

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

**A. CALL TO ORDER**

The regular meeting of the Molokai Planning Commission (Commission) was called to order by Chairperson, Robert Ribao, at 12:37 p.m., Wednesday, January 10, 2007, Mitchell Pauole Center, Kaunakakai, Molokai, Hawaii.

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

Chairperson Robert Ribao read the January 10, 2007 Agenda into the record.

Mr. Robert Ribao: Before we go into public testimony, I'm going to ask Clayton to come up and introduce the new members.

**B. NEW PLANNING DIRECTOR JEFF HUNT AND NEW DEPUTY PLANNING DIRECTOR COLLEEN SUYAMA**

Mr. Clayton Yoshida: Good afternoon, Mr. Chair and members of the Molokai Planning Commission. Happy New Year. We'd like to introduce some of our newer members with the Maui County staff. First is our new Planning Director, Jeff Hunt; our new Deputy Planning Director, although she's been in the department for more than thirty years, Colleen Suyama; your new Deputy Corporation Counsel, Michael Hopper; we have the Molokai Planner, Nancy McPherson; we have your Secretary to Boards and Commissions, Suzette -- Suzie Esmeralda; representing the Department of Public Works and Environmental Management, the Administrator for the Development Services Administration, Ralph Nagamine. I don't know if the Director wants to say a few words to the Commission. Jeff Hunt?

Mr. Jeff Hunt: Since I'm a little new, maybe I'll introduce myself and give you a little background so we can get to know each other a little bit. I was raised in Portland, Oregon, where my father was a professor at Lewis and Clark College and Pacific University. I worked as a Planner in Hood River County, which is was an agricultural community, which went -- is still going through a change from agricultural to tourism based on the wind surfing. I also did some mountain search and rescue there where I worked with Sheriff Joe Wompler, who I understand still has family on Molokai, so there is some connection here between me and Molokai. I then worked as a Planner for Vail, Colorado, and Breckenridge, Colorado, which both deal with a number of large resort development proposals. Finally, I just wanted to say that I look at the Planning Department's role as providing this

Commission with planning, professional planning advice and while you may not always agree with our opinions that we give you, I think we all agree on that we're trying to do the best for Molokai and Maui County. Thank you.

Mr. Ribao: Okay, thank you. Before we approve the minutes, anyone wants to testify regarding any agenda item? I know there was one person. Okay, sir. When you come up, state your name and you have three minutes, yeah?

Mr. Steve Morgan: Aloha . . . thank you for having me -- listening to me early. My name is Steve Morgan. I am a resident of Kaluakoi, have been for over twenty years. I'm also a consultant party to the EIS, as well as I'm member of the recently formed Molokai Water Task Force, Item No. 7 on EC projects. My concern, this relates to the EIS process, which is on our agenda today, is that a vital issue has been ignored and that is the cumulative effect of future development at Kaluakoi. I am going to submit a stack of papers here that include maps of current subdivisions in the Kaluakoi area. These maps include, when I say subdivisions, these are already TMK'd, already approved, and already part of the Molokai Community Plan. So who should I -- who do I submit these to?

What I would like to briefly do is read off to you what exist within those already approved existing TMK subdivisions. First of all, we have Papohaku Ranchlands, Moana Makani area. These are the residential ag subdivisions that already exist. The current number of lots that exist there are 306. Each one of those lots are permissible to have two homes, which brings the current number of potential homes in that area to 612.

We also have surrounding the resort area several different types of zoning areas. First of all, we have a rural zoning area northeast of the current resort area of over a thousand acres. This -- this area could host 400 or more homes, depending on the size of the lots. We also have hotel zoning of five hotel sites. This is excluding Kaiaka and Kawakiu. That would bring it to seven if we included those sites. We also have four multi-family zoning areas. By multi-family, we usually mean condominium type structures, as well as we have one single-family zoning area, which could include a total of, possible, of 100 to 200 homes in this area.

Now, as I said before, all of these exist on the current Molokai Community Plan and are all existing TMK's at this time.

Now, as though that's -- that number is huge in itself and has somehow has been eliminated from any mention of the EIS, except in small segments, and seems to be consistently kinda shuffled under the rug and with its attention not being brought to the community by Molokai Ranch. Now, as though, this in itself --

Mr. Ribao: Time, sir.

Mr. Morgan: I'm sorry?

Mr. Ribao: You can wrap up. You have another minute.

Mr. Morgan: Okay. Okay, what I wanna say is as though this isn't bad enough in itself, we also have the potential of all the Papohaku Ranchlands and Moana Makani areas being subdivided. The owners out there have the right to subdivide. This would take the current number of lots from 306 to 769, and take the current number of potential homes from 612 to 1,538. This vital issue cannot be ignored. The cumulative effects of future development at Kaluakoi must be considered. Thank you very much.

Mr. Ribao: Thank you very much. Any questions from the commissioners? Okay, anyone else wanna -- go ahead, sir. You wanna say one more thing? You wanna talk again? Okay. Anybody else wants to testify? Okay, Lori.

Ms. Lori Buchanan: Hi. My name is Lori Buchanan. I wanted to testify on the agenda item except I never have one agenda so I had to borrow one. Okay. After your Item D, Communications, on Linda Dunn, you going take testimony again, Chairman Ribao?

Mr. Ribao: Under Dunn's, yes, we will.

Ms. Buchanan: Okay. Well, since I'm here. On Item D, Communications, Ms. Linda Dunn requesting an exemption from the SMA. I didn't attend, I think, a prior meeting that you guys might have done but I did submit concerns to the Department of Land and Natural Resources on the CDU permit. I did read her EA. I did go over it. The concerns that I had, which I followed up by calling her neighbors, which I checked with the tax map key, one neighbor was, in Wailau, was in favor and supporting her moving and erecting a dwelling in Wailau. The rest of her neighbors were not. My concerns was how she was going get her materials in the back and the main concern was a safety issue because she was sling loading most of her things in by helicopter. The flight path and the protocols for safety, I felt, was not even addressed in her EA. Also, she kept on claiming that nothing was going to be impacted into the river. Obviously, if you're sling loading quantities of lumber in, you would have to have an LZ, that LZ would have to be blown open in order to drop your equipment or whatever it is at the site. That was never mentioned in the EA.

So before you just go ahead and exempt the dwelling, remember that when other dwellings were erected in Wailau, the people who had no I guess no notice of the dwellings that went up were, I guess, angry and persons unknown went and burnt down the dwellings in Wailau. That was the result of erecting something without the community having any feedback. I know the community had a chance to, and it is like today, to comment on this dwelling, but nobody ever wrote me back on concerns about safety and although she kept on saying that she had a satellite phone, we all know that there's many fire rescues that

go on from Air Rescue One in Wailau, most recently as this summer, and that's our taxpayers money going into rescue people who get hurt in a remote area. Other concerns weren't addressed as to bringing equipment and stuff down Halawa Road, and then being transported by boat into Wailau. So I think the boaters as well as people who have kuleana lands in Wailau was never really asked about how they really felt about this construction going in in a conservation district. Okay, so that's what I have to say about Linda Dunn's permit.

Very quickly, on your comments on the draft for the EIS for Molokai Properties. I don't know how you could have, cause I couldn't do it, get through a almost 900-page document in order to give comments today on the draft. My suggestion to this board would be --

Mr. Ribao: Lori, you have one minute.

Ms. Buchanan: Okay, I'm wrapping. My suggestions would, hopefully, be to this board to put this off to another time and to give yourselves more time to look at this draft in order to come up with really good comments cause I represent now another entity, the Molokai/Maui Invasive Species Committee, which maybe I can get another three minutes on that too, but we have concerns that there is no protocol in there about invasive species and decontamination of equipment that will be used for a major development, and we're not taking a stand on the development, it's with every development we have that concern, okay, so I'll just put that and then can come back later. Thank you, Chair.

Mr. Ribao: Okay, thank you. Any questions? Okay, any other testimony? Okay.

Mr. Walter Ritte: We can give testimony after we hear what they have to say?

Mr. Ribao: Yes, correct. We'll have public testimony after that. Okay, anybody wanna testify early?

**C. APPROVAL OF MINUTES OF THE OCTOBER 11, 2006 AND OCTOBER 25, 2006 MEETINGS**

Mr. Ribao: Okay, moving on, under approval of minutes. I need a motion to approve the October 11 minutes.

Mr. DeGray Vanderbilt: So moved.

Mr. Ribao: So moved. A second?

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

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

**VOTED: to approve the October 11, 2006 minutes.**

Mr. Ribao: Okay, minutes for October 11 meeting passed. I need a motion to approve the October 25 regular meeting minutes. A motion.

Mr. Vanderbilt: So moved.

Mr. Ribao: So moved by Commissioner Vanderbilt. Second? Second by Steve.

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

**VOTED: to approve the October 25, 2006 minutes.**

Mr. Ribao: Okay, minutes passed. Okay, next item, Communications, Ms. Linda E. Dunn. Let me point out, before we go into this issue, that this is an exemption for an SMA. She put it in before the Commission had approval from the County to review all exemptions. So this is like grand-fathered in. Whatever decision we made either voting on this item or not, it's probably going to be approved, okay, so just to kinda let you guys know so, okay, Nancy?

#### **D. COMMUNICATIONS**

- 1. MS. LINDA E. DUNN requesting an exemption (SM5) from the Special Management Area (SMA) Permit requirements and the voluntary submission of Final Environmental Assessment materials for the construction of a single family dwelling and attached deck at TMK: 5-9-005: 007, Halawa, Island of Molokai. (SMX 2006/0282) (EAC 2006/0030) (N. McPherson)**

**The Commission may take action whether or not to ratify the granting of the exemption.**

Ms. Nancy McPherson: Good afternoon, Chair Ribao, members of the Molokai Planning Commission. I'm Nancy McPherson, Staff Planner for Molokai. Glad to see you all here. This project has been brought before this body several times, voluntarily, by the applicant who has gone through an EA process for her conservation district use application, and we also had an SMA assessment and request for exemption application, which I reviewed. This project is a 196 square-foot dwelling with an attached 196 square-foot deck on a 0.58 acre kuleana parcel in Wailau Valley, it's on the Halawa Ahu pua`a side of the valley.

There is an attachment in my report that I did myself to show where the kind of flood zone and contours, so that's Attachment 1 to the report. There have not been complete flood zone studies done for that side of the island because of the lack of residential occupation of that area, I mean at least technically speaking, so she has made every attempt to move this structure outside of susceptibility. It can be affected by the 100-year flood zone of the stream. So she is pretty much self contained. She is going to pack any waste that she cannot compost or recycle out of the valley herself.

And so, according to all of the criteria for SMA analysis, because this is a single-family dwelling that is not part of a larger development, according to Chapter 205A-22, Hawaii Revised Statutes, it is not termed a development. We did look at cumulative impacts and especially concerns about archaeological concerns. There was an archaeological survey done in the valley. You folks have received that information. Linda also did respond to written comments in her Final EA and voluntarily submitted that to this body, which you have copies of that information.

And so, at this point, what I am doing is I'm introducing Linda to possibly talk to you a little bit more about her project. She wants this to be pono with the community and since this is the only body that she can actually bring -- bring that to, she chooses voluntarily to do that because she knows it's a sensitive area and a very important place to the Molokai community and to native Hawaiians. So if you don't have any questions for me, I'll ask the applicant to come up and talk story with you folks a little bit.

Mr. Ribao: You have a question? Go ahead, DeGray.

Mr. Vanderbilt: Nancy, you mentioned that this is not intended to be part of a larger development and, therefore, according to Chapter 205, it probably should be as an exempt from SMA since it's a single-family home. Was that a fair assessment of what you said?

Ms. McPherson: Yes.

Mr. Vanderbilt: So I know that some homes have not been exempt on Maui so if a single-family home -- is this going to apply to all single-family homes that seek an exemption, it'll automatically exempted?

Ms. McPherson: No, there's really nothing automatic about it. I have to do a full SMA assessment. I have to test the project against the goals and policy areas of the Statewide Coastal Zone Management Program, which the County is implementing the SMA.

Mr. Vanderbilt: So there's other criteria --

Ms. McPherson: Yes.

Mr. Vanderbilt: Beside it being part of a larger development?

Ms. McPherson: Yes.

Mr. Vanderbilt: Instead of subdivision, it's just a detached single-family home.

Ms. McPherson: The reason I recommended exemption was in part because she has also undergone a rigorous process through the State Department of Land and Natural Resources, Office of Conservation and Coastal Lands, who have their permitting process, which is probably a lot stricter than the County's, for that matter, and she has satisfied all of those requirements so I was taking into account the kinds of things that they were looking for and as they applied to the special management area review.

Mr. Vanderbilt: So did you determine how many single-family or TMK's or legal lots there are in Wailau Valley that could be developed into home sites?

Ms. McPherson: There's -- well, the level of analysis and research that it would take to determine how developable those lots were would have taken, you know, several months so, no, I didn't undertake that project, but what I did was I did look at the number of TMK's, I familiarized myself with the ownership of those TMK's in the valley, understanding that there are, you know, land grants and kuleana grants, and how complicated the situation and the history of land tenure is here in Hawaii. And so I did assess on that basis that while it is true that if everyone chose to develop their parcel with a single-family home, that can be -- that will satisfy the State's criteria in the conservation district, there are -- there's about sixty-three parcels I think so -- but there are -- some are landlocked, some are -- you know, there's a lot of different issues that's kind of similar to Waipio Valley, and there are also, you know, a lot of lo'i, a lot of things that could be restored down there, a lot of auwai, which Linda's very cognizant of the presence of an auwai, auwai that runs across her property.

So, as far as cumulative impact, I think the applicant actually said it pretty well that, you know, she had to go through an extremely rigorous process in order to get this far so, you know, and her project had to be designed in a very environmentally benign way in order to go in. Now, it's conceivable over generations that, you know, gradually additional dwellings, small cabins, or small hale, or little, you know, maybe little bamboo things kind of traditional, under the traditional portion of the code, could go in there. I think what needs to happen and what DLNR needs to look at is a co-management strategy for the entire valley and to work -- and I'd like to work with them on that to develop a more comprehensive approach to managing those -- those conservation lands in the valley and I think if we did that, that we could -- it would not be a free-for-all scenario.

Mr. Vanderbilt: Are there any home design criteria that people building in the conservation district have to apply? Can they have a 3,000 square foot home, 2,000?

Ms. McPherson: Yes, there is, and, actually, if I can, the applicant knows a little bit about -- more about that than I do so if you'd like to --

Mr. Vanderbilt: I just wanted to know if there were. I didn't need to know the details.

Ms. McPherson: It has to be quite small, that's my understanding, there are height restrictions.

Mr. Vanderbilt: Thank you.

Mr. Ribao: Okay, any further for Nancy? Okay, you can let the applicant come up if she wants to say something.

Ms. McPherson: Okay.

Ms. Linda Dunn: Aloha. I wanted to thank the Commission for seeing me again. I had sent a copy of the changes made to my EA that were incorporated in the Final EA and I wanted to have any comments or concerns from the commissioners on that, if there was any other questions or anything.

Mr. Ribao: Okay, anyone have any questions? No? Okay, Steve.

Mr. Chaikin: Thank you, Mr. Chair. Let me just say that my opinion is clearly that there shouldn't be any houses built in Wailau. I think that Wailau is one of the last native Hawaiian valleys and if we cannot control development in these kinds of valleys, how are we ever going to have any hope of controlling development in less pristine areas? I think one of our problems, as a Commission, is that it's an approved activity on that land by the State of Hawaii. They approve single-family homes in Wailau. So us, as a Commission, all that we can do is try to look at the impacts and try to make it as difficult as we can for people to build single-family residences in Wailau, and one of the ways that we can do that is through not having this exempt; by having it have to go through the SMA process and to get a permit. That will do a couple of things. As it stands right now, if you're exempt and you go through, there will be no further -- I guess there would be no further authority that's really going to look after that residence down the road. The County is taking a pass, basically, as far as I can understand. They're saying it's in the State Conservation District so it's really up to the State to supervise what goes on in the conservation district and so by making it have an SMA permit, it gives the County the opportunity to take a look at that down the line. I guess my understanding, and I hope Corporation Counsel can, you know, give us some feedback on this, but it's my understanding that once you get an SMA permit

that when you sell the property that the new owners have to get a new SMA permit. Now, I'm not sure if that's the case, but it will give the community or give the opportunity to have some control over the parcel whereas if it's exempt, then, from here on, no matter who gets a hold of that parcel, there's no one that's going to look to see what kind of impacts they're going to have and so it's my feeling that I think that that parcel, I mean that project's going to have a significant impact, the building of single-family residences in Wailau, and it should be not exempt from the SMA permit. I'd like maybe if we can get Corp. Counsel just give us an idea of what happens to the SMA permit when it gets transferred from some person to whether they sell it to somebody else. Do they have to get a new one or does it transfer with the property, or how does that work?

