

**MOLOKAI PLANNING COMMISSION
REGULAR MEETING
MAY 9, 2007**

A. CALL TO ORDER

The regular meeting of the Molokai Planning Commission (Commission) was called to order by Chairperson, DeGray Vanderbilt, at 12:38 p.m., Wednesday, May 9, 2007, Mitchell Pauole Center, Kaunakakai, Molokai, Hawaii.

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

Mr. DeGray Vanderbilt: Welcome to the May 9, 2007 regular meeting of the Molokai Planning Commission, and today we have with us Commissioner Kip Dunbar; next to him is Commissioner Bill Feeter; and next to Bill is Commissioner Linda Kauhane; and next to her is Commissioner Lynn DeCoite; and next to Lynn is Commissioner Joe Kalipi; and Vice-Chair Steve Chaikin; and Commissioner Mikiala Pescaia; and my name is DeGray Vanderbilt

And with us from the County staff we Clayton Yoshida, from Maui, who's the Planning Program Administrator for the County; oh, and we have with us today the actual head guy of the Planning for Maui County, Jeff Hunt, who is over there and it's great to have Jeff here; we have our secretary to the Molokai Planning Commission, from Maui, Suzie Esmeralda; and we have our Planner on Molokai, at the Molokai Planning Commission office, Nancy McPherson.

So, with that, I'd like to call this meeting to order and the first item on the agenda would be to approve the minutes of the April -- no, that's okay, we're going to approve the minutes of the April 25, 2007 meeting. Do I hear a motion to approve those minutes? Or do you need a moment to look over them?

B. APPROVAL OF THE MINUTES OF THE APRIL 25, 2007 MEETING

Mr. Bill Feeter: So approved.

Mr. Vanderbilt: Okay, moved by Commissioner Feeter. Second?

Ms. Lynn DeCoite: Second.

Mr. Vanderbilt: Second by Commissioner DeCoite. All those -- is there any discussion or corrections or anything?

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

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

VOTED: to approve the minutes of the April 25, 2007 meeting.

Mr. Vanderbilt: Motion carries. Okay, now we're going to have public testimony for those people who may have to get back to work or have another scheduling conflict where they can't wait until the agenda item comes up. And if you come up and speak, you'll have three minutes plus an additional minute. And if you come up and share your comments on something that may not be on the agenda, you'll only have three minutes and we cannot -- we cannot discuss any testimony that's related to an item that's not on the agenda. And so, with that, I'd like to say that the first testifier will be Alton Arakaki, and, Alton, if you could identify who you're with and the item you may be testifying on.

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

Mr. Alton Arakaki: Yes, my name's Alton Arakaki, and I'm agriculture extension agent here, and I have great interest in agriculture, and I'm here to testify regarding the ag ordinance item, and I've been involved with that, developing ag -- the Maui County ag ordinance and I'd like to provide a little testimony for that.

I think you have a copy of my presentation, and this is more in terms of, I think, some -- you know, I'm an educator and a faculty with the University of Hawaii and, hopefully, this will also enlighten you and become an education piece also.

Land to be used in agriculture is only defined -- is the only defined land use alternative that is given protection by the State of Hawaii. No other use are given such protection, not even for homes, hospitals, churches, shopping centers, or hotels. This is because Hawaii is unique and different then all the other 49 states in the union. Some might argue our case for characterizing our State of being so unique. But one thing is for sure, no one can argue our uniqueness of being the most isolated state in the union. We have a total monopoly in this category being 2,500 miles from California, 3,850 miles further west to Japan. We are the only ones that have island communities and people as oppose to continental communities and people. Sometimes we forget how isolated we are when we can hop on a plane, airplane, and five hours later we're in a total different place in the world. Many times there are events that wake us up, like a West Coast shipping strike, a 911 terrorist attack, to remind us of our uniqueness and vulnerability.

