop a scope of work of what they're going to do, and develop a request for proposals, you submit that to finance and through the, you know, the County has a procurement process. You have to, first off, get approval that your RFP is alright and meets the code. You also have to have the attorneys review it to make sure it's legal. Once that RFP is approved by finance and by the attorneys and by the administration, then you advertise it in the newspaper, you solicit bids. We solicited the University, U.H., Department of Urban and Regional Planning. We also solicited other departments. We solicited people from the Mainland, and consultants, consultants on Maui, consultants on Honolulu. You have to wait a certain period of time to get all those bids in, and then, you know, there's process of opening the bids to see who the lowest bidder is and whether they met the objectives or the scope of the study. The first time around, it wasn't very effective, so rebid the thing a second time, changed the scope of work, and that's kind of where we're at right now.

So it's not as if the department has not been very actively pursuing this, we have, even though we are short-staffed, we recognize this as a very important study to undertake and but we do have to go through County procurement processes, we do have to get the money, and those things have taken a while to do. Actually, they've taken a normal amount of time, which would be about one or two years. So that's where the status is. We do have some experimental design, we are talking to a particular contractor that had a suitable bid, and right now we're looking at getting some guidance from, physically, getting some academics and other people, like Chip Fletcher or Luciano Minerbi or Ken Lowry, to make comment on the experimental design to make sure it does answer the questions being posed. And so that's the stage we're at now. I welcome any questions.

Mr. Ribao: Any questions? Go ahead, Steve.

Mr. Chaikin: Yeah I'm just wondering about the study. Is that something that's required or is that something the Planning Department wants us to do or is that something that we can just -- I mean I'm just wondering if that's a requirement or if that's something you guys are recommending that's done?

Mr. Abbott: Well, according to your rules, it is required that it will further the objectives and policies of HRS 205A, in other words, the Hawaii Coastal Zone Management Act, and this will have to go to the Office of Planning, the State Office of Planning, for their review to determine if it's consistent with the rules. And so, the only way to determine whether it's going to further the objectives is to do a study: Will it, in fact, further the objectives or will it just end up in excessive regulation that doesn't necessarily protect any of the coastal amenities? And so that's what we're trying to do is decide that.

Mr. Chaikin: Okay, the SMA line, is that something that's -- do they go out and survey that line, or is that just some line on some map?

Mr. Abbott: As far as I know, the line was originally established as a minimum of a 100 feet or a 100 yards, and I'll have to check on which one, inland. The County has the right, the Commission and the County has the right to expand that, and you did expand it and I believe it was to the nearest State highway, for several purposes. One, for the view plain analysis because that's the first State entity and you're supposed to protect views to and along the shoreline; well, to the ocean from where? Well, the State highway is easy to demark. The second reason is for the public. It's easy for them to realize I'm on the makai or the mauka side of the highway. If I'm makai, I need a permit. If I'm mauka, I don't. Now your estimated line on Molokai doesn't necessarily follow the highway at all times. That map was submitted to the Office of State Planning and it was determined to be consistent and it's on file with them. I do believe it is a surveyed, stamped, registered map.

Mr. Chaikin: So that line is a surveyed line or --

Mr. Abbott: I would imagine it is. I have not seen the map myself because I use our GIS system so --

Mr. Chaikin: And what happens when that land crosses through the middle of a property or a middle of a TMK? Is that whole TMK considered to be in the SMA or just the part that's makai of that line?

Mr. Abbott: It depends on what you're proposing. Now the whole island's within the coastal zone, therefore, the whole island is subject to HRS 205A objectives and goals and policies, so if I wanted to put up a big factory, a big smoldering factory that was going to exude lots of heavy metals into a stream and I was just mauka of the State highway and the SMA line, then this Commission could regulate that because it's reasonable to consider the actions occurring by this smoldering plant and dumping heavy metal into the water is going to go into the ocean and you are responsible for protecting coastal resources and, therefore, you would most likely be able to regulate that. Of course, you'd have to look at things like case law and those kinds of things, but I'd be glad to provide you another more localized example that's much more realistic. A lot of folks on Papohaku Dune feel like they're outside of the SMA, but let's say your farm plan is using an invasive species that has a deleterious effective, a negative effect on the dune system, then you have the right to regulate that because you know there will be a direct adverse impact from planting a farm plan with invasive species that, just a wind blow away, very close, is going to affect the dune. So we have regulated that even though it's "outside the SMA."