Mr. Michael Hopper: I would -- Michael Hopper, Department of Corporation Counsel. I would actually have to defer to the Planning Department on what happens at that stage; however, I can say that, with respect to the decision to exempt this application with the new rule to the Molokai SMA rules, the Commission will now have oversight over the department's decision to exempt a project from the SMA requirements. Now, this amendment went into effect effective December 23, and this particular project was applied for prior to that, so with respect to this particular project, there's actually no oversight by the Commission on this particular permit. However, in the future, as the law stands now, every SMA permit application that is exempted will come before this Commission and the Commission can decide to either, basically, to ratify the decision of the department or to -- or to overturn the decision of the department. This was discussed in previous meetings by previous Corporation Counsel. But in the event that you would disagree with the department's decision and vote to overturn the exemption, you would have to have findings of fact and conclusions of law outlining your basis, under the law, why you would -- why you find that under 205A-22 the dwelling should not be exempt, which would be either that it didn't fall under one of the categories for not development or that even if it was in the not development categories under the statute, it would result in either that the excluded use activity or operation may have accumulative impact or significant environmental or ecological effect on a special management area, that use, activity, or operation shall be defined as development, the statute says.

So, as it stands now, there's actually no Commission review of these decisions to exempt but, in the future, there will be oversight by the Commission of the department's decision.

Mr. Chaikin: Okay, thank you, Mr. Chair.

Mr. Ribao: Okay, DeGray?

Mr. Vanderbilt: That being the case, why did the Planning Department schedule this at our meeting and waste our time and the public's time and everything else? Maybe Planning can -- I mean it's kinda silly to put things on that we just listen and have no say over.

Ms. Dunn: Well, if I could answer that. It was my request because I felt that the commissioners should be able to comment even if it -- I mean --

Mr. Vanderbilt: Well let me ask you this. If this Commission felt that it shouldn't be exempted, would you go through the SMA process?

Ms. Dunn: Yes, I thought I was doing that when I put in my SMA application.

Mr. Vanderbilt: So, based on the fact that we literally don't have, if you look at the letter of the law because you applied before we got the authority on exemptions, if we felt it was important, as Commissioner Chaikin said, that just as far as setting precedence in the future, that you go through the SMA process before this Commission, would you be willing to do that?

Ms. Dunn: Yes, I was.

Mr. Vanderbilt: Thank you.

Mr. Ribao: Okay, any further comments? Okay, thank you.

Ms. Dunn: Thank you very much.

Mr. Ribao: I'm going to open this up to public -- public testimony if anyone wants to testify on this item.

Mr. Walter Ritte: My name is Walter Ritte, and I came to testify about Laau, and this is just as good a example, Wailau and Laau, we always mix up the words when we're down at Laau anyway because we're so used to Wailau, and we're always saying Wailau when we're meaning Laau. So you got Laau and now we got Wailau, and it's the same thing. It's exactly the same thing. So I got nothing to say to you guys cause you guys got no power anyway, I just learned that right now, so I'd like to address this lady, who I've never met, and I would like to plead to her, as a Hawaiian to her, to please not build your house in Wailau. This is the place that our ancestors came when they first came to Hawaii. This is the places that they lived. This is where all of the answers that we seek as Hawaiians, they're in these valleys, and we need time for go and find these answers and they're still there cause that's where they went first. You're going to go in there and I don't know what you're going to do.

Ms. Buchanan: They cannot hear.

Mr. Ritte: That's okay. You guys no more power anyway. So I cannot -- I don't understand why you gotta go in there and live. We all would love to go in there and live

and build our houses in there, but nobody on Molokai goes in there and build their houses in there, unless they're going to do Hawaiian kinds of things and go and get Hawaiian kinds of answers and do those kinds of things. Then it would be appropriate. But for you to go there just cause you wanna be there, just doesn't make any sense. I don't think you understand what this place means to us as Hawaiians. That's the problem. You just don't understand. You fell in love with a place, that's nice. But that's not enough.

Ms. Dunn: It's more than love.

Mr. Ritte: Yeah, but if it's more than love, then you need to understand. You think this whole island is full of people that is more than in love with that place? But it's too special to just go put your house inside there. You know what happened to the last house that was in there and yet you still don't get the picture. Go and visit it like the rest of us every summer. What's wrong with that? Why do you have to live there and cause all of this consternation within this community? Just doesn't make any sense. Thank you.

Mr. Ribao: Okay, thank you. Any further comments? Lori?

Ms. Collette Machado: Then me after Lori.

Mr. Ribao: Okay.

Ms. Lori Buchanan: Okay, Lori Buchanan. Again, the whole thing is is all of that. What we heard from Commissioner Chaikin as well as the first testifier. My thing is with the remoteness of the area period. I had talked to Chairman Peter Young four times now, twice about this subject as well as future CDU permits with the Board of Land and Natural Resources. I do work in conservation. I do coordinate the invasive species program on Molokai. I do frequent Wailau as well as Pelekunu. I do flights. We've surveyed over 13,000 acres by air in helicopters. I, personally, have done that for invasive species. And on my trips to Wailau, it's become apparent that the same people that fly Air One, the rescue helicopter pilots, are the same people that fly the marijuana removals as well as our conservation efforts, and so I have an opportunity that most people don't have to talk to these pilots for several hours at a time, and all we talk about is all the different rescues that they have on each island and the impact, economically, it has to our State, okay. That is my concern. It is a safety concern, okay. We all know you cannot go in and out by boat when it's rough. You cannot go in and out by helicopter when it's rough. And although I -- and I wanted to thank Linda for personally writing me. I do remember her responding, by letter, and I know she's a great gal. I saw her composting stuff and it's all good. But, Linda, if that's not -- that's not the subject. I mean that's not the concern, okay. The concern is you are going to lead the path and make it easier for the next person to build a home in Wailau. They're all kuleana lands. Now, remember, kuleana lands are transferable. So any rights you have on kuleana land, no matter, if somebody from Iran

came and bought that kuleana land, they now have those kuleana rights, okay. So that's my concern. It's just a remote area. Getting in and out is way too hazardous and that's the reason why people go in in the summer, they stay there the whole summer, and they come out during the winter. And you only have one or two people in there that have roughed it out year after year and we all know who they are, you know, and that's that. So that's my concern that that whole safety thing for future adverse impacts will happen, okay. Thank you.

Mr. Ribao: Okay, thank you. Any questions for Lori, first of all? Okay, Collette.

Ms. Collette Machado: This application is not an after-the-fact SMA request, am I correct, to Planning? Okay, Nancy, are there other structures or dwellings that have gone through this review that is already in Wailau? What happen to the Sarah Sykes structure that was built earlier? Sarah Sykes did not do an application? Okay, so, I don't know Linda herself, but I guess she's trying to do a good foot effort. And I don't agree with DeGray that you folks have no power. I think that there's some issues that has to be resolved between DLNR under the conservation district use review. But what you have to look at hand is that you have an applicant that has volunteered to do much of the ground work for this structure. It's a 196 square-foot, based on what was repeated by Nancy, I don't know how big is 196 square feet but --

Ms. Dunn: Fourteen feet by ...(inaudible)...

Ms. Machado: No I -- no answer for me. I no think it's that large. And it's a foot in the door and let's call it what it is. My understanding that there have been other applicants that have made -- done applications for this type of dwelling in other areas. If Wailau is as special as we want to create it, what about Halawa and some of the other areas that these shanty structures are being developed without the proper permits? If you choose to take the high road and become an advocate of protecting these wild areas or these very special areas, you have to really look at Halawa Valley also. When I looked at the Communications, D.1., it had Halawa island, it said Halawa, I guess it's the Halawa District but we're talking specifically Wailau Valley. So let's not just pick on the applicant. Let's look at the accumulative impact, as Mr. Morgan is saying, include Halawa Valley cause that's conservation lands too as well as ag, and as well as looking at Wailau and Pelekunu also. So if you wanna be decision makers, you wanna extend and do more protective measures, it's going to take a lot of work, even legislative consideration, and even working with the County Council. That's just my opinion but I wanted to congratulate her for facing the Planning Commission head on and the community at large.

Mr. Ribao: Thank you. Collette, I think DeGray has a question for you.

Mr. Vanderbilt: Thank you for testifying. I did not say that this Commission had no power.

Ms. Machado: No, I think it was Walter Ritte. I apologize, DeGray.

Mr. Vanderbilt: Okay. What I was saying was that something was put on the agenda regarding us making a decision on an exemption and Corp. Counsel says that, technically, we don't have that authority right now.

Ms. Machado: I think it was answered because it was at the request of the applicant.

Mr. Vanderbilt: Yeah.

Ms. Machado: That's how I read it.

Mr. Vanderbilt: But so just like you don't like people speaking for you, I don't like you speaking for me.

Ms. Machado: Well, I was very -- I understood very clearly, DeGray, that the request to be placed on an agenda was based on the applicant. And anyone can request to address the Commission.

Mr. Vanderbilt: No, and I guess the other thing is that we would like to look at the accumulative impact, but we couldn't look at the accumulative impact unless it went through an SMA permit and then the accumulative impact would come up. Now, the applicant has agreed to go through the SMA permit, which would give us that opportunity to look at the accumulative impact. I don't know whether we could draw in Halawa Valley or not, but certainly we would have that option of doing what you say we should do if we had a chance to review this under the SMA process.

Ms. Machado: The issue of Halawa came because as it's described it's in the district of Halawa although this particular request is related to Wailau. This is how I read the applicant's description of her project.

Mr. Ribao: Okay, thank you. We're going to take a five-minute break. We're going to check on the sound system so, in the meanwhile, while we're doing that, anyone who wants to testify on the next item on the agenda, we'll continue testimony, there's a sign up list there, okay?

*(A recess was called at 1:18 p.m., and reconvened at 1:25 p.m.)*

Mr. Ribao: Okay, we're still on Item 1, which is Linda Dunn requesting an SMA exemption. I just wanted -- remember, she's voluntarily here and just want comments from the Commission. Any further public testimony on this issue? Okay, sir? Please state your name.

Mr. Jaissoinn Caree: Aloha, Molokai Commission. My name is Jaissoinn Carree. I'm a beach boy here on Molokai. I work with many na ohana on the east end and now here in Kaunakakai. And, as Walter Ritte was sharing with us, Laau, Wailau, sometimes the tongue mix one in the same, and the language, excuse me, the annunciation, I'm not truly olelo Hawaii, but ku`e nani is just like Wailau, and if I may address Linda, Ms. Linda Dunn, you're Caucasian, I'm Caucasian, you know. I've been living here, well, I wouldn't say I'm living, I'm just an honored guest, yeah. I've been here for 43 years. I first came to Molokai visiting as a sailing man, a beach bum, with a surfboard under my arm, and we plant orchards in Wailau and Pelekunu, and fruit orchards, and just trying to live as close to nature as possible, and I know that's what you want to do, you know. But, again, Caucasian to Caucasian, I'll just give you a spirit of what the people here are about. You're a guest here and they've accepted you, okay. Keep that pono as a guest, and any other person that wants to build in Laau or Wailau or wherever. You come here and you ha`aha`a, you be humble as a guest, an honored guest. They welcomed you into their parlor. They put their bowl of poi right on the table for you to share. But for you to go and possibly have your dwelling burned down in the future, you know, that's extreme, but it could happen. So, Caucasian to Caucasian, I'd just like to ask you to really dig deep in your spirit, you know, really pray and ask the Creator what He really wants you to do. Again, whether it's Wailau or Laau, you know, I, personally, would address the board, e kala mai, excuse me, you know I don't feel we have to pick and choose whether it'd be Halawa or Wailau or Laau or wherever, Molokai is ohana, na ohana kakou ai, and na ahupua`a is what Molokai is all about, you know, "na" meaning the plural of all together as one. When a husband -- when a man and woman comes together, two are made one, so when you make na ahupua`a, to make one Molokai, we don't pick and choose about what the issues are; we just think of Molokai. Molokai is keep Molokai Molokai. That's the future of our children. And I pray without ceasing and fast without ceasing that you folks will see the light that if we don't have the future for our children, there will be no more Molokai. Thank you very much. Again, my name is Jaissoinn Caree and I work with the Naki ohana, and I work with the Tanaka ohana, and I work with the Castor ohana, and many other na ohana. Mahalo nui kakou.

Mr. Ribao: Thank you. Anyone else?

Ms. Judy Caparida: Aloha. My name is Judy Lokelani Caparida and I come from the east side and I've already testified earlier, about maybe two, three months ago, that we have land in the back of Wailau ourselves, but we don't build there because we know that it is some place that we wanna go and not have somebody else come and live there because it will be an open door. They used to think of planning to have other people coming there. They weren't just demolish their place or how you do it. Now days the State do anything if they want something done to take over and sell it and have hotels and all those kind of stuff. That was years ago. But we're saying that I'm happy for Linda cause I got the same place like where she got it from but the thing is that you know what? If we wanna go there

summer time, it's open for us to go. But to live there will bring outside people to come inside there and that's not -- that's where my dad was born. My dad was born there, and then came over because after they had that, what is that now, not earthquake, tidal wave, then they came over to Puko`o, and that's why it's special for us on Molokai. So you know the rules today, they're so confused. They do the rules first, they do something, and then after that they forget. Okay, now we gotta do something else. This is where we got a mess. The whole mess is because man don't know what they wanna do. Not to Molokai. That's why it's really confused. We are simple people. We no need all these big stuff. And yet, this is what they pressure you. They oppress you. They depress you. When it's so simple. Life is simple. If you know how to do right, you can live. But they don't want you to live that way. And that's why we have to fight all our life. We have to fight. Molokai wants to be the way we can afford because there's things out there we cannot afford and that's what's causing us to have depression. Our property taxes going up. Why? Why? We have a small little place. It's all open space. And still yet we paying for something that we don't need or we don't want. And that's what we wanna really say that you know what? We going have to do what we gotta do and you guys gotta do what you guys gotta do because nobody can tell me that you cannot undo what has been done wrong. Nobody can tell me that. There is a way of doing things that it will come out if you are steady and you are pono. If you're right, you know who's the boss? He's the boss. He's the boss. And He has always worked in my life because everything we do for Molokai is because He has given it to us free. How you like that? Free. The water pipes are all pau paid, we still gotta pay for the water. I mean this is what it's all about. Pay for something it's already yours. So I just needed to share that. Thank you.

Mr. Ribao: Okay, thank you. Any further public testimony? Okay, seeing not, any comments from the commissioners? Okay, Steve.

Mr. Chaikin: I would like further information from maybe the Planning Department on what the difference is between what she's doing right now with your planned exemption and what would be the difference if she went through with an SMA minor permit? Maybe if you can just elaborate on that a little bit so we can get educated.

Ms. McPherson: Chair Ribao, commissioners. Nancy McPherson, Staff Planner. My understanding is an SMA minor does not require a public hearing so there is not a public notice requirement because the valuation is under \$125,000 for the project so that we would do some additional analysis. Because her EA has been found adequate, her information is all there, and then it would be brought to this Commission for a decision on the SMA minor permit.

Mr. Yoshida: I would only add that, the first thing is the determination as to whether the proposed action is or is not a development. Right now it's determined that it is not a development and, therefore, it is exempt. With an SMA minor permit, if it is a

development, then an SMA permit will be issued. You could place conditions on the proposed action. With an exemption, it's exempt. But the primary determination is is it or is it not a development, and we've determined that it is not a development.

Mr. Chaikin: Can you maybe comment on what happens to an SMA minor permit or an SMA permit, major permit, when it is sold from one party to another? Is there any restrictions on that or is it clearly unconditionally transferrable.

Mr. Yoshida: It depends on how the condition, the SMA permit condition, reads as far as transferability. Under the Maui Planning Commission rules, the permit can be transferred with the director, Planning Director, approving the transfer provided that the new owner is willing to comply with the conditions of the SMA permit and upon notification to the planning commission, Maui Planning Commission, that the SMA permit has been transferred from entity A to entity B. If the SMA condition reads that the permit cannot be transferred unless approved by the planning commission, then they would have to come back to the planning commission for the planning commission to approve the transfer of the SMA permit. So it depends on how the condition reads regarding transferability. If it's exempt, then as long as the proposed action is the same by the new owner, then it's exempt.

Mr. Chaikin: Okay, I guess -- I guess the Planning Department's come to the conclusion that this is not a development and that either the applicant would either have to withdraw her exemption application or we, as -- or the Planning Department would either have to change their I guess their assumption that this is not a development, that there are no cumulative impact. Is that correct in order for us to move forward? Cause the applicant has said she is willing to go through with an SMA minor permit and there's been some of us commissioners who have thought that that would be a good idea in an effort to kind of give Wailau a little bit more protection. Could you elaborate on what avenues are open, at this point, to go down that avenue?

Mr. Yoshida: Well, I believe the Planning Department has issued its evaluation that it is not a development and is exempt. If the applicant wants to voluntarily withdraw their assessment or if they wanna go through the process, but we would still have to go through the same analysis relative the coastal zone management law that it is a development and it does meet the criteria, goals and objectives of the coastal zone management law.

Mr. Chaikin: So what has happened at this point? Has the Director of Planning signed that exemption? Is it already finished and a done deal, or is that still in the process?

Mr. Yoshida: The former -- the past Director of Planning signed the -- issued an exemption letter prior to January 2, 2007.

Mr. Chaikin: I see. Thank you, Mr. Chair.

Mr. Ribao: Okay, any further comments? We can entertain a motion, but, again, at this point, it sounds like it'll be a moot motion or we can maybe suggest to the applicant what she should do. That's up to you folks what you wanna do. DeGray?

Mr. Vanderbilt: Yeah, I'd like to propose a motion that -- that we don't agree with the former Planning Director's exemption and that this Commission request that the applicant coordinate with the Planning Department and apply for an SMA minor permit.

Mr. Ribao: Any second to that?

Mr. Chaikin: I'll second that.

Mr. Ribao: Okay, any discussion?