However, to safeguard against our forgetfulness, the people of Hawaii have embedded in our governance document guidelines on how we should behave as island communities and people. One of the area where guidance has been provided is in the area of agriculture lands. This is quite unique to Hawaii. No other state has felt the urgency to protect agriculture land then in Hawaii. This urgency to protect agriculture land in Hawaii is demonstrated by the its people's feelings that compelled them to include agriculture land protection laws in our State Constitution, our statutes, and even our County ordinance. So the people of Hawaii did was not just to develop mere statues -- I mean not to develop only guidance but to put them into laws in our Constitution, statutes, and County ordinance. This is definitely unique to Hawaii. I wasn't there when the laws were discussed or enacted, but it's my guess that it is tied to our unique monopoly of being isolated, being the most isolated state in the United States and probably the most isolated community in the world. Agriculture land is tied to our answer to: How do we sustain a society and civilization in isolation? It is my guess that the desire of the people of Hawaii is to make our existence here a sustainable community and not just one's -- not someone's cruel social experiment. Agriculture land is tied to this. While inventions and technologies have advanced our quality of life and made our world smaller, let me remind you that we still cannot fax, email, instant message, or download a pastrami sandwich from a deli in New York, much less from Sundown Deli across the street. However, these laws to protect agriculture lands are only good if the purpose and intent are promoted and perpetuated. If not, they are just words on a piece of paper.

What are some of the purpose and intent of our agriculture protection laws and decisions on agriculture lands that require -- require to filter through and uphold? The State Constitution, Article XI, defines agriculture land as a resource for the benefit of a present and future generation, so the writers of this article said that it's not only what we need today, but we must protect this agriculture land resources for future generations and mandates the State to conserve and protect all natural resources. The need to protect -- the need for this protection is expressed in a statement to promote diversified agriculture, increase agriculture self-sufficiency, and to assure the availability of agricultural land, and I have the reference there so some of you may wanna take a look at it.

Then the State has their own revised statutes further define permissible use on agriculture activities on agriculture district including activities as cultivation of crops; game and fish propagation; raising of livestock, farm dwelling, and there's others listed, and I've also listed a reference there that you can take a look.

Mr. Vanderbilt: Alton, can you finish up?

Mr. Arakaki: Yes, I'll be finishing real quick now. The Maui Ordinance further details it even further. I think it's becoming clearer here. An ordinance says that the Maui County in which you are a part of is to promote agriculture development; preserve, protect

agriculture resources; support agriculture character of the County. The County ordinance's intent -- part of the intent also include reduce land use conflict, mitigate rising property value for farm land, and make agriculture more economically competitive, and there's others, and I've also put a reference there.

There's strong evidence in Hawaii and the County of Maui that the purpose and intent of agriculture land protection laws are being compromised. Economic investment opportunities are changing our agriculture landscape and is challenging the effectiveness of our agricultural land protection laws. It is my opinion that the greatest challenge of agriculture land laws is the trend that redefines our agriculture land from being a natural resource, as in our State Constitution, to becoming a commodity. Our need for agriculture land for the agriculture value is being overcome by land being valued as a commodity. Escalation of agriculture land prices has taken it out of being competitive agriculture land, thus, in fact, we have lost that piece of land for the purpose and intent. There's an urgent need to address this problem. If not, attempts by the people of Hawaii to protect their natural resource for the present and future generation will fail.

Mr. Vanderbilt: Thank you, Alton. Are there any questions for Alton from the Commissioners?

Mr. Joseph Kalipi: I have a question.

Mr. Vanderbilt: Commissioner Kalipi.

Mr. Kalipi: Thank you, Commissioner -- Chair. Mr. Arakaki, is there any specific topic that you are referring to that is being discussed --

Mr. Arakaki: Yes.

Mr. Kalipi: In our agenda concerning agriculture?

Mr. Arakaki: Yes, I think it was Item E, and the need for revisiting some of the ordinance, and I think that's where I'm testifying ...(inaudible)...

Mr. Kalipi: Okay, cause I'm receiving the information. I'm just trying to make it relevant if you're for or against a certain item that is presented to us, the Commission.

Mr. Arakaki: Yes, that E.2.

Mr. Kalipi: E.2. Okay, thank you.

Mr. Arakaki: ...(inaudible)... revisiting.

Mr. Vanderbilt: Thank you. So any other questions from the Commissioners? Alton, so you're talking about -- we were talking about E.2. having maybe a workshop --

Mr. Arakaki: Yeah.

Mr. Vanderbilt: To talk about ag subdivisions and so that's something you would support?

Mr. Arakaki: Yeah, I will support that, and some of the things that I presented as some of things that I think we should be talking about in the workshop.

Mr. Vanderbilt: Thank you. Okay, the next testifier is Glenn Teves. And, again, these are folks that have asked to testify early because they won't be able to stay until the agenda item comes up.