Mr. Chaikin: So if you're going to build a single-family residence on a piece of property and the line goes through that property and you're going to put your house mauka of that line, do you have to get an exemption or I mean does it go through that process or --

Mr. Abbott: No, you have to show you're not going to have an adverse effect on coastal resources. So if your single-family house was surrounded by an invasive species, even though it's, you know, just the parcel has a line right through the middle of it, like this crack, if I'm just on the other side of that crack and Papohaku Dunes on that side of the crack and I'm planting an invasive species, then that would be a direct adverse impact and you wouldn't get the exemption.

Mr. Chaikin: Thank you.

Mr. Vanderbilt: Yeah, Thorne, you know, our community plan, the original one was in 1984 and that had expanding the SMA boundary and I noticed in one of the summaries that you did you said that the Molokai Planning Commission, in our community plan, we're not mandated but the Planning Commission went ahead and applied for the expansion of the line to include the whole island to regulate development, that was the term in there, but that was -- that is not in our community plan, it wasn't in our motion or anything else, it was to protect, it's under the environment section, and it was to protect the coastal resources because most of the damage to the reefs and everything have come from inland, I mean the coastline is -- there's no place more than five miles from the coast around here, so that's one thing. And the other thing is we would --

Mr. Abbott: I respect that correction.

Mr. Vanderbilt: And the other thing is we were the only community plan that had anything like this in there, but what I understand is it went back, we did what we had to do through the process, and then somehow Kihei got thrown into the mix, and so now it's not just Molokai trying to get a study to go through, it's starting to include the whole County and we're -- and so I'm wondering how much money was originally requested and was it just for Molokai, and how much money is now on the table and what does the scope of the study cover, just Molokai or other places in Maui County.

Mr. Abbott: Well let me -- I'm glad to address that. First off, how many SMA major permits has this Commission reviewed in the last three years? Just a guess.

Mr. Vanderbilt: Well, you're the expert.

Mr. Abbott: I have no idea. No, I'm not the expert. I'm just a --

Mr. Vanderbilt: Well they had to come through you, huh?

Mr. Abbott: Not necessarily. We have nine planners. But, I don't know, 10 maybe, 15, 3?

Mr. Vanderbilt: I have no idea.

Mr. Abbott: Okay. In order to make a statistical determination, in other words, to have a study that you can defend, you have to have a lot of data. So if I just take a quarter out of my pocket and flip it up and call it heads or tails, and I do that twice, that's not a very good predictor of what the future's going to be.

Mr. Vanderbilt: Okay, can I stop you right there?

Mr. Abbott: Sure.

Mr. Vanderbilt: So the study, I think Commissioner Chaikin mentioned it, the study is required by who and who develops the criteria in the study? I mean is there something set forth in some existing law that says, boom, you need to do this, this, this, and this, and --

Mr. Abbott: Your rules. Quoting 12-302-22(F). "You can expand the boundary only upon the finding that amendments will further the objectives and policies of Chapter 205A." So

we need to show, with reasonable certainty, with statistical validity, that this will indeed assist in protecting coastal amenities, and so there was no -- I wanna answer your question in two phases, if I may, DeGray. That's the first. And then the second is there's no -- I don't know where you heard, oh, this is about Kihei. I suspect that might have been from a former deputy director --

Mr. Vanderbilt: Right.

Mr. Abbott: Or a representative here, okay. The deputy director did not write the scope of work, he did not write the study, he did not deal with the bidders so --

Mr. Vanderbilt: Is the current bid for Molokai only?