Mr. Vanderbilt: Yeah, Mr. Chairman, I -- we don't have any ability to force Ms. Dunn to go for an SMA permit. She's said that she would so I think the only thing we can do is put it in a motion that it's this body's will that she follow through with what she said she can -- would do and that's about all I see our authority is at this point.

Mr. Ribao: Okay, any further discussion?

Mr. Chaikin: Yeah, let me just say that, you know, my feeling is that the only reason that I would wanna go through this whole rigamarole is so that the -- this Commission can put some conditions on the SMA permit so there is some forward control over the situation. As it stands right now, once that house is built, it's there forever and there's no -- there's nothing that, you know, anybody can do in the future; whereas, if we do put conditions on it, we can take a look at it down the road and reevaluate the situation and I think that would -- that's what needs to happen in Wailau.

Mr. Ribao: Okay, DeGray?

Mr. Vanderbilt: And that's one of the reasons that I made the motion. Even a condition, such as Clayton suggested, that on the transferability, that if it's transferred, it has to come -- come back to this Commission so -- and there's probably some other conditions that might be good, and if this goes through this process, it'll sort of set a precedent maybe for other people that are thinking of building in Wailau.

Mr. Ribao: Okay, any further discussion? Okay, just a reminder before we take a vote on this, henceforth, any exemptions, SMA, will be coming to us anyway, okay. This is one that

just kinda slide through the cracks here, unfortunately. Let's take a vote. All those in favor, raise your right --

Ms. Buchanan: Chairman Ribao, can I have a point of order?

Mr. Ribao: Go ahead.

Ms. Buchanan: So the motion is being forwarded, Corp. Counsel, as a recommendation?

Mr. Hopper: Essentially, it would be a ...(inaudible)...

Mr. Ribao: Yeah.

Mr. Hopper: Essentially, it would be because there's no actual authority so this -- so this --

Ms. Buchanan: Can you elaborate on the recommendation --

Mr. Ribao: Okay.

Ms. Buchanan: ...(inaudible)... the new Planning Director did?

Mr. Hopper: It's the applicant's -- it's the applicant's decision, ultimately, to withdraw her permit that would result in -- in the department -- it's the department -- it would be the applicant's decision to withdraw her permit and have the department do an SMA minor permit that would -- and she would base that decision, I suppose, on the -- on the will of the council but that has -- that's her decision voluntarily. The motion would be, yes, to recommend to the department that this not be exempted and, upon that recommendation, the applicant would have to withdraw her application and essentially apply for an SMA minor permit voluntarily.

Ms. Buchanan: Voluntarily?

Mr. Hopper: Yes.

Ms. Buchanan: Okay.

Mr. Ribao: Okay. Okay, there's a motion on the floor. We're going to take a vote. You folks understand the motion, yeah?

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 we don't agree with the former Planning Director's exemption and that this Commission request that the applicant coordinate with the Planning Department and apply for an SMA minor permit.**

Mr. Ribao: Okay, motion carried. Moving on to the next item on the agenda, Molokai Properties, Limited requesting comments from the Molokai Planning Commission on their Draft Environmental Impact Statement. Today, the Commission is here to set a deadline, which they have as February 6, for us to put in our comments to them, and the final decision on the EIS will be made by the State Land Use Board. We're just here to make comments. However, we will be allowing public testimony after the presentation, okay? Okay, Nancy, you're ready?

- 2. 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 2006/0009) (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.*)**

**The accepting authority for the EIS is the State Land Use Commission. The deadline to receive comments on the DEIS is February 6, 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 review the timeline for the processing of the EIS and may develop a timetable and workplan to produce its comments on the DEIS by the February 6, 2007 comment deadline.**

**b. The Molokai Planning Commission may accept public testimony from interested members of the public on the DEIS.**

Ms. McPherson: Aloha kakou, Chairman Ribao, members of the Molokai Planning Commission. Nancy McPherson, Staff Planner, Molokai. This is a transmittal for transmittal of a Draft Environmental Impact Statement for the Laau Point project proposed at TMK: 5-1-002:030, a portion, at Kaluakoi, on the west end of Molokai.

Concurrently, there are four additional County applications: community plan amendment, change in zoning, special management area major permit, and special -- I think that's a conditional use permit for the wastewater treatment plant that's proposed for the project.

At this point, you are just looking at, initially, looking at the Draft EIS. We're asking you to evaluate that based on Chapter 343 and the different criteria that we look at when evaluating these environmental review documents for disclosure of impacts for adequacy of information and that we also feel it's very important and the applicant also feels that it's important that it comes to this Commission for comment and that public comment is also received because Molokai is a special place, as we all know, and we need to provide them with that information.

I am still working on my comments. I'm going to be bringing that to this Commission at the next meeting and so, at that time, we will -- you will have received those comments, we'll have had time to go over them and, at the meeting, you may choose to incorporate those comments into your comments. What we would also request you to do is to prepare written comments of your own and bring those to the next meeting so that those can also be, actually submit them prior if possible so they can go out in the packets and distribution of information, bring them to the meeting and then we can -- you can discuss them.

At this time, I think on the agenda item itself, you are to figure out or kind of develop a strategy for getting these comments together in time for the end of the public comment period on draft, which is February 6, 2007.

This project is for, at this point, this EIS is on the State Land Use District Boundary Amendment for portions of the parcel; 850 acres to be changed from agricultural to rural designation; 254 acres from agricultural to conservation; and 9 acres from conservation to rural on a total petition and project area of 1,113 acres. The total project area covered in the EIS is 1,432 acres. It's on the southwest point of the island, along the coastline, between Hale o Lono Harbor and Kaupoa Beach. It's currently accessed by the Beach Camp Road, Kualapu'u Road, and Hale o Lono Road.

So I have discussed the applications that the applicant is requesting. They want to construct or get a subdivision for 200 lots in the rural residential category, and it is part of

a larger planning effort and a component of the Community Based Master Land Use Plan for Molokai Property Limited lands on the west end of Molokai. It involves a subdivision, expansion of the State Conservation District along the coastline, protection of cultural sites and archaeological sites in the area, easements for subsistence gathering, two public shoreline parks, and a small wastewater treatment plant.

There is a time line, a procedural time line, that was submitted to you. The triggers are use of State Conservation District land, the need for a community plan amendment, and construction of the wastewater treatment facility. The Draft EIS was filed with the Office of Environmental Quality Control on December 13, 2006, and was published on December 23, 2006. So the 45-day public comment deadline, again, expires on February 6, 2007. A preliminary assessment determined that the Draft EIS meets the minimum content requirements as defined in Section 11-200-10, Hawaii Administrative Rules, but I do look forward to receiving your comments on that section and how well this EIS meets those criteria.

At this time, I'd like to allow, if there are no questions of staff, I would like to allow the applicant to -- I believe they're prepared to make a short presentation.

Mr. Ribao: Okay, in the essence of time, short, yeah? Thank you. So we can hear public testimony. Thank you very much.

Ms. McPherson: Okay.

Mr. John Sabas: Aloha, commissioners. My name is John Sabas. I'm the General Manager of Community Affairs for Molokai Properties, Limited. We are happy to be here today. Thank you for having us come before you to -- to give you a short presentation. Before I begin, let me first introduce, you know, some members of our team. Roy Sugiyama is our Chief Operating Officer. He runs the day-to-day affairs of the ranch. Roy's been with Molokai Ranch for 12 years so he's very familiar with a lot of the ranch operations. Roy, can you please stand and be recognized? Dan Orndecker is the General Manager for Land Entitlements, he's also our in-house counsel. Dan, previously, he just started with us in November of this last year, previously, he worked for the City and County in the Mayor's office with their transient project. He's also held a number of different State positions centered around development, and he also worked for the Nature Conservancy for about five years. As I mentioned earlier, he's also our legal advisor, in-house legal advisor. Dan, thanks. Tom Witten is President for PBR. They are our consultant planners that's been hired, and Tom will also give a little presentation primarily on the procedures that we're faced with as we head down this road. Thanks, Tom.

I'd like to just give you some background on how we came about to having this community based master plan, which eventually led to this DEIS. As you all know, it's been no secret

that Molokai Ranch did not have a good relationship with the community. Unfortunately, CEO President Peter Nicholas isn't here today, he's temporarily assisting, you know, our administration office in England right now with some other company business, but when he first came here to Molokai, he saw that first hand, that there needed to be some mending of fences with the community, so he set out, back in early '04, to do just that. What we have here now is something that I don't think this community has ever gone through with any land developer. It's been over two years of working with community members. It's been an open process for whomever wanted to participate. It started out with the Enterprise Community, back in August '03, identifying Project 47 as a community based development project that they wanted to have listed as one of their priority projects to work on for the island of Molokai. Few months later, Peter Nicholas and members of the EC sat together and identified a common goal and that one goal was to get the Kaluakoi Hotel back on line, and from there, discussions evolved into, hey, let's plan for all of Molokai Ranch's 65,000 acres. We still feel very strongly that the Kaluakoi Hotel is something that this community wants and needs as potential for at least hundred new jobs. It's something that used to be well used by both community and visitors alike. We have an EA and a SMA application before the planning staff that we're working with to review and, hopefully, in the very near future, hopefully in the next couple of months, it'll come before this Commission for some discussion and action.

I have here a picture of what we're talking about in terms of the size of this project that addresses the DEIS but, more importantly, the big picture. The big picture being that over 50,000 acres of Molokai land that's currently open space will remain in open space in perpetuity. Almost half of that will be in easements and the other half will be in fee simple title to the Molokai Land Trust, who has just a few weeks ago received its IRS ruling qualifying it as a bonafide nonprofit. This map here that we have includes also the Laau project, which as Nancy previously stated is around 1400 acres. You'll see the areas in green as being those lands that will go to the Land Trust in fee. Those include all these lands -- includes the lands down at Kawakui, which at one time was proposed for development; includes Pu'u o Kaiaka, which at one time was proposed for development; which includes the lands at the makahiki grounds at Naiwa, which at one time was proposed for development; all these lands along the Pala'au coast area, and lands from Ilio to Mo'omomi. The easement lands, which will be used for agricultural activities, are these lands mauka of the development and some of the lands surrounding the Kaluakoi-Papohaku area.

At this time, I'd like to call on our planner, Tom Witten, to go over some of the procedures that we'll have to face in the next few months and probably longer so, Tom?

Mr. Tom Witten: Thank you, John, and good afternoon, commissioners. I'll just quickly give you a quick overview of the EIS and some of its content. We're the primary authors of the EIS but it's really a collaborative effort and we try to be as comprehensive as

possible and have over a dozen technical studies that are done by the real experts in their various fields. So, as appendices to the EIS, there's a air quality impact; archaeological, cultural impact; water plan; wastewater design; social impact statement; drainage and engineering reports; economic fiscal impacts; real estate market study; analysis of the impact on real property taxes; a botanical survey; avifaunal and feral mammal survey; marine biological and water quality studies; noise assessment; traffic impact analysis; and then from the land planning standpoint, we try to present that, those technical documents, in a manner that's easy to understand in the body of the EIS, but if there's any technical questions, you have to refer back to those appendices. So we do our best to try to present in a disclosure document a fair picture of what we anticipate the impacts, both negative and positive, of the proposed action.

This all started out, well, we covered the sort of the planning process, but the Land Use Commission, the first action that we're requesting is a re-designation and a State Land Use -- from the State Land Use Commission that would take the property from agricultural to conservation and rural. By being the first decision-making body, they become -- they decided to become the accepting agency of the Draft EIS or, ultimately, the Final EIS. So that determination was made back in July after we had submitted a EIS Prep Notice, and then the -- then the process of preparing the EIS was completed and submitted to the Office of Environmental Quality Control in mid-December, and then published for public notice, as was noted, on December 23.

After the Draft EIS is published for public notice, there's a 45-day comment period that anybody is able to comment on the Draft EIS. That period ends on February 6. After that, after we receive all the comments, it is the preparer's responsibility and the -- and the associated consultant team to respond to all the comments received, include those in the Final EIS, include any revisions to the Draft EIS in the Final EIS, take that back to the State Land Use Commission for their review, and, ultimately, acceptance on a determination that the document is complete, meets their standards, and has addressed, in a fair way, all the impacts. With completion of the Final EIS, then our petition before the Land Use Commission is then deemed complete and they have a 365-day review period. So, assuming we complete -- we get the comments in and we respond to those, it'll probably take us a couple months to respond to those, that we should, later part of this year, we should be before the Land Use Commission hearing this docket on the consideration of re-designation.

Concurrent with the submittal of the Draft EIS, we also had prepared applications, the County applications, which are shown on this side of the page, we have a community plan amendment, like Nancy said, a change in zoning, special management area, and a special use permit. Those are being reviewed concurrent with the Draft EIS since the Draft EIS is really sort of the technical document that assesses all the potential impacts of those

changes, so their concurrent with the public review of the Draft EIS. The County is also distributing that to their agencies and the State agencies for review and comment.

Ultimately, all these County applications come before the Molokai Planning Commission for either review and comment to the County Council, or actual decision making on the SMA permit and I think also on the special use permit, but I'm not clear on that. But, basically, so some time, either concurrent or shortly after, most likely concurrent with the State Land Use process, this Commission will be having opportunities to review those applications, comment specifically on the specific request in those applications, hold public hearings, formulate your comments to the Planning -- to the County Council, and then it goes to the -- once transmitted to the County Council, the community plan amendment and the change in zone, then, ultimately, the County Council makes the decision on those request. Upon completion of the change in zone, typically, the SMA will come back, will be kinda held in abeyance without a decision made until the zoning's decided upon, the SMA permit will come back to you for decision making on the related improvements within the SMA area.

So I just wanted to give you kind of an overview and, hopefully, that help kinda put everything in perspective on sort of the process and the complexity of it, and also the numerous opportunities I think we'll have to address public comments and concerns through this planning process.

Mr. Sabas: Thanks, Tom.

Mr. Vanderbilt: We're going to be able to ask Tom some questions here?

Mr. Sabas: Sure. Sure. You wanna ask him now? Up to you, Mr. Chair. Okay, well, you know as I started or stated earlier, Mr. Nicholas started out this process with the idea of developing a visionary plan for Molokai and, just as important, you know, he wanted to establish a working relationship with the community and so we will continue, you know, that kind of thinking as we move forward in going through our permit processes. We invite you, if you want to come out. You know, of course, we'd have to follow the Sunshine Laws on having that. Earlier this morning, we had Planning staff out there taking a look, but, you know, if you wanna come out, we can help coordinate that and participate in that.

There's been some inquiries as to whether or not we'd be willing to extend the deadline. You know, our official response has been, no, we're going to hold to the February 6 deadline but we're also very much aware that the community is actively, you know, participating in this process and we wanna encourage, you know, that kind of participation and we know that you also will be asked to, in fact, you're planning on putting together comments to submit. We'd be remiss is we did not try to include all the comments we possibly can to make this as a complete DEIS and a Final EIS, so we'll be flexible. I can't

tell you, you know, exactly, you know, but we know from a practical matter that there'll be comments coming in late, and so we'll be flexible, and we wanna work with the community as well as the agencies in making sure that this document becomes a good one. Tom, you wanna address some questions?

Mr. Vanderbilt: Aloha, Tom.

Mr. Witten: Aloha.

Mr. Vanderbilt: Yeah, I had a question. I was one that responded to the EIS Prep Notice, and I probably sent in 2 or 300 questions, which or someone answered, but my question is a lot of the answers it stated that you didn't think that the questions were relative to the EIS for Laau Point and, therefore, discussions of the topic in the EIS is not warranted, and that went through a good number of the questions that I put on dealing with cumulative impacts, financial conditions of ...(inaudible)... and everything else. If the public -- who determines whether something is relevant? Is it you or is it the ranch management?

Mr. Witten: No, I think it's, based on our experience and the standards that are put forth in the EIS regulations as far as what the standard -- standard areas of responsibility are, we typically will make that judgement and, ultimately, Office of Environmental Quality Control and, in this case, the Land Use Commission will look at those and make their judgements also to make sure that we are complete. To the extent that we can answer questions, we typically try to, we try to do our best to address questions but if -- I mean there's -- there are some questions that are just sort of worldly in the sense that, you know, that really can't be addressed when we're trying to focus on the impact of a specific project area and its cumulative development impacts.

Mr. Vanderbilt: Well, I guess, what I wanted to -- we're looking at this thick document, which includes not only the resort, but everything else, and it even talks in the -- in the report about the fact, and I'll just read, "That the uniqueness of the situation is the relationship between the specific development proposal and the plan extends far beyond the Laau Point project boundaries." And it says, "People seem to be aware of Laau Point and have less knowledge of the overall plan." And it says, "It is to their advantage to know the plan and the project so that they understand the full implication of them both." Now, in talking with Office of State Planning and some people at OEQC, they seem to think that all the components, whether it'd be the resort or the water issue or Laau, all are interwoven and depend on each other and that they're fair game for constructive public comments. Would you agree with that statement?

Mr. Witten: Well, I guess I'd like to hear it from them as far as how they interpret that.

Mr. Vanderbilt: Well, for instance, just to give you just an example. In the EIS Prep Notice, there was a statement that Molokai Properties, Limited acquired the abandoned golf -- abandoned hotel, golf course, and surrounding land. That was the statement. So my question was please list the various parcels included in the surrounding lands purchased at the Kaluakoi Resort and provide a current State zoning designation, the current County zoning designation, the parcel size, potential development density of each parcel assuming County zoning is secured for each parcel that allows for maximum densities consistent with land use designations in the current community plan, i.e. multi-family, hotel, etcetera. You wrote back to me and said, "Details regarding the Kaluakoi Resort properties are not relative to this EIS for Laau Point, therefore, discussion of this topic in the EIS is not warranted." So are you saying that all these lands that Molokai Ranch owns, north of the resort, that we've approved in our community plan and the future development of them are not a cumulative impact that needs to be addressed in the EIS?