Mr. Glenn Teves: Good afternoon, Commissioners. My name is Glenn Teves. I'm also a County agent at the University of Hawaii, College of Tropical Agriculture. I was involved in crafting the County Ag Ordinance back in '98, I think, the last time. I didn't -- I don't have a copy of my -- my most recent letter, I think you folks have the one from the last meeting, but I wanted to touch upon two things: one is the need to revisit the ag ordinance, and also the issue of conditional permits.

There needs to be a critical review of the County Ag Ordinance. The purpose and intent is sound but does not relate to the implementing actions; enforcement is especially problematic. Simple logic indicates, based on Hawaii Revised Statute, Section 205, Relating to Land Use, that if you don't have a farm, you don't need a farm dwelling. All structures on ag parcels must be ancillary and accessory to the farm. In other words, the farm comes first. Another strategy used by developers is to state that someone other than the lot owner will farm the land. And these two rationale were under scrutiny in the Hokuli`a case, and I was the ag expert in the Hokuli`a case in which these two things were actually shot down. You gotta have a farm or else you don't need a farm dwelling.

Increased prices for agriculture land through speculation and non-compliant use is one of the main deterrents to future agriculture production in Hawaii. The cost of agriculture land in Hawaii is already the highest in the nation. Driving up prices for agriculture land will prevent and kill legitimate agricultural activities more than any other factor. Case in point is the new gentlemen's estate development being proposed in Kula by Goodfellows and some of his associates that will drive up land prices and subsequently taxes for adjacent farms and landowners. The road will be widened and lands from adjacent landowners and farmers will be taken for this purpose.

There are key issues that need to be resolved and new measures put in place to assure that prime and important agriculture lands are protected in perpetuity. One, there needs

to be a community input process to assure that ag subdivisions are truly agricultural and that the community has an important say in the process; all new and existing subdivisions must pass a test whether it will adversely impact on existing rural and agricultural activities. A true farm does not impact on adjacent activities, only a gentlemen's estate which raises the prices of land will impact on adjacent agricultural activities. All lands on Molokai need to undergo a critical review of its agriculture value and criteria needs to be developed to address this undertaking. Number four, water must be the driver in whether agricultural lands can be subdivided and not just zoning. If water is not available, then land should not be subdivided. Parallel to this is whether the subdivision is still an economic unit that can be competitive and economically feasible agricultural land. Number five, all lands in agricultural district must be assessed a steep penalty for non-agricultural activity comparable to a higher level of tax assessment. Number six, the Molokai Planning Commission must be a decision-making body in regard to land use changes on Molokai. Without governance, we become second-class citizens with no say in our future.

In closing, I look forward to working with the Molokai Planning Commission in crafting a sound ag ordinance for Molokai. Mahalo.

Mr. Vanderbilt: Thank you, Glenn. Are there any questions for Glenn from the Commission? Commissioner Dunbar?

Mr. Kip Dunbar: Yeah, Glenn, I think what I heard you say is that we definitely need to overhaul the ag ordinance and I don't think there's any -- you're not going to get any fight from the board. The question is: What are some of the solutions? Do we take some of those -- those -- I mean ag has been just a catch-all for everything else.

Mr. Teves: Right.

Mr. Dunbar: Everybody else knows what conservation is, and everybody knows what urban is, and everybody has some idea what rural is, but everything else they've just thrown into ag, so are you suggesting that a large part of what is thrown into ag be changed to rural? I mean because if it's not prime ag and you can't make any money off of it, there's no sense you call it ag.

Mr. Teves: We need to look at it, I think, on a case-by-case basis, and those lands that have houses on it that are not being used for agricultural activity may have to pay a higher tax. I think some of these lands are paying the lowest taxes around and they're not being used for agriculture so they have to pay their way. I think we need to set assessments in terms of what lands are good for agriculture. I mean, again, agriculture is real broad area. I mean we're talking about raising cattle, we're talking about -- and some of these lands -- I mean I can raise orchids on rocks, I don't need good land for raising orchids, so, you know, we need to look and I think that's why we're running through such a problem