Mr. Abbott: No. No, and I don't think the Federal Government, who we apply to a grant for, would necessarily provide sufficient funding for just Molokai, that's item one, and item two is you don't --

Mr. Vanderbilt: Where'd you get that information that they wouldn't --

Mr. Abbott: I reallocated the funding for the grant and I think it would be very difficult to hire someone that, there's two aspects, one is you only have a limited amount of money, and the second aspect is you don't have enough data here to make a specific determination just for Molokai, and the third item is the CZM program doesn't support just Molokai, they support Maui County, so it's a prudent thing if you're going to do a study that you're going to defend to the Federal Government because you used their money to have a statistical valid study.

Mr. Vanderbilt: But we're amending our rules, not Maui County's planning commission or SMA rules. We're moving our rules and we're not responsible for -- if they don't want to amend their SMA line and they'll have their lawyers and their developers and everything out there to just crease this proposal from their standpoint --

Mr. Abbott: Well, the scope of work is still open and if the contractor wants to bid to do only Molokai, which they may do, that's something we'd certainly entertain, however --

Mr. Vanderbilt: Well, see there -- now why didn't he just continue on with just Molokai? Why did you bring all the baggage of Maui County?

Mr. Abbott: There's no baggage; there's a process. Your -- to clarify, this is not about Molokai, this is not about Lanai, it's not even about Maui, it's about the process, and what you have to show is your process would be enhanced to protect coastal environments by expanding the SMA. And, right now, frankly, there's not enough data here unless somebody went out and went to every spot that was ...(inaudible)...

Mr. Vanderbilt: Well, are you going to make that decision? Do you make the decision --

Mr. Abbott: No, actually, once the study, once we have we have a viable bid, you know, that meets the scope of work, then we'll be probably bringing that back to the Commission here as well as other decision-making bodies, for example, the Federal Government

probably wants to make sure that we're going to spend their money in a judicious way. They don't just hand you money and say, "Go ahead, have the study." They want to see what the study is because they need to know that it's going to answer the question posed. Now, I can't guarantee that, but that's what I would anticipate.

Mr. Vanderbilt: Well, I guess this Commission was told, we went through the process, we got the Planning Director to move everything along, and we were told, and you can check the minutes, that it would be approximately eight months the process would take. It's been over two years.

Mr. Abbott: Well, I wouldn't have -- if it was me in my shoes, I wouldn't have said eight months cause I know for a fact, just to get the grant money, takes well over a year; to get to the County budget, it takes a year; then you have to go through procurement, which takes, you know, six months to a year. So, you know, the process has been going on as expediently as possible, but there is a lengthy process, the procurement, and getting funding.

Mr. Vanderbilt: Just one final thing. Can you tell us how much you have appropriated for this study and what the magnitude of the study is as far as the areas that it will include besides Molokai?

Mr. Abbott: Well, it's much like the Kihei Boat Dredging Project. When you scope a project, we wanna dredge the sand out of there, but we're not going to tell the contractor, necessarily, how to dredge that sand, maybe they use a clam bucket, maybe they use a bulldozer. So the answer to your question is: We haven't stated specifically that the proposer has to do it any certain way. We put in: This is the process we need. We need answers to this question. You guys come up with -- you bidders come up with a way of doing that.

Mr. Vanderbilt: So they could say we'll just do Molokai if they wanted?

Mr. Abbott: They could say that, yeah, and I --

Mr. Vanderbilt: Well, have you given them that option?

Mr. Abbott: Yes, that's part of the scope of the work if they wanna do that.

Mr. Vanderbilt: Thanks. Thank you.

Mr. Ribao: Okay, any further questions? Kip?