Mr. Witten: Well, I think we're saying that those lands have been approved and zoned and on the books for a long time. They're not a part of the proposed action that we're discussing.

Mr. Vanderbilt: So your answer is you don't believe that --

Mr. Witten: We don't believe so. Correct.

Mr. Vanderbilt: I'll open it for somebody. I got some other questions.

Mr. Ribao: Yeah, just a reminder, we're here to set a time line and whatever the time line. Maybe at our next meeting we can be -- go into discussion. Anybody wanna say anything? Okay, Kip.

Mr. Kip Dunbar: I have a question for you, Tom. I was reading through alternatives that you folks developed in this EIS, and as well as the -- your development cost that you associate with finishing Laau. Whether I missed it or I couldn't find it in the thousand pages, what is the -- what is the total value once sold out by 2012 of your 200-lot subdivision? Cause some you say are in that four seventy-five, some are a million nine, but what is the anticipated gross revenues on this project?

Mr. Witten: I don't have that in my hip pocket, I would have to defer and get that answer, but I mean those are the kind of questions that we'd like to hear from you on and then we're going to make sure it's addressed in the EIS.

Mr. Dunbar: Well because when I looked through your alternative plans and, you know, there are some of those alternative plans that I think actually, you know, bear some merit. I mean everybody is talking about how much infrastructure is going to cost. You know, if

you do those alternative plans because they spell it out, they say you can sell it for this much, it's going to cost you this much, and we're going to net this much, and it's, you know, x-millions of dollars or break even is not good, but I have a -- I have a layman's view of development and it seems to me that if you gotta repair the road all the way from the top of -- because the Kaluakoi Road has never been turned over to the County or the State, so if ultimately you're going to bring a whole lot of traffic, construction, everything down that way to get to your development, I would imagine, sooner or later, you're going to want somebody to accept that road, and right now the road is basically unacceptable, which means you gotta tear it up from the top, go all the way to the bottom and put it all the way back in again. I'm sure you can do it in sections but I mean that's basically what you gotta do. And so if you only gotta do that from the top of the Maunaloa Road down to Kaluakoi, and then develop another nine holes or eighteen holes and make it a championship golf course with what 200 lots that half of them view the ocean, half of them view the golf course, it's just that when I got to your alternatives, what I'm trying to say --

Mr. Witten: Right.

Mr. Dunbar: When I got to your alternatives, I don't think it gave those alternatives enough credibility. I mean you could end up in maybe donating less if you had to. You know, I think there's -- there's a -- you might even end up having to use less water. You know I don't see anything in here where you're using, you know, more alternative sources of energy. While I think it's -- while I think it's a great start, you know, for something of this magnitude, I think you're going to have to go a lot more to come up with some of the answers.

Mr. Witten: Yeah, and we'll appreciate those comments and I think the format is to get those kind of comments back and then we have to respond, specifically, back to you and include that in the Final EIS, and if there's revisions needed to the Final EIS, either additional information or updated information, that has to be put into the Final EIS to muster with the Land Use Commission. So, you know, rather than trying to answer specific questions today, we just kind of gave an overview of the process and encourage you guys to, however you wanna do it, get your comments in on the Draft EIS so we can -- we can give you the, you know, the kind of analysis that you feel is needed to decide or make those tradeoffs.

Mr. Dunbar: Well, it would make your rejection of those alternatives a little bit more saleable if we knew what we were supposed to be buying into.

Mr. Witten: Correct.

Mr. Dunbar: And that's not clear in all these thousands of pages.

Mr. Witten: Yeah, okay. That's a good comment.

Mr. Ribao: Okay, anybody else? Go ahead, DeGray.

Mr. Vanderbilt: So just to understand the process a little, if assuming I ask the questions again, and you give the same responses, then it's up to the Land Use Commission to determine if they wanna accept the Final EIS as being complete. Would that be a fair statement?

Mr. Witten: Yeah, I think the technical review will be done by OEQC and also the staff of the Land Use Commission to measure up to the criteria.

Mr. Vanderbilt: So the first meeting before the Land Use Commission will be held on Molokai. Is that correct?

Mr. Witten: I know the public hearings have to be held on Molokai. As far as the acceptance of the EIS, I think that could be done at any meeting.

Mr. Vanderbilt: So it's up to this community to try to solicit the Land Use Commission to come to this community?

Mr. Witten: Yeah, I'm not sure of that, but I think that's --

Mr. Vanderbilt: So then the next step would be if the Land Use Commission accepts the EIS and anyone in this community disagree with that acceptance, what is the alternative that the community has at that point?

Mr. Witten: Well, the EIS is a disclosure document so, through the County review process of those applications that have been put forth, there's still ample opportunity for the public to comment and make their positions known, or desires known, or concerns known through that public hearing process and also through the Land Use Commission process.

Mr. Vanderbilt: And doesn't the law also provide for this community, anybody in this community, that doesn't believe that the EIS is complete to challenge that during the the 60-day period in court?

Mr. Witten: Correct. Yes.

Mr. Vanderbilt: So that's up to the community to do that. Okay, thank you.

Mr. Ribao: Okay, anyone else. If not, I'm going to open it up -- thank you, sir. Nancy, can you give her the list there? Do you wanna make any comments before I open it up for

public testimony, Nancy? Okay. Anyone wants to sign up on the list, last chance. Okay, before we start public testimony, as a reminder for those of you coming up and giving public testimony, try to stick to the issue as much as possible. You have three minutes, and after everybody testify, you can come back and testify for another three minutes, okay? First on the list, Mr. Steve Morgan. Okay, that was the first person who did. Mr. Walter Ritte?

Mr. Walter Ritte: Thank you, Mr. Chairman. I heard John say something just little while ago. I wanted to clarify it about having a special tour this morning. Molokai style, we got some telephone calls this morning that said the County guys was down the airport and they was going to go on a special tour with the ranch, and I wanted to know if that was like breaking any Sunshine Law and those kinds of things.

Mr. Ribao: I don't think so. None of the commissioners went on the tour, huh? No. It wasn't the planning commission. I really can't answer that. Can you answer that, Corp. Counsel?

Mr. Michael Hopper: It was the Planning Department. There was no one from the Commission went on any tour today.

Mr. Ritte: So it was just the staff?

Mr. Hopper: Yes.

Mr. Ritte: So that's okay?

Mr. Hopper: Yeah.

Mr. Ritte: Okay. Just checking because this whole thing is based on the word "community." From day one, this is a community based plan, the community input, community this, community that, so John was right when he said that there was a history with this ranch that goes along with all of this. A long, long history. So there's a lot of mistrust in what is going on. The first thing that happened with this process was when they did the LUC thing. It wasn't done on Molokai. It was done on the Big Island. And everybody started scrambling because this is a community input thing and, yet, everything is started on the Big Island in front the LUC. So, right away, on the first step, this thing was all kapakahi and everybody was mistrusting again. But that's why I asking the question about what was going on.

John also said that they're willing to be flexible, and that's okay if you're in politics, you know, that's political kind talk. What does that mean? What does "flexible" mean? It means maybe, maybe not; could be, could be not; whatever; depends how we feel. That's

not acceptable on our side as a community because -- John, you get the document? This is the document, yeah? You guys got until next month, the 6<sup>th</sup>, okay, and you guys represent this community, and I know you wanna do a good job because this is a huge issue in this community. For some of us, it's like the domino effect that's going to wipe out this island. For others, it's a big deal because we're going to get 26,000 acres and I'm going to be the chairman of the 26,000 acres. So there's a lot of controversy going on with this thing right here. So for us to do a proper job, it's critical cause this is the first step that's going to kick in all of this stuff, and it's going to be the wagon that we all ride.

So, right now, I have -- I wanna present to Mr. Witten, if you'd come, I'd like to present you with an honor and an award from the Molokai community. What I'm presenting to him is 20 letters from all different community people requesting for a 60-day extension period so we can work on this EIS. We tried our best. We've been having meetings on Tuesday evenings, putting our time in, but this thing is so huge and so hard to manage. And, of course, you know, just so happen that this thing was released during Christmas and New Years when everybody was like all over the place and we couldn't get people back together again. So that's another reason why, you know, we said, "John, you guys did that on purpose man. We know you guys did that on purpose." Right the day before -- or two days before Christmas they released this thousand-page document so we can have input. So we kinda, you know, like, oh man, what's going on. So what I'd like to request from you guys, coming from our group and our community, that we need more time and we cannot be like, well, we going be flexible. It has to be we know because if we come in late, they have the option to not accept our stuff. That's just matter of law. So we want a 60-day extension so that we can go through this document and you guys can go through this document, so I'd like for you to request, from these gentlemen, that we have a 60-day extension period. We requested that from the Governor's Advisory Group yesterday and they unanimously said that they would be doing that to you guys, John, and we requested DLNR to do that and they said that they will be requesting from their planning department, I guess who represents the State, to request for a 60-day extension. So I think we requested Senator Clayton Hee to do that and his email went in requesting for a 60-day; I think that's the one that you guys turned down. So there's people who wanna get involved but there's not enough time. So today we're talking about the EIS and you guys have it before you. You guys all have copies. We had to go make our own copies, burn out all our ink and everything else. John, you guys should have gave us little bit more. I have one. Thank you, John. But I ran out of ink.

Mr. Ribao: Walter, time.

Mr. Ritte: Time up? So that's my main concern. My last statement is when we talk about a community process and we talk about this being a community-based plan, this is a community-based plan. The problem with this plan is that Laau was not part of that process. Laau was set aside and not dealt with until the end of the process. And it wasn't

like we went go have a long discussion either on it. It was take it or leave it; all or nothing. That was the deal. This is a deal. And so we did not have full discussions. Every single hearing that we went through, every single hearing, the unanimous voice coming from the community was we do not want Laau, even though it was not on the agenda, so it was a constant community against Laau. And when we did the deliberations, it was left out of the process. So thank you very much.

Mr. Ribao: Thank you. Any questions?

Mr. Dunbar: Yeah, Walter, fast question. You're asking for a 60-day extension from when? Today? Or from February 6?

Mr. Ritte: From February 6.

Mr. Ribao: Okay, thank you. Go ahead.

Mr. Sabas: Mr. Chairman, will you allow the applicant to respond to some of these issues that maybe should be appropriated in the comments?

Mr. Ribao: Yeah. Yeah, fine. Donna?

Ms. Donna Paoa: Good afternoon, commissioners. My name is Donna Paoa. I'm Professor Coordinator of Maui Community College here on the island of Molokai. The reason I'm here is for a point of clarification. My question is does any action taken, positive or negative on the Draft EIS, does it constitute approval or legitimacy or verification of the Community-Based Master Land Use Plan? Or will it just affect the Laau portion? Do you understand my question? I'll continue why I'm asking. The Community-Based Master Land Use Plan for Molokai Ranch, which is referenced throughout the Draft EIS and is included in its entirety as Appendix A, I counted it as Page 306 of 835 in your packet, it has planning implications beyond Laau and especially for the college, okay, and I'm speaking for the college. There are language problems in the Community-Based Master Land Use Plan as it relates to the college, which I think need to be corrected. This may be an unusual case because most planning documents do not include language that covers the whole island but because this one does, and it's a part of the Draft EIS, I want it on the record whether or not any kind of approval or even disapproval of the Draft EIS will mean that the rest of the language in the Community-Based Master Land is legitimized. I have a handout that I can give to PBR Hawaii, which we worked with through the university, where I see that the Molokai Community Plan, language in the plan is inconsistent as regarding the college, okay. I also have language in the community master land use plan that calls for three things, specifically. Here's my three issues. Number one, the Molokai Community Plan language is not consistent with what's in the master land use plan. My second contention is that, on Page 66 of the community-based plan, it says that the County

should build a gymnasium next to the college as designated on the Molokai Community Plan, that's an error. The Molokai Community Plan does not designate that a gym be built next to the college. It just says that a gym will be built in Kaunakakai. And, lastly, development of the gym and swimming complex as part of the community college complex, it would be part of the community college, that's on Page 70 of the Community-Based Master Land Use Plan. I call that an error. I don't think that the land use plan can direct that a gymnasium and a swimming pool be part of the community college complex. These are County facilities. They're not State or university responsibilities. So I would like the language cleared up in -- I hear it. Thanks, I'll be done. I would like to the language cleared up and I'd also like it on the record to know whether or not the action taken on the Laau Draft EIS that because Appendix A is in there and is written and goes more impacting on other parts of the island, that it does not constitute acceptance or approval of the language until we've had time to clear it up. Thank you. Would you like my single copy of where these things are wrong? I have a copy.

Mr. Ribao: Okay, thank you.

Ms. Paoa: Submitted to? Okay, would the Planning Commission like copies?

Mr. Ribao: Yes.

Mr. Dunbar: Donna, I have a question. I thought, and correct me if I'm wrong cause this was quite a while ago that I had to think about this, wasn't the college, when it was originally stood up, given something like 15 or 14 or 11 acres right around that whole area?

Ms. Paoa: Yeah. The Molokai Community Plan, since 1994, has had language exactly that; 15 acres for the college in the area where the current facility exist. It went through the '94 review, '95, 2001; 2001 language says 15 acres for the community plan. That language does not appear in the Community-Based Master Land Use Plan at all. What appears in the Molokai Ranch plan is 3.213 acres.

Mr. Dunbar: Which is about what you have now.

Ms. Paoa: We have two now.

Mr. Dunbar: Two now.

Ms. Paoa: The three acres was in the original agreement that we made with the ranch in 1998, long before this process happened, so it basically was part two of two increments. Part one was what we have now. Part two was the three acres along the road. Okay, now, by not addressing the 15 acres in the community-based plan, my contention is that it

seems like the college will be fine on five but it does not -- it's not consistent language with the community plan that still says 15.

Mr. Dunbar: And that 15 acres would be what's presently in corn up against the --

Ms. Paoa: Right.

Mr. Dunbar: The ballpark right now?

Ms. Paoa: Right. We would have --

Mr. Dunbar: And behind it up to --

Ms. Paoa: Right.

Mr. Dunbar: Ranch Camp?

Ms. Paoa: Everything west of the road, basically. West of the road going toward Duke Malio Park --

Mr. Dunbar: Right.

Ms. Paoa: So the three acres that we already have an agreement to an option to purchase by 2008 is up to the cornfield, Duke Malio Park's cornfield. The ten acres behind is the one that the community plan says 15 acres for the college.

Mr. Dunbar: And so what has happened with this plan now, what you're telling is that this community --

Ms. Paoa: Based plan.

Mr. Dunbar: Community-based plan has now preempted the thing before or --

Ms. Paoa: My understand is it -- I think what happened, I honestly think what happened, as I went to the meetings at the community master plan use committee, I testified every time that I honor the process and the process was a community plan process that allowed 15 acres for the college. This Community-Based Master Land Use process took place after and I thought every time they would address the same 15 acres of the community plan. My feeling is that the master land use plan did its homework on a lot of areas and then kinda skipped through this little teeny section in Kaunakakai that is all that my career is about for 22 years. That's all I care about is higher education for the island. I hate to

see the 26,000 acres and then have one little section over here that's in contention. You know what I mean?

Mr. Dunbar: Yeah.

Ms. Paoa: It's like they didn't take the time to really look at what the community plan said at all and, not only that, but then they must have heard me talking about a swimming pool and a gym cause DeGray and I had talked about it, 15 acres is a nice size chunk, at some point, maybe we could work with the County to put a gym and a swimming pool on the 15 acres, however, we cannot say 15 -- 3 acres and then say swimming pool and gym --

Mr. Dunbar: Right.

Ms. Paoa: And that it has to be part of the college. That language must be changed.

Mr. Dunbar: So is what you handed out --

Ms. Paoa: Those are the parts that you can find what I'm talking about for the community plan, the page numbers, and for the Community-Based Master Land Use Plan page numbers.

Mr. Dunbar: Okay, thank you.

Mr. Ribao: Okay, thank you, Donna. Okay, next on the list, I hope I'm saying this correct.

Mr. Vanderbilt: Can I just make a comment on ...(inaudible)...

Mr. Ribao: Go ahead, DeGray.

Mr. Vanderbilt: And I think in the whole community planning process we had -- we had hoped -- we wanted the college to be on one end of the town and -- and we figured that 15 acres would be for future generations a beautiful education center. I mean when you look at Maui and Maui High School is 65 acres, Baldwin High School is 70 acres, 15 acres is not very much and -- and so -- so, anyway, that was the intention that that area would be for the college and somehow this master plan has given that to the CDC, that'll be given to the CDC, I believe, or the land trust, I don't know who will have control over it, but it'll be up to the college to now negotiate with them but it still wouldn't preempt our community plan, I don't think, unless -- see, it's hard to understand what community plan amendments are going through. They need a lot for this master plan and I don't know if it's just going to be for Laau Point and whether when they consider getting all their entitlements, does that mean they have to get all their other master plans, like an additional 62 acres of light

industrial out by Pala`au. It's not quite clear and, hopefully, some of that can get cleared up as we better understand the process.

Mr. Ribao: Okay, next on the list, I hope I'm saying this right again, Jaissoinn Carree. Did I say that -- oh, okay.