because you can do all these different things on agriculture land. The problem is everybody's poking holes in this stuff and all they're doing is raising up the price of agriculture land to the point where even the prime lands is not affordable and farmers cannot make their money back on some of these lands that are actually some of the best most productive lands in the nation. Maui County has a reputation as the most productive agriculture lands in the whole nation, according to the U.S. Census. So, you know, I think there needs to be a process set in place. Basically, what's happening now is just ramped development. Maybe we need to have a moratorium on this agriculture development thing and start setting up laws. The ag subdivision process is the only subdivision process that doesn't have community input and, basically, was looked at where, okay, it's an emergency, we need to protect agriculture land. Pretty soon, developers saw this as the most least resistant way of developing land and that's where we just ate it, and then it becomes a catch-all for, as you say, for golf courses, bungee jumping, and all these other kinda stuff. So I think we need to kinda just put everything on hold, start setting up guidelines, and start identifying the prime stuff, and then looking at some of these other rural. But, at the same time, you need to also set up guidelines for rural so it doesn't turn into all gentlemen's estates anyway. So I think we're at a real crossroads right now and Maui County is probably the worse when it comes to ag subdivisions. I mean you can go to Maui and it's like stuff is ramped and our local people cannot even afford to live there. They live in two houses to a family, you know, two families to a house. It's getting ridiculous already. It's going to get worse unless we put a stop to this now.

Mr. Vanderbilt: Thank you, Glenn. Are there anymore questions? Commissioner DeCoite.

Ms. DeCoite: Yeah, Glenn. First of all, Glenn, I'd like to get a copy of that for all the Commissioners.

Mr. Teves: Yes.

Ms. DeCoite: Second of all, if possible, I don't know if you guys get any other questions, I would like to take that opportunity and to revisit that Maui County Ag District Ordinance and, at this time, am I allowed to make a motion?

Mr. Vanderbilt: We'll get to that item.

Ms. DeCoite: Okay.

Mr. Vanderbilt: We have it on.

Mr. Teves: I just have one more issue and I forgot it. This has to do with conditional permits.

Mr. Vanderbilt: Can you wrap it up in a minute?

Mr. Teves: Okay. This was a letter from Isaac Hall to Collette Machado and it's related to actually Kip's beachfront cottages. It says over here, "Conditional permits are regulated in Chapter 19.40 of the Maui County Code. A conditional permit can only be considered when the affect of the proposed use on the surrounding environment cannot be determined in advance of the use being proposed for a particular location. That's real critical language. In other words, if the type of use being proposed is a sort which causes impacts which can be determined in advance, a conditional permit cannot and should not be utilized. One of the primary issues which the Molokai Planning Commission should address is whether or not a vacation rental qualifies for a conditional permit in the first place since its impacts are determinable in advance. See Chapter 19.40.010"

Mr. Vanderbilt: Thank you. Any questions for Glenn? Thank you, Glenn. Could you leave copies of your testimonies with Suzie over there.

Mr. Teves: I'll leave this. Okay. Thank you.

Mr. Vanderbilt: Is there anybody else that needs to testify on one of the agenda items that can't stay for the presentations? Excuse me. Yes? Can you give us your name, the item you're going to testify on, and -- no, sign up afterwards.

Ms. Cindy Weldon: Okay. My name is Cindy Weldon and I'm speaking to vacation rentals. I actually had seen in *The Dispatch* that there was a 12:00 input session on that topic, and came at 12, but that wasn't happening, but I'm doing it now. So it is related to the vacation rental you'll be discussing, although I do not know that one so I'm really speaking more generally. I also am an educator for 35 years. I was a principal and a teacher. I wanna highly commend these students that are here today because that's what we like to see is students involved in their governmental process. The research they spent all this time on and are presenting to you today, you know, you'll get to see when they do it, I guess. I'm hoping to stay long enough to see that. But the conclusions they came to are very similar to what I've been looking at.

My hope is that, in the vacation rental process, you will be looking at the bigger planning issues. Being an educator, and I live part-time on the East End, in the Wailaua area, very close to Mr. Dunbar, but what I wanted to say is what I've seen there, and we are there as much as we can be - if my grandson did not live on Maui, I would not -- I would be here permanently as a resident - but we live there part-time and what I have seen is developments -- not developments, I've seen -- not even commercial, what do I wanna say? I've seen enterprises develop around us, including an organic farm next to us; including a cultural learning center down the road; including hikes into the valleys to educate people as to what Molokai is about. I am absolutely in love with Molokai. I could

not imagine anything more beautiful, and my biggest dream for Molokai is to protect it, and I know vacation rentals are controversial but I do want you to consider that the people that come to vacation rentals, that come when we're not there, are people that leave us long pages of what they've learned from the culture and what they've learned from the local people that have talked to them while they've been there and have a great love to Molokai. They do not want to stay in hotels.