Mr. Dunbar: Yeah, Thorne, I think, you know, we're not all in favor for expanding the SMA, okay, you gotta know that, number one. Number two is that it's making, you know, the SMA boundaries really accountable for what they were intended to do. I mean, for example, Kaunakakai is in the SMA zone, I mean why? You know, it makes no sense. Where there are parts of some of our more, you know, pristine valleys, you know, aren't in SMA zones, so they should probably be put in the SMA zone, you know, which doesn't necessarily mean you use one big brush and you paint the whole island one big SMA on it. So, hopefully, your study is not to do that because the last time we talked about this with

the Office of State Planning, the Office of State Planning Director was totally against the idea of SMA'ing the whole island. And SMA is to protect the coastal areas. Now, granted, everything runs mauka-makai, but it's very specific as to its 11 criterion of what it's trying to protect, and so I would hate to have some unintended use of this as to stop development because it doesn't really do that, you have the community plan, you have the planning process to do that, as well as the Office of State Planning so --

Mr. Abbott: And I respect that, Kip. One thing I said in my letter is that the SMA is very attractive, especially at the local level, because it appears to give regulatory control over growth, but it's not a growth management tool, that's what your community plan is. It's not a land use tool. In fact, Nancy and I were having a long heated discussion about SMA. It's not a land use tool. What it is it's a regulatory tool to protect coastal amenities. Now it seems like there's a lot of land use determinations that impact coastal amenities, and there are, but, you know, just because you have something that regulates coastal amenities doesn't necessarily mean it's going to address growth and development issues, you know, it doesn't address police or schools or fire or water, wastewater, those kind of things. It does address things like fish, endangered species, wildlife. So, it's really important, and, personally, I don't have any feelings whether you expand it, contract it, put the whole island in, you know, I don't care. What concerns me is that you have a study that's good science so that, not today, but next year, twenty years from now, you'll have a study to reflect this is why we took the action we took, and it's defensible, and it's defensible to the Federal Government because, eventually, the Federal Government, NOAA, NOS, is very likely to look at this study and make a determination whether you're in compliance or not. And if you're not in compliance, then they're going to cut your funding, they could cut your funding, cut your staff, cut your technical support cause the coastal zone management act is a voluntary act. There's 35 coastal states; only 34 participate. One said heck with it. One said heck with it. We're not adopting it. So it is a voluntary act and your funding comes through that, so it's very important to have a good sound study, and that's why I'd like people like Ken Lowry or Chip Fletcher to comment on the design once we get a good scope put together, you know, and a solid bid because I wanna make sure that the study holds up well beyond all of our ten years here.

Mr. Ribao: Okay, any further questions?

Mr. Vanderbilt: Yeah, and I appreciate what Kip's saying and -- but, you know, one -- this isn't a land management and it's in our environmental section but we talk about land use tools, there are other ones to control development, and I go back to the old thing that say somebody buys a 1000 acres up here or even 250, like they did on Maui, and they go through an affordable housing project, which only requires a certain percentage, and then they can get 400 homes up there, most of them market. We have no control. Our community plan -- where's this community's land management control over that? There is none.

Mr. Abbott: Under your community plan you have control over lands. You designate how they're going to be used. If you don't want single-family homes --

Mr. Vanderbilt: It's ag land. It's ag land.

Mr. Abbott: Well then it should be ag with a farm plan and --

Mr. Vanderbilt: But the State can override that unless it's in the SMA. If it was in the SMA, they couldn't do that. They'd have to get an SMA permit from this Commission, otherwise, they have a free ride to that without this -- anybody in this community.

Mr. Abbott: I'm not sure that's the case.

Mr. Vanderbilt: It is the case, Thorne.

Mr. Abbott: But I'd have to --

Mr. Vanderbilt: And I'll bet you a steak dinner but --

Mr. Abbott: Okay ...(inaudible)...

Mr. Vanderbilt: Anyway, but I'm glad you're giving us further update, but we got that bet of the steak dinner, huh? Okay.

Mr. Abbott: The point is the department hears you, the department's taking action. You know, it took me a lot of time, frankly, to rewrite a lot of grants to get the funding. It's not as much funding as I would have liked, but it's as much as I could get.

Mr. Vanderbilt: How much are you asking for?

Mr. Abbott: Well, if I tell you, then the contractors knows and I really prefer not to tell the contractor how much money I have to spend.