Mr. Jaissoinn Carree: Commission, thank you again for allowing me to speak concerning Laau. When I came to Molokai as a sailing man, Molokai embraced me and I embraced her, and she turned me from a unpassioned sailing man that wants to stay at sea all his life to a beach bum, then I become a beach boy. I met so many lovely people. My testimony is for the people. Commissioner and all you on this board realize, and you know it in your heart, you go deep in your prayers and you know in your heart that the greatest resource, and what are we talking about resource? Money is a resource. Land is a resource. But the greatest resource is the people, the Hawaiian people; the kanaka maole people of this aina, of this kai. So my mana`o is that I ask you go into your closet and pray or meditate or whatever you do to get close to God and find out what God wants us to really do cause man, woman, or child is not going to have any say in what really happens, it's going to be the Creator above, and I want to humbly ask you to just keep the Hawaiian people and those children's children in your plan. You talk about a plan on paper. The plan is the children and if we put this plan in effect and any one building is built or even -- take it even further, any one lot is sold, you can just think about, in your heart, you've just killed a few children on Molokai. I don't want to use so extreme language, but that child probably won't be able to live here. So I use the word "kill" if I may use this spiritual warfare language. E kala mai. Please excuse my language. Wailau, Laau, they're all the same. Kamalo, Kaluakoi, they're all the same. Halawa, Kaunakakai, they're all the same. We're all one big ohana and I just pray to God, I don't eat, I don't sleep, the only sanctuary I have in my life right now is just to go sailing and get away from this land because I see what your power of resources is doing to our children's future. Again, the greatest resource is the people, the Hawaiian people, and I ask you in the EIS, if you can figure out any way in your ethics to put this language in your study, you know, I don't see any of that on this manuscript that should be in the congress -- the Library of Congress, as far as I'm concerned. You're not addressing the true resource and that's the Hawaiian people. So I encourage you, I want to instill in your hearts, in your prayers that you include, with your EIS study, the beauty of the Hawaiian people. That's the greatest resource. Mahalo.

Mr. Ribao: Okay, thank you. Ms. Judy Caparida. Okay, you're done. Mahea Davis.

Ms. Mahealani Davis: Good afternoon. Mahealani Davis. I wanted to just keep my comments just to the process of good planning and make these comments in the interest of good planning. There are several planning processes that I've been personally involved in including development of the community plan, which is the guiding document for your folks; also, presently, I'm a member of the general plan advisory committee, which is

reviewing the existing community plan and also General Plan for Maui County, and also participated in the EC planning process, which got us here.

This would not be the first time that Molokai Ranch has come in with a plan that is not quite in sync with the community plan. Community plans take a long time. You know that. Community people volunteer and spend months going to meetings and looking at each section of the plan, those things that are listed here, and determine what is best for the entire island. In 2001, when the community plan was being reviewed for approval, Molokai Ranch show up with something called Matrix 2001, and most people in this room will remember that, and at the last hour, made substantial, I felt, substantial changes to the community plan, which had been worked on by community members over a long period of time. They showed up at the last hour with employees who were lined up and prompted by scripts to agree with changes that Molokai Ranch wish to see in the community plan, and that was approved, and those changes were made. This is the second time I'm seeing Molokai Ranch show up at -- after or not during a real, what I think of as a real community planning process and come with requests to make changes that are conducive to their development plan. I don't see this as a community-based plan. This is a development plan. And the only difference I see really is that the ranch has different people who are coming forward and trying to convince us to go along with this.

The EC planning process looked at or came up with, at the end of the process, with forty projects. One of them was to look at purchasing, buying out the west end developer landowner and creating a land trust, and it was that specific project, which hoped to allow this community to develop that and 39 other projects so that we would not have to deal any longer with development plans like this. All of the aspects of this, this document, this plan need to be reviewed by this group, by these Planning Commissioners, yourselves, to see if it conforms with and is in compliance with our existing community plan. That's going to take a lot of time and so, for one thing, I would like to speak in favor of what Walter has asked that this Planning Commission request, formally request, that a 90-day, or what was it, a 60-day extension be granted so that this community, the members of this community, have a chance to do a good job in reviewing, and that this Commission have a good -- have enough time to really review this. I had took several weekends over the last holiday season to look at the EIS and there are numerous, I would say numerous meaning more than 20, instances that are not adequate, and in particular, the information about water.

If we have a planning process, community gets together, we put together planning for long range, we look at the future needs of this entire community, and then something is proposed that is going to substantially make changes to that community plan and also to the EC plan, the intentions of the original plan. I think we need to be given ample opportunity to make sure what those changes will be and if they are allowable. And since we are in a process to review the general plan and community plan at this present time, I'd even want this to be put off until those changes, if any, are made.

I know my three minutes are up. I just wanted to be on record that, as of 1996, as far as water goes, there was not, at that time, enough developable water on this island for the legal identified requirements of the Department of Hawaiian Home Lands. That was in 1996. In 2006, the situation has not changed, has not improved, has probably worsened, and we are on record having requested the EC reopen the Project 7, which is to develop an island wide water plan before any other of the EC projects can go forward. That process is currently in the works. We delivered a letter to Peter Young, of DLNR, yesterday to initiate reconvening the water working group to look at source, supply, to recalculate sustainable yields for the island, and to review demands, first of all, by DHHL, second by the County for the public, and, thirdly, for private developers on the island, and until that information is in place, we don't know what the effects of this development are going to be on the island. Thank you very much.

Mr. Ribao: Thank you. Okay, Ghandi Ross.

Mr. Gandharva Ross: Aloha kakou, commissioners. My name is Gandharva Ross. I'm a subsistence taro farmer in Halawa and Waialua Valleys, and I also teach in the Hawaiian emergent program and the Natural Resource Academy at Molokai High School. So I'm currently on break so I had a little bit of chance to look at this document, but family, Christmas is a very important time for family and stuff, so I spent as much time possible with my kids not sorting through this document, but I did have a little bit of time to read through it and I noticed that a lot of it cause I -- I'll read a section and I jump ahead to another section somewhere else, a lot of it is the exact same stuff that's been copied and pasted in different sections to explain, answer the same question in different places or whatever, but it's hard to -- but in order to get a full idea of what's really in it, you need to read through that same thing over and over again in different sections to make sure you don't miss an important part. So I think it's really been difficult. I'm requesting the extension of the 60 days so give me a better chance to go through this. I wanna look through it with my students too at the high school. I got about a 150 students. I don't wanna give them the whole thing but maybe certain sections they can read over and see how they feel, get some kind of input from a portion of the community that's not always asked in this -- included in this process. They're there. They come once in a while to the meetings but I've asked -- I've had discussions with my students about these issues and we have students on both sides: parents work for the ranch who don't like the plan; we got students who live up east end support the plan; we got all kind of opinions, but majority is against the plan. I would say maybe 80-20. But it would be good to give them more chance to be involved in this type of process, and we go back to school tomorrow I'll be -- I never had a chance to get this information to them yet so, hopefully, maybe we can get a request.

Another thing I wanted to talk about was the concurrency of the State and County application or process. I think it would be a major burden on our community to have to

attend State and County process meetings at the same time. I think we should go through with the State one first and if that one doesn't pass, we don't even need to do the County process. But if the State one doesn't pass then -- I mean if it does pass, then we can look at the different steps in the County process and that way it's like a double process. But I think if we do it all one time, the community members is not going to have a chance to -- to know which one is which, and the difference between, oh, I thought we just had that meeting last week. Oh no, this is the County one now. Last week was the State. And so I think for a community it might be a little burdensome. That was pretty much what I had to say.

Oh, my major concern about the whole plan is the water issue and the Laau Point thing, I think I was part of a lot of the process, I was the EC board member up until the vote that decided to make this an official plan. I resigned that day because I didn't feel that's why EC was formed. But the -- there were many, many meetings about all of the aspects of the plan except for Laau and water, and those are stated, oh, we'll talk about that at the end. But once all the planning was put into time, all the numerous meetings for the other issues, there wasn't a significant amount of time put into the Laau and the water issues. It was like, oh, we approved this whole this already so this is what you got and let's move forward on it. So I think I really concerned about the withdrawal of any water from the aquifer without further studies, especially going against the already stated Project No. 7, EC moratorium. I think that withdrawal of brackish water is even worse than fresh water cause it takes away the buffer zone and would -- I feel that it would severely impact my ability to farm taro on the east end. Mahalo.

Mr. Ribao: Thank you. Lori Buchanan.

Ms. Lori Buchanan: Lori Buchanan. I'm really glad Gandi brought that point up cause that was my first point was the concurrency of the review and maybe this is a question for Corp. Counsel. We all knew that the concurrency is a benefit of the developer because time is ticking and we all know time is money. His concerns are valid and if it's not written in stone, it's not a legal obligation for this board to review the process concurrently, I would hope that this Commission would consider reviewing the three processes that PBR stated after the Land Use Commission decision came down. All his reasons are really valid. This is Molokai, I know, I live at meetings. And after spending about six, seven years of my life reviewing, I've had the opportunity to review a lot of EA's and EIS, and what Gandi called a lot of repeat, it's called fluff because make 'em fluffy. So anytime you get one document this large, you know there's a lot of fluff in it. There's stuff I can just open and see that I've read several times, archaeology, you know, State Historic Preservation, they kinda all the same and they all get blurry after a while, and then you tend to skip over them and then less than half of the document is real meat. But, anyway, that is a concern, and if Corp. Counsel can answer that first concern about why this board has to run the three permits

or review them concurrently, can you answer that? Flip 'em over. Thank you, Planner McPherson. Mahalo.

Mr. Hopper: The process is, basically, that the State Land Use Commission is the only one that has the authority to grant the first permit and it's only until after that decision then the County Council will have -- would be involved in the next step, which would be the -- which would be the zoning amendments as well as the change in the community plan. At this point, there are only comments made on the document by the Commission to address what the Commission believes are inadequacies in the document and things they want to have addressed and then that goes before the Land Use Commission for them to make the decision on. The law is written that way. The intent behind the law, perhaps, there is some legislative history on it, but it's simply what the law states right now and at the next level, it will be the County Council's decision whether or not to -- whether or not to amend the community plan with input from the Planning Commission, and then we get down to the SMA process, it will actually be the Planning Commission's final decision whether or not to grant the SMA. And when those -- when those opportunities come up, they'll be looking at, basically, the same information that they are commenting on right now, so it would behoove the developer to -- to put, to address those comments because this is not the last time that the Commission will see it. It's going to come back before the Commission several times, and if there are comments of the Commission that, you know, that point out inadequacies of the document, they're going to -- the developer will have to address them where the Commission, you know, the Commission will have to vote on that issue. But as to why there's different tiers of review, it's simply the way the law is written right now and the legislators, you know, came up with the law for, you know, the reasons that they felt that would make the process make the most sense but that's all I can comment on the law as it exist.

Ms. Buchanan: Okay, thank you, Corp. Counsel. So the short answer is no. No, they don't have to. They're not subject to review this concurrently.

Mr. Hopper: They only -- right now, no --

Ms. Buchanan: Okay, no. You heard that? No, you don't have to review this concurrently. You can wait. The final, he just said, the final draft they have after the --

Mr. Hopper: Oh no, they have to give the comments to this draft --

Ms. Buchanan: The comments on the draft.

Mr. Hopper: On the Draft EIS.

Ms. Buchanan: Right.

Mr. Hopper: Yes, and you know --

Ms. Buchanan: And they going do that.

Mr. Hopper: Yeah, they have to make the comments on the Draft EIS.

Ms. Buchanan: And they got by February 6 to do that?

Mr. Hopper: Yeah, but --

Ms. Buchanan: Okay.

Mr. Hopper: But there's no other decisions --

Ms. Buchanan: Right.

Mr. Hopper: That the Commission's going to make until it's before them on the other -- other issues.

Ms. Buchanan: Okay.

Mr. Hopper: Cause the Land Use Commission has the only authority at this stage.

Ms. Buchanan: Okay. So that's my understanding, okay, and that's why I was sitting down and wondering about all this time. You don't have to stress out. You -- that's my second thing. We'll jump into that. Your planner just said that she's asking this Commission to supply comments and we're going to go with the legal. They have a legal right to the February 6 deadline. I not going even beat them up and ask them for one 60-day because, legally, they have till February 6, and if I'm going to comment, I'm going to do it before February 6. I'm going to go online to the QECC website and give my comments online. You can do that. I've done it many times before, okay. Very simple. The rest -- and I would hope that this Commission and Chairperson Ribao would -- would consider doing the same thing you did when you were faced with the housing decision where Chairman Chaikin and Chairman Vanderbilt did a excellent job, I felt, of reviewing that policy that came before this board, was a very tough policy to review, and you formed a sub-committee to review that. I would also suggest or hope that this Commission would consider again, hopefully, you know we all get so much time that most of you, if not all of you, would make time before the February 6 deadline to sit down, as a sub-committee, to give your comments to your Planner McPherson to help her out because she just stood here and just asked you guys to do that because it's not her comments, it's your comments. This is your Commission. It's your comments. We cannot depend on her to give our comments for ourselves. So I would hope, by the end of this day, a motion would

be made by this Commission to form a sub-committee that would meet and come up with a solid document that would state your concerns with the Draft EIS, okay, that's the second thing.

And to get back to the item one about the concurrency. After the Draft EIS is done, they're going to go for a final, right? So the Land Use Commission, you heard, has 365 days to review that final draft document. What is 365 days? It's a year. It's a year before you even have to go and start fulling around with all this stuff and having to stress the community out about community plan amendment. Why we going do one community plan amendment when our general plan advisory committee is meeting right now to do the plan amendment? You just stressing everybody out. So that's my -- that's my two concerns right there, okay?

I have a third concern, mostly it's a comment for the people that I've heard oppose the Laau development and the plan. Just as Molokai Ranch has come up here and presented their whatever to the board, anybody in this community can. If Ho`opekele Aina anybody want to come and be put on this agenda, request that. Then your point can be made and you can do it within three minutes and the buzzer start buzzing over there. That's my suggestion. So there you go. You're not bound to be stressed about anything, okay? I going give comments cause I get months to give comments on the master use plan but I tell you right now, I going review this document and I going give my comments by February 6, and I hope this Commission does the same because he only has to February 6, legally, for you to respond to the draft. Once the draft is done, they're going to do a final, okay, and that's it. Once the final is done, it's final, that's why they call it final, but -- so that's the most -- the two points that I like bring to you guys. Go on QECC, do your guys comments on there, form your own organization to see these guys, you guys wait till the 365 days is up before you even start stressing out our community whether we have to amend our plan, and then the first and most important, form a sub-committee to do your document to your planner for submission to them. Thank you very much.

Mr. Ribao: Okay, thank you. You have question, DeGray?

Mr. Vanderbilt: No, but I have a comment to Corp. Counsel that's relative, I think. Corp. Counsel, if Molokai Ranch wants to file while the Land Use Commission is reviewing the document during their 365-day period, which has come up, I don't know even know where that comes from, but during that period, can Molokai Ranch file for a community plan amendment and a change in zoning, and the process start concurrently while the Land Use Commission is looking at it and we have to hold public hearings on those two applications?

Mr. Hopper: I believe they -- they -- I believe they have to wait for the --

Mr. Vanderbilt: Land Use decision?

Mr. Hopper: Yes, I believe that they do before the process can continue. Perhaps someone from Planning Department could comment as well.

Mr. Yoshida: I believe that they can concurrently process the community plan amendment and the change in zoning while the Land Use Commission is dealing with the district boundary amendment. Again, the community plan is the land use decision making guide; that's one of the decision making criteria for the district boundary amendment that it is consistent with the general plan and the land use decision making guide. You know, they would be amending, I mean if we talk about home rule, they would be amending the community plan to conservation and rural and that would serve as a guide, in terms of the district boundary amendment. Now, the Council cannot act on the zoning change until the Land Use Commission has changed the district boundary amendment because if it's still in the ag, the County cannot -- the Council could not zone it to rural. But we could process the community plan amendment. I think the Land Use Commission, because the County is going to be a party before the Land Use Commission as well as the Office of Planning and whoever intervenes, and they'll be looking to what is the position of the County on the district boundary amendment, and one of the things that the County would have to look at is does it conform to the community plan and the general plan.

Mr. Ribao: Okay, thank you, Clayton. Byron Santiago.

Mr. Bryson Santiago: Bryson.

Mr. Ribao: Oh, I'm sorry. Bryson. Sorry, Bryson.

Mr. Bryson Santiago: And the next person on the list was by brother, he not here, but he told me speak in his place too. You know, ever since I heard about Laau Point being developed or wanted to be developed, the main name was the ranch. They don't deserve the name "Molokai Ranch." We asked the EIS for your guys extension so that you guys can look at all the stuffs that stay down Laau Point besides just the ...(inaudible)... you know, get Hawaiian plants down there that you guys can use for medicine, any kind stuff down there. The EC, the Molokai planning land commission, and the ranch, they all no like listen to us. We like you guys listen to us. At least somebody. What is this plan is all for? What this plan is all for? For nothing. That's all for money. You guys look at each other, you guys say all this kind, I don't know, abbreviations. I no even understand what you guys talking about.