I live on the north shore of Maui, and I know Mr. Hunt. I've already testified on Maui so he may recognize me. North shore of Maui has the same issues. There's no hotels on the north shore of Maui. There's no hotels on the east end of Molokai. I think it's almost a special little area that could become a very educational source for people to stay in a home instead of a hotel and actually get to know the local people that live there and what they love about Molokai. And I would love to see the vision of Molokai be a sustainable education island and that that is when you come to Molokai, you know that that's what you're coming to, that's what we seem to have encountered, and that is the direction that you set on this island. I think all the other things about developments, agricultural land, vacation rentals would fall into place once you have a vision set of what Molokai is. And I am glad to participate in that process in any way I can and help bring my education skills to it, and I hear the beeper so I know what DeGray is going to say.

Mr. Vanderbilt: No, you have another minute if you'd like.

Ms. Weldon: Okay, thanks. And I just want to tell you that I appreciate all the work that you're doing to make Molokai as sustainable as you can. You have some leaders. My neighbor is a top leader in that area. Eddie Garcia, if you know him and you talk to him, you will hear many, many wonderful ideas about bio-fuel and having palm oil as -- you know, he just rattles off ideas for Molokai that will make this dream come true for Molokai to be a sustainable education island of the Hawaiian culture. So, again, anything I can do to help with that. We do have a part-time vacation rental as I speak so you have to know that that's where I'm coming from now. But we are part-time residents of that rental and I just have seen what I've seen there that's a very cooperative community with the agriculture that is already there. So thank you.

Mr. Vanderbilt: Thank you. Hold on a minute, Cindy. Are there any questions for Cindy from the Commission? Hearing none, thank you very much, Cindy. Is there anybody else that may not be able to stay for the agenda items?

Okay, with that, before I go on, there's two major things that we're looking at today, and the first one is Mrs. Frances Feeter requesting a State Land Use Commission Special Use Permit and a conditional permit to operate a vacation rental in the rural district at Puko`o, and the special use permit and conditional permit are needed because the vacation rental

is not allowed under the current zoning, so you have to go for an exception or a conditional permit.

The other is there's a exemption request to be exempt from the SMA laws coming in from the Pollack residents, who are developing a -- some homes out on some agricultural zoned land at the Kaluakoi Resort, right adjacent to the Papohaku Dunes, and they're coming in to ask for an exemption from the SMA, which if granted, they can go directly and get a building permit, and if it's not approved, then they have to go through the SMA process.

So, anyway, with that, we'll move on to Item D, which is a public hearing on Mrs. Frances Feeter requesting a State Land Use Commission Special Use Permit and a conditional permit to operate Hale Maluhia, a short-term vacation rental in the rural district and the RU rural district at 8770 Kamehameha V Highway, Puko`o. And the planner on this is Nancy McPherson, our Molokai Planner, and, Nancy, could you give us a rundown on the staff report you've prepared?

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

- 1. MS. FRANCES FEETER requesting a State Land Use Commission Special Use Permit and a Conditional Permit to operate the Hale Maluhia, a short term vacation rental in the State Rural District and the RU0.5 Rural District at 8770 Kamehameha V Highway, TMK: 5-7-007:011, Pukoo, Island of Molokai. (SUP2 2001/0024) (CP 2001/0031) (N. McPherson)**

Ms. Nancy McPherson: Greetings, Chair Vanderbilt, Commissioners. This items has been with the department for quite a while. This is to obtain a State Land Use Commission Special Use Permit and a County Conditional Permit to operate Hale Maluhia in the State Rural District and the Rural Zoning District, RU0.5, at 8770 Kamehameha V Highway, on approximately 10,959 square feet of land, at Maui Tax Map Key 5-7-007:011, Pukoo, Molokai, Hawaii, CP 2001/0031, and SUP2 2001/0024. Frances Feeter is the applicant. It was originally filed on November 16, 2001, actually for an adjacent parcel; that parcel was owned by Christy Feeter. She, subsequently, sold that parcel. The applicant, Frances Feeter, requested that the application be transferred to the beachfront parcel, so it was transferred to a different TMK and a different house. The original house was permitted. They got all their permits; the SMA exemption and building permits. So the conditional permit application was filed pursuant to Chapter 19.40 of the Maui County Code, and the State Land Use Commission Special Permit application was filed pursuant to Chapter 205, Hawaii Revised Statutes, and the special use permit rules of the Molokai Planning Commission.