Mr. Dunbar: Thorne, I can appreciate that but, you know, if we had 250 acres up there and put 400 affordable homes on there, then maybe the people from Molokai could buy them. If they don't, they add another layer of government on top of what we already gotta have as another layer of government to be ridiculous. So I think if the SMA is going to have bit and it's going to have teeth, then it has to be in those areas that it was intended.

Mr. Ribao: Okay, I'm going to intervene at this point. This is going to be a discussion in the future, we all know this, regarding this SMA.

Mr. Abbott: Thank you very much.

Mr. Ribao: Thank you, Thorne.

Mr. Abbott: I appreciate it.

F. CHAIRPERSON'S REPORT

Mr. Ribao: Okay, Chairperson's Report. I have nothing. Director's Report.

G. DIRECTOR'S REPORT

- 1. Pending Molokai Applications**
- 2. Closed Molokai Applications**

3. Feb. 28 Public Hearing scheduled on the following:

MR. JEFFREY S. HUNT, AICP, Planning Director, requesting the following land use changes on behalf of the DEPARTMENT OF FIRE AND PUBLIC SAFETY for the new Kaunakakai Fire Station and related improvements on approximately 5 acres of land at TMK: 5-3-003:portion of 015, Kaunakakai, Island of Molokai: (N. McPherson)

- a. **Community Plan Amendment from Open Space to Public/Quasi-Public for a portion of the 5-acre project site (CPA 2005/0002);**
- b. **State Land Use District Boundary Reclassification from the State Agricultural District to the State Urban District (DBA 2005/0002); and**
- c. **Interim District to P-1 Public/Quasi-Public District (CIZ 2005/0001)**

Mr. Yoshida: Yes, so, Mr. Chair, members of the Commission, we have circulated our list of pending and closed Molokai applications. Also, we would note that, at your next meeting on February 28, we scheduled the public hearing on the land use changes for the new Kaunakakai Fire Station. The Commission had dealt with the environmental assessment previously, and now we're dealing with the community plan amendment, State land use reclassification, and the zoning change. And that's all we have to report, Mr. Chair.

Mr. Ribao: I gotta apologize. I missed your -- I was in discussion here.

Mr. Yoshida: Yeah, I guess we went over Items 1, 2, and 3 of the Director's Report.

Mr. Ribao: Go ahead, DeGray, you had a question?

Mr. Vanderbilt: I understand, maybe Thorne could listen, Thorne? You -- I understand that Nancy and you went out to view some pending applications in various areas.

Mr. Abbott: Today you mean?

Mr. Vanderbilt: Yeah. Yeah. And so are most of those on this pending sheet here, this list of projects that are pending?

Mr. Abbott: Do you mind if I take a look at your list? I could answer pretty quick. Let's see one, two --

Mr. Vanderbilt: Well, that's okay ...(inaudible)...

Mr. Abbott: I don't know. I wouldn't see any reason why it wouldn't be.

Mr. Vanderbilt: Okay. Those were properties that have put in applications to the Planning Department, projects or whatever?

Mr. Abbott: Yes.

Mr. Vanderbilt: Okay, thanks.

Mr. Ribao: Okay, thank you very much, Nancy, Thorne. Any announcements? No announcements? Okay, no announcements. Other Business. Anybody want, from the public, you guys can say something if you wish. Go ahead, Lori. I know you was waiting there.