This place, community, you guys don't even know what is community. Look this meeting, right here, right now. You guys put 'em at the time that everybody else stay working. Community. Public speaking. We get time limit. We gotta sign in. Again I say you guys don't even know what is Molokai. The ranch has stolen so much stuff on our land, you guys don't even know. Walk inside their Outfitters, they get the hooks from Kawakiu that

they not supposed to even take. That's environmental. Leave our stuff alone. Kolo Camp shut down. What they get down there? All their rubbish. They no even clean `em up. Paniolo Camp shut down. What they get down there? All their rubbish. You know why all that place is failing? Cause they taking our land. All that place going fall. And if you guys not going listen to us, then we going have to go to drastic measures, and I no care if I get arrested, I no care if I get shot, killed, burned, anything. These guys not going take nothing from me. Nothing from our people. They dividing us. What we gotta do for you guys to step in to shut this place down? Shut them down. They took so much already from us. They claim they own how many lands around here. They no own nothing. They stole everything. Now if somebody as young as me gotta come in here and tell you guys how for do all of this, then I going bring more young guys in here for tell you guys. You guys say this planning if for keiki. Go to the high school, that's all keiki. The elementary school, that's all keiki. And you ask them what they like. They going tell you they no need no more stop signs. They going tell they no need no more buildings over here. Everybody like build. They build their houses higher and higher just for get one view of the ocean. You like see the ocean, go to the beach. Brah, day after day, week after week, month after month, we stay over here planning and planning and planning, plan for see how we can stop this place, this ranch.

All you guys boards, I don't know what you guys for cause none of you guys listening to us. None of you guys letting the community come in here. You guys going grumble about the community not being here, then make 'em at one time that the community can make it and put it out for the community, put it out in the newspaper. We asked the EIS for the extension. Extension. That's all we asking. What I going tell you guys is this. They not going win. Anybody else against us, they not going win. All these places going fall, just like how all the other places went fall. Look into this heart. Molokai is the heart. I say that again. Molokai is the heart, not the ranch. They on the rear end of everybody else. Listen to all of us. Listen to all of us. Help us. Help us win this fight. They say they going give our lands back. They not going touch any other lands. But what going happen when this guy, Peter Nicholas, who not even here, not even running this place no more. What going happen when most of the EC board members is gone? They no can control our destiny. The people going control the destiny, not board members from any place, MPL, EC, or whatever, EIS, anybody. Molokai run this place. The people run this place, not no board.

Mr. Ribao: Okay, thank you very much. Okay, Tyson is not here so we'll go to Kelly Richardson.

*(Commissioner Joseph Kalipi left the meeting at 3:03 p.m.)*

Ms. Kelly Richardson: Aloha, my name is Kelly Hokulani Kaawa Richardson, and born and raised here. I'm a teacher, but if you're going to get me fired by saying anything not -- that's not supposed to be said, and, most importantly, a mother of two boys, two young

boys, six and three. I'm -- hard to follow that act because that was kind of emotional and he's -- he's right though in a lot of ways. I work in a place where I work with youth and just understanding systems is a big deal, and very confusing and frustrating, and once you start learning about the, at 30 years old that I am, it can be cumbersome and it's a lot of fluff, and so sometimes we get frustrated and we just wanna get to the meat of everything, yeah? And, basically, what I wanted to say to the -- in regards to the EIS is, as I read through it last night, there was a lot of redundancy and it reminds me of what the educational system is going through cause we do this, it's like layers of stuff, and you miss, you don't see the real or get to the real impact of things, and all it is is a nice paper, and a nice thick five-inch binder that no one ever looks at again next year.

So couple of things the EIS, if you can just -- I know there's probably like one software that you just go on and you just type in the template, right? I'd like to see a little bit more fairness in it in regards to like you list a bunch of meetings and hearings that the community has been involved in and participated in, but it's not written where what the community feels or the majority opinion that was presented by community members and I'd like to see more of that in there. The projected developmental cost is about 89 million dollars, and Kip Dunbar brought up a real good question about what is the estimated profits that you guys wanna see, and that's a lot of money. I think it's like between 300 and 400 million dollars, even more, I don't know, I not one developer, but it's a lot of money and I don't know if our island, no, I know that island's not willing to give up that part of us, okay.

So little bit more honesty in the EIS of both sides presented. I got a chance to hear like the videos presented by the ranch and the idea of controlled development and the land trust seems really enticing, but I don't know if you see the bigger vision of the future and the rippling effect that that -- it will have 50 years from now. I don't think developers see that much. All they see is money. And to -- to lean back on employees, you know, putting the pressure more on employees and how much employment it will provide, that's a cop out, that's temporary. And I just feel that it needs to be more fair in every aspect that you write in this EIS. And that's it. Thank you.

Mr. Ribao: Thank you. Any further public testimony? Okay, go ahead. Please state your name when you come up.

Ms. Glenda Mowai: Hi. My name is Glenda Mowai. I've been away from Molokai for a while but it's really good to be back home. I've been watching AKAKU for the last year on -- from Maui to keep up with what's going on over here and, to make it short and sweet to you guys, I think you made a big mistake buying this property and now you're kinda stuck because you gotta make the money, just like everything else, it always gets back to money. And what is really, to say it nice, making me angry about this, to see how now the people gotta suffer because of it. People on this island have been divided up because of it. And I think what you guys need to do is to figure out how to make things right because,

just like the brother said, this is all -- this is all Hawaiian lands, it was stolen property, and you guys got caught up in it because you don't know the history. You gotta go back and you gotta read the *Queen's Story* by the Queen and find out how Hawaii became a state and how all of this and how we all got caught up in this. And I don't know how to make things right. I don't have the answers. But I think you guys really gotta figure out how to -- how to make it pono for everybody, on all sides, and it can be done. It's going to take sacrifice. You guys might just have to realize you made a mistake. A big money, down the drain, mistake. I know it's easy for me to sit up here or stand up here and say it cause you guys gotta be the one suffering for it, but I much rather see you guys suffer for it than the people here. I've been here for generations and generations to come. It's good to be back home. Aloha.

Mr. Ribao: Okay, thank you. Okay.

Ms. Loretta Ritte: Aloha, my name is Loretta Ritte and a resident of Molokai, and one of the first questions I wanna ask is it set in stone that these meetings have to be conducted at 12:30 on workdays?

Mr. Ribao: No, it can be changed. If we do have like public testimony, in this case, that's something we'll consider maybe moving it to an evening meeting.

Ms. Ritte: Okay, cause there were some people who were here that said if I went up to speak to ask because they had to return to -- and I know that you said they could speak earlier but there's some people who weren't able to come. So I think that's important that we give the public, you know, the opportunity to give testimony.

I wanna speak in regards to the EIS and I wanna say that Molokai Ranch has held Molokai captive, like ransom, in ransom, for 30 years, and they've always threatened us with the so-called jobs, and most of their projects have always been because their workers need jobs. And, as far as we can see in the last 30 years, you know, they did the tentaloos and that's not operating except for one. They opened up The Lodge under community -- the community said they didn't want that kind of a development, but they opened it up nonetheless, and they're running in the black, and they're not doing well. And so here they are again holding us captive and saying that if we don't take this, then we're taking away the opportunity for people to have jobs, and I can, you know, be sentiment about that, I can feel for them, but we're tired of that game. It's like you have to be responsible. We're all responsible. We all have to pay bills; we all have to take care our aina; we all have kuleana. You should take care of your kuleana too. Okay? So don't hold us captive.

And as far as legacy lands, as you were showing the map, you were saying Kawakui, there was going to be a proposed development. What happened? Collette led the troops against that. Kaiaka, the same thing. This community fought for those places. Naiwa.

Ka`ana. Ka`ana, it speaks for itself. But the same thing is going to happen to Laau. That's legacy land. I don't know how you can exclude Laau as not being legacy lands. So that's what's going to happen. We're going to fight like we fought for all the other developments and I, personally, don't believe this is going to be the last development. I, personally, don't believe that this is going to be forever. There's always going to be a businessman who's going to come here with more money and more lawyers than all of us, and they're going to try to do the same thing over and over again.

So I also would like to ask for a 60-day extension for the EIS for the community response beginning February 6. I think it's really important that we be given the opportunity. I don't have a computer like you, I'm computer illiterate, most of us on Molokai, you know, and it's okay, it's okay, but give us an opportunity too just cause we're not up with the technology doesn't mean we don't wanna be involved. So please give, you know, we request that you would extend the 60-day period for community testimony. Mahalo.

Mr. Ribao: Okay, thank you. Anyone else wanna testify? Okay.

Ms. Ruth Manu: Aloha, I'm Ruth Manu. We, me and my sister, would like to have one of these books so we need to read it. We really truly wanna have it. We are only mostly concerned about the water. That's the main, main most important reason for us. But, right now, I wanna ask ...(inaudible)... Molokai Ranch, or my cousin, whoever, we need to have, both of us need to have one book for ourselves cause we live in separate houses and we communicate real well so we need to have one. Only my concern for Laau Point is the water. Aloha.

Mr. Ribao: Thank you. Anyone else? Okay, Clayton?

Mr. Yoshida: I'm not hear to testify, Mr. Chairman, but just a point of information. I guess I have my resource person here for Item F.1. on Panda Ranch Commercial Tours, but she lives in Lahaina and she has to catch the 4:00 ferry, 4:00 boat back to Lahaina, so I don't know if you wanna deal with that now or --

Mr. Ribao: Okay, why don't we deal with it. We'll take this agenda out of order. You can testify and catch your 4:00 boat. Oh, who is that? Oh, okay. Sure.

Mr. Yoshida: From our zoning division, Zoning and Enforcement Division, Tammy Osurman, she's an inspector, and she has some familiarity with this Panda Ranch Commercial Tours investigation.

Mr. Ribao: Okay, and then following that, if there's no further public testimony, we're going to take a short break and then we'll continue this, okay?

## **F. DIRECTOR'S REPORT**

### **1. Panda Ranch Commercial Tours**

Ms. Tammy Osurman: So you guys just want an update? Okay. My name's Tammy Osurman. I'm the Zoning Inspector. I have dealt with the complaints since June when its come in. I've been out to the site twice and I'm sorry to say I have not seen any activity on the site. I need proof of commercial activity. I need a receipt. I need someone who has been on there. I cannot prove that it is a commercial activity. When I have that proof, I can send the second notice of warning. The owner has called me and says that all commercial activity has stopped. I mean it's just what he's told me. And he has permits to build the runway. He has permits for his house. And so, basically, I'm here. I went again today. There was no one there. If you can lead me down a different path, I could do that. I've read the State Department of Transportation, but that is the State's Department of Transportation, and all I could see is that maybe he has to apply for a tour aircraft operation permit. I read everything that has come my way. I have no proof. I cannot harass him and ask him to do as such.

Mr. Ribao: I have a fast question. Is he advertising anything in the paper or anything?

Ms. Osurman: I have not found anything in -- I have called, in the Internet, I have looked up Panda Ranch and I have called the numbers. I have called Atlantis Submarines. I have called Cabana Days, I think. I have called all the little points of connection. Corp. Counsel says that a website is not enough for us to -- to press him on it.

Mr. Ribao: Yeah, but if there's a website, there's a phone number that you can call.

Ms. Osurman: I have called all those numbers.

Mr. Ribao: And what about sending someone in undercover and doing a tour?

Ms. Osurman: I volunteered to go. If you wanna sponsor me, it's \$500 and nobody -- it's a 500 --

Mr. Ribao: I wanna ...(inaudible)...

Ms. Osurman: It's -- there's a price, okay, but no one has -- I have called. I have called. I have asked if I could make reservations, no one has -- they says, "Oh, we don't have that activity on our agenda anymore. That person's on vacation, he'll call you back." No one's ever returned by call. I have tried. I have tried. I figure if I could make a reservation, it's already proof.

Mr. Ribao: Okay.

Ms. Osurman: So, if you find somebody else to make a reservation with a receipt, as long as you get me a receipt, I can then move the ball.

Mr. Vanderbilt: Mr. Chair? I wanna thank you for all your follow up on this on behalf of the Commission and the community, which lodged the first complaint, but you mentioned that you talked to Mr. Weiser is it? And he said that he stopped commercial activity?

Ms. Osurman: Right.

Mr. Vanderbilt: So he was -- he admits that he was doing them before then, right?

Ms. Osurman: Well, I sent him a NOW, a Notice of Warning, that says cease and desist commercial activities.

Mr. Vanderbilt: So, no, but that's what the Planning Commission is here for because the County has told us on numerous times that they will not enforce anything on this island, everything's complaint driven, and so it was somebody made a complaint, we followed up, and I guess you did the best you could, but he said he stopped commercial tours so I guess the community's gotta keep --

Ms. Osurman: I sat out there today. I followed --

Mr. Vanderbilt: Thank you.

Ms. Osurman: I looked for the helicopter. I followed the helicopter. They were doing filming along the bay so -- so I'm sorry. I do my best. Like I said, if you can.

Mr. Chaikin: Thank you, Mr. Chair. Tammy, I just wanted to thank for coming because all of this time, there's been kind of this phantom idea that there actually is an enforcement division, so to actually see you here and to hear you and see that you've actually been doing something is a great strive forward.

Ms. Osurman: We have two full-time inspectors for three islands so I am up to my ears full of complaints.

Mr. Chaikin: Okay.

Ms. Osurman: Alright.

Mr. Chaikin: Well, it's good to know that you exist --

Ms. Osurman: Okay.

Mr. Chaikin: So if something comes up that we can deal with it. But I would like, you know, we've had this on our agenda every time now, and it's really going nowhere, so I would suggest that, you know, us, as a Commission, we agree to take this off of the agenda, the future agendas, until, you know, we get further complaints from the community or some new information arises that we should put it back on the agenda.

Mr. Ribao: I agree. We'll take it off the agenda until we get more complaints ...(inaudible)... comments you wanted to make?

Mr. Caree: No, it's cleared up. Thank you.

Mr. Ribao: Okay, any further public testimony? If not, I'm going to take a break. You wanna talk again?

Ms. Buchanan: ...(inaudible)... first.

Mr. Ribao: Okay.

Ms. Buchanan: Yeah, real fast. It's funny. No, Tammy, she went try make reservations after she went serve them one notice, from the County phone, dah. No, sorry, Tammy, only playing, playing. Okay, anyway, and that big complaint letter came from west end residents that had PUC numbers on the vehicles and the times of the tours, and let's not forget the plane went crash with people on top.

Okay, anyway, before you guys leave today, I just wanted to reiterate, yeah, I hope you make one motion to form that committee to come up with the document. Number two, please don't be bullied into doing something you are not obligated by law to do, okay.

And, number three, Linda Dunn. This is for Steve, you mentioned because the SMA you can put conditions on a SMA permit, and the big example for most of you, and the only one who was not familiar with that at this time was probably be Steve, a good example is Neighborhood Store. Remember the Neighborhood Store? That permit was not a transferrable SMA permit, okay, so when one -- when the Castanera's sold it, that lady had to go through the whole process, okay? When she sold it to the Takata's, they had to go and have a transfer of a permit, okay? That's a condition. When you do have to go through the SMA, the nice thing is you can make a condition. What that condition might look like for Linda would be, oh, after five years of no complaints, or if we have a complaint, you going be obligated, at your cost, to dismantle your house in a environmentally friendly way and get it out of there. And then it would be up to Corp. Counsel to figure out whether

that condition was okay and legal. So that's how it works. And that's just for Steve's benefit. But that whole Neighborhood Store is a good example. Okay, thank you.

Mr. Ribao: Okay, thank you. Okay, very good. We're going to take a five-minute break and come back and try to wrap this up.

*(A recess was called at 3:30 p.m., and reconvened at 3:50 p.m. Commissioner Napoleon left the meeting during the recess.)*

## **CONTINUATION OF ITEM D.2.**

Mr. Ribao: Okay, I apologize for the delay but we -- Corp. Counsel is checking on something but we're going to get started because we cannot be here the whole day. I'm going to open it up to comments or -- I think we're done. Do we have anymore public testimony before I open it to comments from the Commission? Nancy, you wanna say something first? No? Okay. Commissioners, you're up. You folks have any comments, recommendations on a time line or anything?

Mr. Chaikin: Yeah, I think we need to get some clarity on how we're going to come up with all of our comments and how we're going to present them. We're really running out of time and, as you look on the agenda, we have one more meeting scheduled so we need to talk about that too, but I think first we need to discuss, you know, how we're gonna get all of our comments together. You know, one time we got a committee to get all of our comments together but I guess what I'd like to do is ask Clayton or someone from the Planning Department about our comments. I just wanna clarify that we, as individual commissioners, do we come forward with each of our own comments and then join them together and submit them, or do we have to vote on all of our comments collectively and accept them as a group?

Mr. Yoshida: Mr. Chair, Commissioner Chaikin, I believe that the applicant is asking for comments from the Planning Commission. You know it would be good if we could get collective comments that you folks agree on and we could transmit that in a letter to the applicant and to the State Land Use Commission. You know, we'd ask maybe if, between now and the next meeting, as Nancy had previously stated, if the commissioners could come to the meeting with their individual written comments.

Mr. Chaikin: Okay, I guess what, well, I've heard two different things. I heard you say that we should come with our individual comments, and then I heard you say that we should agree on our comments. Do we, as a group, need to agree on each other of the commissioner's comments, or can we just, as individual commissioners, join all of our comments together and, without even reviewing the other person's comments, submit those?

Mr. Yoshida: I think it's, you know, typically, by consensus of the body. I mean they're looking for comments from the body, the Molokai Planning Commission, if you have at least a majority, five of you, agreeing. I mean, typically, you know, we would sort of have a laundry list of the comments from what we hear and kinda run it pass the Commission and say, you know, does this sound like these are your comments on the document.