So the purpose of the application is to request an after-the-fact permits in order to continue to operate a short-term vacation rental during a portion of the year in which the owner is off-island. And the applicant has also expressed verbally to staff, and had discussed this as well with the owner, Christy Feeter, the idea of possibly providing use of the house to the community, small groups, you know, as a gesture. So that was discussed verbally.

The Land Use Commission Special Use Permit is needed to conduct a commercial use in the rural district. And a conditional permit is need to conduct a commercial vacation rental on rurally zoned land. So, under applicable regulations, I quote 19.40.010, "The intent of the conditional permit," which was recited to you just a minute ago, "to provide the opportunity to consider establishing uses not specifically permitted within a given use zone where the proposed use is similar, related, or compatible to those permitted uses in which has some special impact or uniqueness such that its affect on the surrounding environment cannot be determined in advance of the use being proposed for a particular location."

Some of the other criteria for granting the conditional permit are: That the proposed use would not be significantly detrimental to the public interest, convenience, and welfare; will be in harmony with the area in which it is to be located; etcetera, etcetera. So every conditional permit shall be conditioned upon a proposed development fully complying with all requirements of this title and other applicable government requirements.

The special use permit is to permit unusual -- certain unusual and reasonable uses within the ag and rural districts other than those for which the district is classified. This parcel is zoned rural at the State, community plan, and County levels. So, for areas that are less than 15 acres or not greater than acres, the Molokai Planning Commission is the deciding body. The Commission makes the decision on the special use permit.

So, under criteria of certain unusual and reasonable uses, the following guidelines, on Page 4: The use shall not be contrary to the objectives sought to be accomplished by the State Land Use Commission Rules and Chapter 205 and 205A, which is Land Use and Coastal Zone Management laws; The desired use would not adversely affect surrounding property; The use would not unreasonably burden public agencies to provide roads and streets, sewers, water drainage, etcetera; Unusual conditional and trends and needs have arisen since the district boundaries and rules were established; and the land upon which the proposed use is sought is unsuited for the uses permitted within the district. So we kind of have to go through that analysis and find for all of those things.

So Procedural Matters. The notice was mailed originally on January 26 of this year. We were going to schedule the public hearing for March 14 but, again, because the project was transferred to a different parcel, the original parcel number was used and so we found we had to actually ask to re-notice and reschedule the public hearing so that happened, on February 8 the letter was mailed, and the hearing date was rescheduled for today, so the

mailing was sent out again and I have all the copies of the letters and list of owners, etcetera, etcetera. So that was all done properly. And we published it in the newspaper twice. So it doesn't trigger Chapter 343, Environmental Impact Statements.

So General Description. The property is about a quarter acre in Puko`o, about the 16 mile marker, makai of the highway. It was originally -- all these properties were originally owned by Don Ho, may he rest in peace, and his wife, Melva May. That's who Christy purchased them from.

The land use designations, again, rural for the State; rural for the community plan; rural 0.5 for County zoning; it is within the SMA, the special management area, and it is within the A-2 and A-4 Flood Zones.

So I'm going to summarize a lot of this analysis because this was all done when the SMA assessment was done for the house, originally, when it was built. These permits are for a change in use. So I'm just going to kinda skip through a lot of the details but I did wanna provide you folks with all this information so that you, you know -- I could have attached the original assessment for the original SMA, it probably wouldn't have been a bad idea, but I just went ahead and summarized the information for you again.

So it's a single-story house, 2,673 square feet; three bedrooms; two-and-a-half baths; open architecture, and a 544 square-foot combined garage and storage shed, which actually was originally -- it's approved as an ohana unit. It's landscaped with some native species. There's a lot of screening, walls and hedges around the property. The area is well maintained. It's bordered by the Puko`o Stream on the west. And I went out and did a site inspection on September 28, 2006. So the SMA exemption was received. It's outside of the shoreline setback line. And it is equipped with fire extinguishers and wired smoke alarms with backup batteries.