H. ANNOUNCEMENTS

I. OTHER BUSINESS

Mr. Lori Buchanan: I thought you was going open public after the SMA discussion. Kinda frustrating. First of all, I never understand. Sorry. Like my kids say, "I no unanan." But, anyway, I was concerned because it said, "should a contract be awarded," and after listening to Thorne, all I could hear was my father telling me, "You're pissing in the wind. It's a bunch of crap." I sorry to say that on record but that's what I -- I could hear him saying that because this Commission directed this Planning Department to do something, okay. And I appreciate the work they've done so far and I understand RFP's and I understand grant writing. I was upset to hear about Kihei being thrown in mix. I didn't know about that until today. And I can understand that too. And as a scientist, I can understand the statistical study part of it, and it sounds like the answer they don't know. And I kinda disappointed cause it sounds more like we're not going to have a study than we going have one study, and I think that's kind of what I really was sad to hear. It's like it's not really positive; it's more negative. I mean even at least to have the study. If you done the study and you no like what you find out after the study, then fine, but at least have the study, don't even not even go there. And if you gotta leave other people out of this study and do it with whatever, I'm pretty sure that some U.H. people could pull it off like they did the Papohaku Dune Restoration Project, that was done with \$100,000 through OHA, and I'm hoping that along that lines we could still at least have the study and that's -- that's all.

Mr. Ribao: Okay, you have a question for Lori?

Mr. Vanderbilt: No, but I had a question for Thorne just on what she said.

Mr. Ribao: Okay.

Mr. Vanderbilt: Thorne, maybe you could give our Commission a little of the good news about that Papohaku Dune Restoration Study that Lori mentioned. I hear it's --

Mr. Dunbar: Point of order. We're not talking about the Papohaku Dunes. You know, we're talking about the SMA study so if we get to the point, we stay the point.

Mr. Vanderbilt: Thank you, Commissioner Dunbar, but it was just some -- it was some good news for the community that it's being moved up on a worldwide scale and now if --

Mr. Dunbar: We all know the Papohaku Dunes study. We already heard it. We know that already. We know --

Mr. Vanderbilt: Alright, do you know what its status is now as far as the worldwide acceptance on the -- never mind. Never mind, Thorne.

Mr. Ribao: Okay, I'm going to not allow this because it's not on the agenda and the object of Other Business was to let the public testify in the end if they wanted to testify, not to bring back someone and question about a non-agenda item so -- okay.

Mr. Abbott: Can I make one to respond to her concerns?

Mr. Ribao: Oh, to her? Sure you can.

Mr. Abbott: There is no statement anywhere in the scope of the work that Kihei will be studied. There's nowhere in the scope of the work. It may be all of Molokai. It may be all the islands. I don't know. And I'm not telling you what the price is, specifically, because if I told you, then the consultant is going to bid for one penny under that and I'm locked in. I wanna make the most out of your money or the Federal Government's money. And, finally, we are going to do the study. We've taken a lot of time and effort to do it, otherwise, we gotta give the money back, and I don't wanna do that. I hate sending Federal money back.

Mr. Ribao: Okay.

Mr. Abbott: I assure you we're working hard to get the study done ...(inaudible)...

Mr. Ribao: Okay, thank you.

Mr. Kalipi: I have a question, quick question. Thorne, normally the monies are just for a period of time.

Mr. Abbott: Yes.

Mr. Kalipi: The time frame that you need to --

Mr. Abbott: Two years.

Mr. Kalipi: Two years?

Mr. Abbott: Yep.

Mr. Kalipi: Okay, thank you.

Mr. Ribao: Okay, thank you. Any further public testimony? If not, our next meeting date is February 28, and the meeting is adjourned. Thank you very much.

J. NEXT REGULAR MEETING DATE: February 28, 2007

K. ADJOURNMENT

There being no further business brought before the Commission, the meeting was adjourned at 3:05 p.m.

Respectfully submitted by,

SUZETTE L. ESMERALDA
Secretary to Boards and Commissions I

RECORD OF ATTENDANCE

Present

Robert Ribao, Chairperson
DeGray Vanderbilt, Vice-Chairperson
Kip Dunbar
Bill Feeter
Steven Chaikin
Joseph Kalipi

Excused

Janice Kalanihuia
Lynn DeCoite
Sherman Napoleon, Jr.

Others

Clayton Yoshida, Planning Program Administrator
Joseph Alueta, Administrative Planning Officer
Thorne Abbott, Planner
Nancy McPherson, Planner, Molokai
Michael Hopper, Deputy Corporation Counsel
Ralph Nagamine, Administrator, Development Services Administration, DPWEM