Mr. Chaikin: Okay. Well, I think what I'm hearing you say is that we, as a Commission, need to bring up all our comments and then we need to somehow agree and put our comments together as a Commission, which means that we need to have a vote and submit it that way. I mean is that how the Planning Commission sees that? I mean the Planning Department.

Ms. Colleen Suyama: Well, can I -- can I also recommend something to the Commission? To make it -- to expedite it, you know, through the process because you have such a short time line, can you get maybe what all of your individual written comments are to Nancy by a deadline, which is maybe by the 16<sup>th</sup> or the 17<sup>th</sup>. She can compile all the comments of the Commission together, and send that out as part of your agenda packet. And that way, at least in advance, you know what, you know, the total comments that are coming out out of the Commission itself.

Mr. Chaikin: Okay, so is that -- that would be before our next meeting. Is that what you're saying?

Ms. Suyama: For our next meeting that we get at least, you know, it may not be the total comments you have but at least as much of it as possible that at least the other members know, you know, what everybody else is thinking about or what they're comments are so that when you're trying to get consensus, you know, among the Commission, you already know, have an idea of certain things, whether you support it or don't support it, or you want amendments made, you know, to the recommendation.

Mr. Chaikin: Okay, I see.

Ms. Suyama: You know, I realize it's a very, you know, large document, but if we can get as much information up front, you know, for the rest of the whole Commission, I think that helps the process.

Mr. Chaikin: Okay, well, thank you for your input. So I guess what she's saying is that we should submit comments to Nancy so she can put them together, you know, for our next agenda for the next meeting, so I guess that doesn't leave a whole lot of time for us to get our comments together based on the current time frame that we have to deal with. Now, I know that members of the community has set forth a request to the ranch to, you know, extend that deadline and they haven't -- we haven't yet heard a response from them. So

I guess, at this point, we need to, unless the ranch is going to stand up and say something at this point, we need to move forward with the deadline that we have.

Mr. Vanderbilt: I think we ought to just ask the ranch. There's been a lot of public testimony. When John stood up before he mentioned he had heard somebody had talked about an extension but in this meeting today, we had several people stand up, understand that the Governor's Advisory Committee is requesting an extension and Mr. Young at DLNR, so maybe John had a change of heart here.

Mr. Sabas: At the present time, we'll hold to our deadline of February 6, and then we'll take it under advisement.

Mr. Vanderbilt: Thanks, John.

Mr. Chaikin: Okay, it sounds like we've got a pretty short time frame to deal with all of our comments and one of the important things is we, as a Commission, represent the community, so we really need to give the community ample time to come before this Commission and provide, you know, input on this. So we really need to talk about the available dates that we have and whether we're going to stick to our -- the meeting dates that we have previously put down, or are we going to change our dates and provide an evening venue so that, you know, the public has a, you know, a better opportunity to come and comment on this issue.

Mr. Ribao: Okay, we talked about that during the recess and we're going to hold our next meeting at QLCC, the conference room, that's on January 24, and we're going to start at the same but if we gotta run late, we'll run it all through the night if -- if necessary. Any chance of changing the time to a later time, like maybe about 3:30 or something like that, so people can come in later?

Mr. Yoshida: I believe it's up to the Commission. You know, we are prepared, well, we have reserved the room until 9:00, from 12:30 to 9:00.

Mr. Vanderbilt: Is this place not available?

Mr. Yoshida: I believe someone is using this hall from 2:30 on, so we would only be able to use it from 12:30 to 2:30.

Mr. Chaikin: On what date is that?

Mr. Ribao: 24<sup>th</sup>, January.

Mr. Yoshida: I'm sorry, January 24.

Mr. Chaikin: Oh, so we didn't reserve this room before or --

Mr. Ribao: No, I don't know.

Mr. Yoshida: I guess there was some kind of mix up so we had reserved the DHHL conference room instead.

Ms. Machado: It's OHA, DHHL OHA.

Mr. Yoshida: Oh sorry. OHA DHHL conference room at the Kulana O Iwi, from 12:30 to 9.

Mr. Vanderbilt: Were there any other dates that this -- were there any other dates that this -- when was our next meeting supposed to be?

Mr. Ribao: The 24<sup>th</sup>.

Mr. Vanderbilt: The 24<sup>th</sup>. Was it available on the 22<sup>nd</sup> or 23<sup>rd</sup>? Did anybody --

Mr. Yoshida: I don't know. We'd have to check with Parks but, again, for us, the 23<sup>rd</sup>, typically, is the regular Maui Planning Commission --

Mr. Vanderbilt: Oh.

Mr. Yoshida: Meeting day and so we would be splitting the staff.

Mr. Vanderbilt: So it could be the 25<sup>th</sup> though maybe if you could --

Mr. Yoshida: Possibly. We can check on availability of other meeting rooms.

Mr. Vanderbilt: Cause that's kind of a small place up there.

Mr. Yoshida: If the Commission has any other suggestions as to the meeting place, we can try to check for those.

Mr. Ribao: What about Kaunakakai School?

Mr. Yoshida: What kind of --

Mr. Ribao: The school up here, Kaunakakai?

Mr. Yoshida: Yeah, I guess probably after school hours.

Mr. Ribao: Yeah.

Mr. Yoshida: We'd have to check on that.

Mr. Ribao: Yeah, can you guys do that, see if we can get maybe an evening meeting in a larger place? If you can't, well, we just gotta make due with what we have.

Mr. Vanderbilt: Or change the date, right?

Mr. Ribao: Yeah, if you wanna change the date, yes, that's fine also.

Mr. Vanderbilt: I think it's important that we give the community an opportunity to come to this meeting at an evening meeting so everybody that's works has an ample opportunity to attend. So I think, you know, if we can at least have one meeting in the evening before we have to submit our comments, then, you know, we would have at least given the opportunity to the public.

Mr. Yoshida: Well, could we start maybe late afternoon, like 4:00, and then kind of run it from that time because if we start it at 7, then, you know after 10:00, a lot of people, you know, they have to go to work or whatever the next day?

Mr. Chaikin: I think that's acceptable.

Mr. Ribao: Kip?

Mr. Dunbar: So, Clayton, at this January 24 meeting, you're anticipating the review of our questions? You're anticipating an acceptance of the EIS depending on acceptance of our questions? I mean what, on the 24<sup>th</sup> meeting, what are you anticipating to get done, more public comment as regards to the EIS?

Mr. Yoshida: Yeah, that's what I'm, in part, that's what I'm hearing from the commissioners that they want to afford the public another opportunity to testify, perhaps, during some of the evening hours so more people can come out after work, but also, I guess, if we follow Colleen's suggestion, we'll try to, you know, consolidate your comments into some sort of letter or, you know, for presentation to the Commission and see if we can reach some kind of consensus on that if the --

Mr. Dunbar: Yeah, well, what I thought I heard with that was that we were going to get our comments and questions to Nancy by, let's say, January 19, and then she was going to formulate them into some -- some hierarchy, I guess, probably in accordance with how this EIS is split, and then, you know, give us what all of our comments were in -- what, on the 24<sup>th</sup> or before? You're going to -- someone said it's going to come out in our packet.

Ms. McPherson: No, what I'd like to do is, what we'd all like you to do is provide comments in writing to me by 16<sup>th</sup> of January, that'll give me two days --

Mr. Dunbar: You don't wanna give us an extension, huh?

Ms. McPherson: Can someone give me one? That then I can process those. I can look at categories, you know. I'm going to be looking at this, you know, Section 200 portion of HRS 343, which talks about how you analyze an environmental document and how you determine if it's adequate and if it's adequately addressing impacts and that sort of thing, and so framed in terms of that kind of analysis, what I can do is I can bring in the public comments that's I've heard today, the comments that you come up with and give to me in writing by the 16<sup>th</sup>, and, you know, I'll have my comment letter. I'll put yours together as like a big draft, you know, put "draft" all over it, but then you get that in your packets, so you'll be getting that six days before the -- or it's mailed out six days before, yeah, so they get it -- six calendar days so you get five, about five days before the meeting --

Ms. Janice Kalanihulia: Four.

Ms. McPherson: So then -- yeah. Oh, does it take that long? Really? Oh man.

Ms. Kalanihulia: Yeah, it goes to Honolulu first.

Ms. McPherson: No? From Maui? Oh. Okay, well, hopefully, it'll give you enough time to read them over so you can see what everybody is saying, and then when you come back here at the next meeting, then what we would like you to be able to do is, you know, be able to agree on the comments that you all want to endorse, I guess you would have a vote, you know, in order to approve that, and then that would be forwarded to the Land Use Commission, and we would also be sending our comments. I would be doing that on behalf of the department, Planning Department.

Mr. Dunbar: You see, what I kinda think I would like to see is that I'm sure that, perhaps, when I read other council member's questions, it's going to prompt other questions by myself so --

Ms. McPherson: Right, and then you can bring those up at the next meeting as you folks are discussing the comments you wanna submit.

Ms. Kalanihulia: But then when -- when will we incorporate what the community is going to tell us that evening because what you're describing is a whole meeting or plus? So then we're also going to have public testimony that evening and then how do we incorporate that into the package? It just doesn't, in terms of time, it doesn't fly.

Ms. McPherson: We'd have to do it right there, that night. Yeah, although --

Mr. Vanderbilt: So if somebody puts in some relevant testimony, we could suggest that it be attached to the Commission's testimony by voting or something?

Ms. McPherson: Yeah.

Ms. Suyama: Because you're soliciting public comments, you could include whatever, you know, potential comments that you agree with as part of your letter to the Land Use Commission as well as to the applicant in response to the EIS document. I know, you know, I mean this is a really accelerated, I mean very, you know, I mean very fast-tracking kind of process, but it's a statutory requirement, and because the applicant has already said they're not going to extend the deadline, we need to get your comments in to the Land Use Commission as well as the applicant and OEQC before that February 6 deadline. It may not be complete, but at least it's something from the Commission. It's coming from the Commission. The other thing that I would suggest that because meeting rooms are of an issue as well as a date, and what I would suggest doing is that maybe leaving -- authorizing the department to look for an adequate meeting room, establish what would be the time for it, which is maybe a late afternoon meeting that would run into the evening, and I would also suggest that, as a back up, because you're not sure how long that meeting will last in terms of public testimony, that we also reserve maybe the next day as a potential meeting to recess so that you can continue public testimony or continue discussions. So, in other words, if we start on the 23<sup>rd</sup>, it would be a meeting on the 23<sup>rd</sup> and the 24<sup>th</sup>, potentially, so that you know what your schedules are going to be like and, you know, probably. If it's adjourned, I mean recessed to the 24<sup>th</sup>, it will be sometime whether in the morning or in the afternoon, I mean you have to give us some indication.

Ms. Kalanihulia: This is such an important issue and I would think, John, that you wouldn't want another thing for people to say, "See the ranch didn't do this in a pono way. They're not even giving the Planning Commission enough time to gather all the information or the comments they need." You know, maybe you don't wanna give us 60 days, but maybe you could give us 30 days, or two weeks, or enough time so that we can feel as though this community will be able to give us their mana`o and will be able to sit down and discuss that in an open forum and put something together to get back to you.

Mr. Sabas: Yeah, like I said earlier, we'll hold to the deadline right now, and we'll take it under advisement. We'll discuss it ...(inaudible)...

Ms. Kalanihulia: When could you tell us if you were going to change that date?

Mr. Sabas: I can't tell you right now, Janice.

Mr. Chaikin: Well, let me just say that we have -- we have a meeting scheduled on, let's see, what is that? the --

Mr. Vanderbilt: 24<sup>th</sup>.

Mr. Chaikin: 24<sup>th</sup> and the next one after that is what date?

Mr. Ribao: February 14.

Mr. Chaikin: 14<sup>th</sup>. And the deadline is on the 6<sup>th</sup>, right? So, theoretically, we don't have to wait two weeks in between meetings. We could schedule or move a meeting up to give us one extra meeting to ensure that we have adequate time to make sure that we do a good job on our comments and get all the input that we can have.

Mr. Vanderbilt: So, Steve, as far as what Colleen suggested, scheduling it maybe for the 24<sup>th</sup> and however you do it so you could go to the 25<sup>th</sup> if needed?

Ms. Suyama: That's correct.

Mr. Vanderbilt: You can do that?

Ms. Suyama: You can because what we would do is that we will keep the second day as a backup in case you're not finished with business that you can at least recess your meeting to the next day.

Mr. Dunbar: So recess the 24<sup>th</sup> and ...(inaudible)...

Ms. Suyama: Yeah, on the 25<sup>th</sup>, so it would be the same meeting. But what it does is that you're receiving as much public testimony as you can without delaying the process.

Mr. Chaikin: Right, but I guess what I'm saying is we have a short deadline and why are we making it way shorter by having our final meeting on, what, the 25<sup>th</sup> or 4<sup>th</sup>, when the deadline is not until February 6? We still have, you know, a good, you know, eight, ten, nine, ten days after that to also be working on this so we really should have our final meeting just prior to the deadline to wrap up any loose ends that we may have.

Ms. Suyama: You could vote for a special meeting, you know, with the Commission, but when it's a new meeting, you must take public testimony again, that's the other thing, you must take public testimony, and that way is that if there's a hundred people that come to testify again, the same hundred people, you must review that hundred testimony.

Mr. Vanderbilt: But in light of that plan to go the 24<sup>th</sup> recessed to the 25<sup>th</sup>, could we recess the 25<sup>th</sup> to the 3<sup>rd</sup> of February?

Ms. Suyama: I don't know. That's something for Corp. Counsel because I know there's some rules about recessing meetings that you have to conduct it within, I believe, seven days of the recess.

Mr. Yoshida: Well, I guess, you cannot have a lapse of more than six days because, you know, on a regular basis, under the Sunshine Law, you have to post an agenda at least, with the Clerk's Office, at least six days prior to the meeting, so you can't say, "Oh, well, we're going to recess for a week," because then, you know, Corp. Counsel is going to say, "Well, you have time to post another agenda." If it's within that six day period like, you know, anything less than six days, you could recess but then, I guess, you cannot sort of repeatedly recess and recess and recess.

Mr. Hopper: Yeah, and within the next six days it still has to be the same subject matter of the original meeting; that's, you know, the idea being the agendas to give the public notice of what's going on. So, as long as you -- it's basically a continuation of the meeting. You have to do it within the six day period. You can have, you know, you can change your regularly scheduled meetings by a vote as long as you post the agenda six days in advance, if you wanna do as you talked about having a February, you know, a February 5<sup>th</sup> meeting or something like that, that's not on the regularly scheduled monthly or bi-monthly meeting, but you just do have to take a vote on that and adopt that.

Mr. Dunbar: Well, yeah, but can you -- you could have your regular meeting on the 24<sup>th</sup>, you could recess until the 30<sup>th</sup>, you don't have to give notice again because you haven't eclipse your seven days--

Mr. Hopper: As along as you --

Mr. Dunbar: If you had to, you could recess on the 30<sup>th</sup> until the 5<sup>th</sup>, I mean you can recess until you're purple.

Mr. Hopper: Yeah, as long as you have -- as long as it's within the six days, you can have a continuation of the meeting.

Mr. Dunbar: That's right. And then you can have another of the 5<sup>th</sup> if you wanted.

Mr. Hopper: And at that meeting, you could say, you know, a motion to continue this meeting until such and such a date. As long as it's within six days, you're fine.

Ms. Kalanihulia: I think the 24<sup>th</sup> and the 30<sup>th</sup> works well.

Mr. Ribao: Okay, so what – we have not decided yet is that do we have to get everything in by the 15<sup>th</sup>, our written comments, to Nancy? The 16<sup>th</sup>, I'm sorry.

Mr. Vanderbilt: Well --

Mr. Ribao: DeGray, let me finish first. You've talked a lot. Let me say what I have to say. Then we're looking at having our regular meeting on the 24<sup>th</sup> at 12:30, and then we can continue within that six-day period and, if necessary, continue again. That sounds good to me. Okay, DeGray, now your turn.

Mr. Vanderbilt: Yeah, but I think that we were talking about we'd try to get as much as we can in by next week with the understanding that we might continue review and when we come to the meeting, we might have additional comments based on our additional review. Is that --

Ms. Suyama: That's correct. I don't wanna tie the commissioners by saying that only what you submit in writing is for continued discussion.

Mr. Vanderbilt: Is there any -- is there any problem with commissioners putting in comments themselves? Say after the 30<sup>th</sup>, you come up with some other comments?

Mr. Hopper: The comments wouldn't be of the Commission because the Commission itself needs to, you know, meet and take action and, at the last meeting before the 6<sup>th</sup>, you need to have a motion and a vote on the motion. I suppose you could submit comments personally, but it wouldn't be the will of the Commission and you, obviously, have to avoid any, you know, prejudicing yourself as far as a future vote or something. And also, just to clarify on the six-day thing, it's not a constant ability to continue to continue within that six days. When you have your regularly scheduled meeting, you can continue to, within that six-day period, but you can't go beyond that six-day period. So you can't have another meeting continue for three more days and then that -- and then continue that meeting for another four days. You have to stay within that original six-day period from the scheduled meeting. You can have -- that's what I was saying earlier, you can have another meeting within that period, but you just have to have an agenda posted and give the adequate notice, yeah.

Mr. Vanderbilt: So we can have the meeting on the 24<sup>th</sup>, recessed to the 25<sup>th</sup>, and recessed to the 30<sup>th</sup>?

Mr. Hopper: Yeah, as long as it's within the six days, that's correct.

Mr. Chaikin: Or the other option is to schedule another meeting, change one of our meeting dates, right? Because I still don't understand the concept that we're already

rushed for time. We have a very short fuse and here we're making decisions to make it even shorter. We have until the 6<sup>th</sup> so we should, you know, use all the -- or the 5<sup>th</sup> or whatever, we have all the, you know, we have all that extra available time that we really should utilize, you know, to give us as much time as we can since we have a short fuse, and that would mean having a meeting on the 5<sup>th</sup>, or right around there, cause our deadline's on the 6<sup>th</sup> so we could, you know, schedule a meeting then in the event that we need it, it'll be on the schedule and we'll have it.

Mr. Vanderbilt: Could we, at the 25<sup>th</sup> meeting, recess the 25<sup>th</sup> meeting to the 30<sup>th</sup> but also schedule a meeting for the 5<sup>th</sup>, that would require us to allow more public hearing at that new hearing on the 5<sup>th</sup>, but --

Mr. Ribao: You know, the problem with that, the 5<sup>th</sup> and this thing gotta be in the 6<sup>th</sup>, you gotta give these people time to type it up, they gotta mail it out, so the 30<sup>th</sup>, to me in my mind, a good time frame, you know. If we can wrap everything up by the 30<sup>th</sup> and get it typed up and mailed out, that should be sufficient time.

Ms. McPherson: Nancy McPherson, Staff Planner Molokai. I do have a question, maybe this is for Corp. Counsel. Can comments be emailed to me if they have come to the Commission in writing already and been submitted in that format? If there are lengthy comments that have been typed in electronic format, you know, that can really speed things up.

Mr. Hopper: Yeah, as long as -- you can do that as long as there's no meeting by Commission members outside, you know, between the two or them or any collaboration for those comments, and those comments wouldn't be incorporated as the comments of the Commission until there's a motion made that's, you know, there's a vote and then that's ruled on; however, you could do it that way simply, you know, in terms of getting the comments in writing before the Commission so that they can more easily adopt those at the next meeting. So, yes, you can take them, but those won't be effective as the comments of the Commission until there's a motion and a vote by the Commission to adopt those comments, in particular, and then the Commission can amend or, you know, do what they want to to those comments, but they won't be finalized until there's a vote by the Commission.

Ms. McPherson: But then it is legal for the staff planner to receive comments in writing even if they're in email? Is that considered legal?

Mr. Hopper: I believe that's acceptable as long as there's no -- there's no collaboration by the -- by the members between themselves or in writing regarding that business, but I think, yeah, I think that would be okay.

Mr. Ribao: Okay, I'm going to allow a couple more questions then I think we all know where we're kinda at somehow and then I'm going to ask for a motion. Okay.

Ms. Kalanihuia: And exactly how do you want us to get, again, get to you these comments by the 16<sup>th</sup>? Do you want us to email them to you? Is that what you're saying or --

Ms. McPherson: Yeah, if it's okay, per the department and per Corp. Counsel, that I could get them as a Word doc attached, you know, with your name on it and a date, that could be also pasted within an email and my email is [nancy.mcpherson@co.mauhi.us](mailto:nancy.mcpherson@co.mauhi.us) and then that may cut down on the typing a little bit. Anything you can do to help facilitate this would be greatly appreciated.

Mr. Ribao: Okay, Steve and DeGray, then we'll --

Mr. Chaikin: Nancy, I just have another question. We, several weeks ago, we got a copy of an environmental assessment for the redevelopment of the Kaluakoi Hotel. Do we need to address that issue during the same time frame that we're talking about?

Ms. McPherson: No.

Mr. Chaikin: Or when is the deadline for that?

Ms. McPherson: That has not -- the clock has not started ticking on that one yet. I'm working with the applicant to produce a draft EA that needs to be filed with OEQC and published in the environmental notice, and when that happens, that's when the clock will start ticking on that.

Mr. Chaikin: Thank you. I've got one more -- well, actually, a couple more comments. I just wanted to clarify. We're gonna submit comments, those comments are going to go to the applicant and also to the land use board, and then they're going to come up with a final environmental assessment. When we get that, are we going to have an opportunity to respond to that or is that -- or is it a done deal at that point?

Ms. McPherson: My understanding of the process is that it really at the draft stage that comments are being accepted and must be responded to in the final EA. Now once -- once that has happened and the, in this case, actually my understanding is that if the Molokai Planning Commission is the accepting authority for that EA, then you will be, as with the Kaunakakai Fire Station, you will be accepting or determining that the EA is final and if there is an anticipated FONSI, or finding of no significant impact. That would be your kuleana to take that action. So you would be looking at the final EA.

Mr. Chaikin: I'm sorry, but we're not the authority on that, are we?

Ms. McPherson: Well, I think --

Mr. Hopper: Yes, it's -- it's --

Ms. McPherson: Yeah, you are.

Mr. Chaikin: Huh?

Mr. Hopper: The Land Use Commission --

Ms. McPherson: Well, I thought you were talking about Kaluakoi?

Mr. Chaikin: Well, actually, both but --

Ms. McPherson: Oh.

Mr. Hopper: The Land Use Commission is the accepting authority for Laau Point so, when they get your comments and draft the final EA, it's the Land Use Commission's decision whether or not the document is accepted and you don't have any oversight of that for that particular -- for that particular proceeding before the Land Use Commission; however, when proceedings come before the Planning Commission, such as the community plan amendment or the -- an SMA permit application, you'll be looking at the same information and you will, you know, you will see that the -- you'll look at the final EA and if you believe that there are concerns that haven't been addressed, you know, it will come before you at that point, and I believe, maybe Planning can elaborate on this, that you can require additional -- you can require additional information or studies to be done at that time?

Ms. Suyama: Right. Once the portions of the project that comes before you for recommendation or for approval, like the SMA permit, if you find that the document has not addressed all of the issues and you want additional studies or additional responses by the applicant, it is all within your review process to request that. I have a case of Keaka, LLC, an SMA permit in Makena. They came up before the commission, it was even after the EA document had been approved, they had asked for water quality -- additional water quality reports to be produced by the applicant, additional archaeological cultural reports to be produced by the applicant before they made their final decision. So you have that opportunity to request those type of information that will help you to make a decision.

Mr. Hopper: Yes, but at this stage, it's the Land Use Commission decides whether or not to accept it based on your comments.

Mr. Vanderbilt: Steve had also asked will we get a copy of the final EA and be able to look at that. Actually, I believe the law is that they don't have to send a copy, hard copy, like

they sent us on the Draft EIS. They can if they want to. So, hopefully, we would get that. And then can't this Commission review the response to the comments and then as the Commission make a comment to the Land Use Commission that they think the comments were answered okay or they weren't answered okay?

Ms. Suyama: Just for your information, normally the department, once the Final EIS has been adopted, we ask for copies for the record because your community plan application is not complete without it. And because they're large projects, we have, you know, we have normally requested from the applicant to provide the final EIS for the commission members.

Mr. Chaikin: Can I just ask, that final EIS that comes out, I mean we're gonna submit, you know, comments and is that going to be a redline version where we can actually look in the document and see what has been changed or we're going to have to weed through the whole thing to see if they've addressed our issues?

Ms. Suyama: Because we don't have control of how the final document is prepared, normally in the planning commission, when we review it, we ask for a redline version and maybe the applicant can address whether that's what you're going to get as part of the final EA -- EIS.

Mr. Chaikin: Okay, we can make that as one of our comments. I have one last -- one last thing here and that's I think we, as a Commission, need to be as informed as we possibly can on what's happening at Laau Point and I really think that requires for us actually visiting the site at some point. So, you know, I'm just throwing that out to the Commission that, you know at some point, we should be requesting a site visit so we can see firsthand what we're talking about here.

Ms. Suyama: I don't see that as a problem if the Commission wants a site visit.

Mr. Vanderbilt: In regard to what Steve said, if you notice in the Draft EIS, some people send in comments and Tom's group put the question down and put the answer right under it. They didn't do that with all the questions I sent in so it's very tough for somebody to find out where they're going in that, so it would really be helpful, from the Commission's comments, if they do that because the whole idea of this document is to make a concise and clear document for decision makers that don't maybe not have a clue and won't have time to go back and forth, so the ease of further review of the document is really important, I think.

Ms. Suyama: Right. Normally, that's what most consultants do, they put what the comment is and then the response to each of comments, and I would probably request that of the applicant to do that.

Mr. Ribao: Okay? Okay. I need a motion to maybe set a, well, we know the deadline of the 16<sup>th</sup>, that's all I think we have to do because we're going to continue with our regular meeting, then, if necessary, continue from there. So just a motion for us to hand in whatever we're going to hand in in writing regarding the environmental draft thing before the 16<sup>th</sup>. Yeah? Yeah, it'd be safer to. Yeah, he recommend we do a motion.

Mr. Chaikin: Okay, I'll make a motion that we adhere to Nancy's request to submit all of our comments to her in writing by, what was that, January 16<sup>th</sup>.

Mr. Ribao: Okay, seconded by Kip. Any discussion? No discussion.

Mr. Vanderbilt: Wait. Come on, Kip. No, but with the idea that we can hand in further -- you said all of our comments, but we can hand in other comments at the meetings.

Mr. Ribao: Correct, as long as it's before the deadline, yeah, I see no problem. Okay, there's a motion on the floor; no further discussion.

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

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

**VOTED: that the Commission adhere to Staff Planner Nancy McPherson's request to submit their comments to her, in writing, by January 16<sup>th</sup>.**

Mr. Ribao: Motion passed. We done. Chairperson's Report, I have nothing to report. Director's Report, we already talked about Panda Commercial Tours, so that's out.

**E. CHAIRPERSON'S REPORT**

**F. DIRECTOR'S REPORT**

- 2. Pending Molokai Applications**
- 3. closed Molokai Applications**

Mr. Yoshida: Yes, we've circulated our closed and open Molokai applications report.

Mr. Ribao: Any comment? DeGray?

Mr. Vanderbilt: Well, not -- not on that.

## **G. ANNOUNCEMENTS**

Mr. Ribao: Okay, Announcements. You have any announcements?

Mr. Yoshida: I guess for the next meeting, what time do you folks wanna start? The only item we're going to be dealing with, at this point, is the Draft EIS.

Mr. Ribao: Okay, any discussion regarding what time? You wanna start at 12:30 or later or what?

Ms. Kalanihuia: No, I think we've heard from the community today, a couple times, that this is not a convenient time for them and so, you know, I'm open to anything after the afternoon, and I know that that's after Flight 1222 back to Maui, but I apologize.

Mr. Ribao: Okay, why don't we say 4:30. Is that good time?

Ms. Kalanihuia: That's fine.

Mr. Ribao: Okay, 4:30.

Mr. Vanderbilt: Yeah.

Mr. Ribao: Okay, so it's going to be 4:30 at QLCC, at this point.

Mr. Yoshida: Yes, unless we can find a bigger -- facility with a bigger --

Mr. Ribao: And it should be, if you do change the date, the location, and actually that you gotta kinda advertise it in the paper. Can that be done, possibly? Do we have enough time to do that?

Mr. Yoshida: Well, I guess we could try to work with the papers.

Mr. Ribao: Yeah, cause we're changing the time already to 4:30 so -- and I don't think -- nobody knows it's a QLCC so if you can change the location, it should be mentioned, yeah, whatever location we find at 4:30.

Mr. Yoshida: Yeah, if we do find an alternate location whether it's the school cafeteria or something, then we'll be sure to let everybody know.

Mr. Ribao: Okay, just a little blur in the paper would be good, yeah? Okay. Okay, DeGray?

Mr. Vanderbilt: Yeah, I believe that the Planning Commission got copies of the OEQC guidelines to weaving through the EA process. Do you know if that happened?

Mr. Yoshida: I'm not sure when Kivette did her --

Mr. Vanderbilt: Did any of you remember getting that guidebook, it's about 70 pages long? It's really good. Did you get it?

Mr. Chaikin: I'm not sure.

Mr. Vanderbilt: Oh, I'm not either, but if -- if you don't have it, it would be good to get and you can get it online by just going to the State Office of Quality Control and right there on the homepage it says, "The Guidebook," and click on it, and it has some real helpful hints in there.

## **H. OTHER BUSINESS**

Mr. Ribao: Okay, any other business?

Mr. Chaikin: One more thing, Chair?

Mr. Ribao: Okay, Steve.

Mr. Chaikin: Yeah, Clayton, did the Mayor sign our request to allow us to review all of the exemptions?

Mr. Yoshida: Yeah, I believe today we circulated --

Mr. Ribao: Yeah, we have it.

Mr. Yoshida: The rule amendments, the SMA Rule Amendments regarding the exemptions, which became effective on December 23, 2006. I had a question. If we're going to continue the meeting, we have a meeting on the 24<sup>th</sup> and let's say we continue it to the 25<sup>th</sup> and to the 30<sup>th</sup>, what time do you folks wanna meet because --

Mr. Dunbar: On the 30<sup>th</sup>?

Mr. Yoshida: On the 25<sup>th</sup>?

Mr. Dunbar: I thought it was the 24<sup>th</sup> ...(inaudible)...

Mr. Yoshida: You're meeting on the 24<sup>th</sup> but --

Mr. Ribao: Yeah, 24<sup>th</sup>, we're going to meet at 4:30, but to get a place after 4:30 too, you know, if you're going to call and reserve another place, yeah, that might be an issue, so maybe we should set a time. We're going to do on the 30<sup>th</sup> but, yeah, you guys not going do the 24<sup>th</sup>, that's another issue -- 30<sup>th</sup>, yeah, so that should give you time to call the next day and try get a location and a place, okay?

Mr. Yoshida: Well, I think, you know, we're going to have to, if we recess, then we just, within that six-day time frame, we're just saying we recess till, but we have to have a date, time, and place certain, so we have to say we're going to recess to --

Mr. Ribao: Oh, okay.

Mr. Yoshida: Kaunakakai School Cafeteria at 4:00 on the 30<sup>th</sup>.

Mr. Ribao: Okay, what day -- what's the 30<sup>th</sup>? What -- is that a Friday, Saturday; anybody know? Tuesday? Tuesday? Okay, why don't we do another 4:30 meeting again on that day. Is that good?

Mr. Dunbar: Here?

Mr. Ribao: Yeah, if we can get here, would be good.

Mr. Yoshida: Well, we'll try to get this place as our first choice.

Mr. Ribao: Okay, so 4:30 here, if possible, on the 30<sup>th</sup>, which is Tuesday.

Mr. Yoshida: Well, what about on the 25<sup>th</sup>?

Ms. Kalanihulia: I don't want.

Mr. Yoshida: You don't want to do the 25<sup>th</sup>?

Mr. Ribao: Yeah, do you guys wanna have one the 25<sup>th</sup>, then a chance for finishing up on the 30<sup>th</sup> that's --

Mr. Dunbar: If you confuse me, I'll not going to ...(inaudible)...

Mr. Ribao: Okay, why don't we do this. Let's do this. We'll reserve a place for the 25<sup>th</sup>, if we can get here in the evening, and we'll decide at that meeting if we're going to do it on the 25<sup>th</sup> or the 30<sup>th</sup>, okay? And if we need to do it on the 25<sup>th</sup> and do it the 30<sup>th</sup>, fine, we'll have the places reserved anyway.

Mr. Yoshida: So the 25<sup>th</sup> at what time?

Mr. Ribao: 4:30. So we'll get all the places at 4:30. And if we need it; if we're not, then you have to apologize to the County that you don't need the place on whatever day.

Mr. Yoshida: Yeah, that's all we have.

Mr. Ribao: Sounds safe, yeah? Okay, any other -- any other comments? Short one.

Mr. Vanderbilt: Yeah, short one. Bill just gave me this letter from I think it's the ranch's law firm, Morihara Lau and Fong, and it's to the Land Use Commission and it's a table of contents regarding an amended petition to the land use boundary amendment at Laau, and I was wondering does this include -- is this something that would be commented on or does this impact the information in the Draft EIS at all? Maybe Tom could just briefly --

Mr. Witten: I think it -- I think it's all consistent with what's on the EIS or the Draft EIS ...(inaudible)... I could double confirm that but I think the amended petition is consistent with the information provided in the Draft EIS.

Mr. Vanderbilt: Thank you.

Mr. Ribao: Okay, thank you. Thank you very much, sir. Again, next meeting date, the 24<sup>th</sup>, 4:30 at QLCC. Meeting adjourned. Thank you very much, commissioners, and the public.

**I. NEXT MEETING DATE: January 24, 2007**

**J. ADJOURNMENT**

There being no further business brought before the Commission, the meeting was adjourned at 4:37 p.m.

Respectfully submitted by,

SUZETTE L. ESMERALDA  
Secretary to Boards & Commissions I

**RECORD OF ATTENDANCE**

**Present**

Robert Ribao, Chairperson  
DeGray Vanderbilt, Vice-Chairperson  
Kip Dunbar  
Janice Kalanihuia  
Steven Chaikin  
Sherman Napoleon, Jr.  
Bill Feeter  
Joseph Kalipi

**Excused**

Lynn DeCoite

**Others**

Jeffrey Hunt, Planning Director  
Colleen Suyama, Deputy Planning Director  
Clayton Yoshida, Planning Program Administrator  
Nancy McPherson, Planner  
Ralph Nagamine, Administrator, Development Services Administration, DPWEM  
Michael Hopper, Deputy Corporation Counsel