So Existing Services. It's on the Ualapu`e Well, so I did some discussion of some of the water issues that we're having here on Molokai right now that we have increasing salinity and that we are a groundwater management area and a sole source aquifer. The sewer system is an individual wastewater treatment system, it's rated for four bedrooms, so the house only has three, so it's adequate. It has a nyadic aerobic septic tank, which is a superior technology. Drainage. Again, it's in the flood zone. It has had flood studies done, a flood water control summary, it does have a FEMA floodway permit, and then another flood study was done in 1999 by Charles Busby. There's just a ten-foot right-of-way coming off of the highway, it does cross several other parcels; that map is also in your attachments and your exhibits. So there is an access maintenance agreement. I don't know if it's formal or informal but -- then there are -- there is electric and telephone. There are parks in the area. But going through the research, the East End Policy Statement and the, you know, in the community plan talks about how it's felt that parks on the East End

is insufficient, so that was just something I put in there. There is a school, Kilohana School. You have to take the rubbish all the way to the landfill, so we know what a challenge that can be for some people on Molokai. There is a fire station right next door, practically, Puko`o Station. It's very, very close. It's less than five minutes from the house. And I talked about the hospital, etcetera. So we all know that it's pretty far away from a lot of things, Manae, so that's why some people like to stay out there.

So the idea is to get permission to -- the use has already been changed, this is to get permission after-the-fact to operate a vacation rental, which is actually outright permitted in the hotel zoning districts. In order to get this use permitted in the rural or ag districts, you know, they have to go through the special use permit and community -- I mean conditional permit application process.

The idea was that the residence would not be rented out more than six months out of the year, with a maximum of six people and one vehicle allowed to stay at the house at any one time; they stay for a minimum of four nights and usually would stay no longer than two weeks. No food is served. And, again, the applicant has expressed the desire to make -- possibly make this house a resource to the community.

So I have a list of the reviewing agencies. Then I went through and did the analysis of our existing State, County, General Plan, and Molokai Community Plan policies, objectives, etcetera, etcetera. So we do have some broad language in the State Plan that talks about providing additional opportunities for employment and economic growth, but it is not a -- it is not really an acceptable use within the rural district. The subject property is not consistent, the current use is not consistent with the rural designation. The County General Plan talks about, you know, recognizing the different needs of the County, social, economic, and environmental affects and to do, basically, to do good planning. So there's five major themes there: That we protect Maui County's ag lands and rural identity; Prepare a directed and managed growth plan; Protect Maui County's shoreline and limit visitor industry growth; Maintain a viable economy that offers diverse employment opportunities for residents; and Provide for needed residential housing.

So then I kept going specifically through the General Plan. There are a couple of items where the project is actually compatible but we do -- the language is that we control the development of visitor facilities so they do not infringe upon the traditional social, economic and environmental values of our community. We also encourage the use of local manpower in the construction of visitor facilities and, in this case, I believe that did happen when this house was originally built, and there are some, you know, folks, local folks doing maintenance of the property. But then I go on and talk about how it's not in keeping the following General Plan objectives and policies and those regard population: To plan the growth of resident and visitor population so as to avoid social, economic, and environmental disruptions; To maintain a balance between resident and visitor population

by controlling and regulating growth of visitor facilities. There's a lot of these so I'm not going to read through them all, I'm going to have to skip around a little bit, but, again --

Mr. Vanderbilt: Excuse me, Nancy?

Ms. McPherson: Yes?

Mr. Vanderbilt: For any of you that may want a copy of the staff report that she's reading, over here by Suzie there's some, and I'm sorry, I should have mentioned that before the meeting started. So if anybody wants to grab a copy of the staff report, go ahead.

Ms. McPherson: So we also look at managing growth, we look at social and economic benefits for all the County's residents, and we encourage land use methods that provide a continuous balance inventory of housing types. So just going through, again, we have to look at land base physical and ocean related coastal resources, so we have to use environmental planning -- sound environmental planning practice, and discourage shoreline development that impacts on traditional community or native activities, which include food gathering, religious and recreational uses. You know, going through, there is a lot of specific language in the County's General Plan that discuss controlling resort development, guiding it into specific areas; making sure that the infrastructure's available; making sure that the impacts are mitigated or minimized on local residents; that we minimize the disruption of agricultural and social pursuits; that we restrict the transient rental use of single-family housing in residential zones.

Then I started going through the community plan and there's a lot of policies in there too. The community plan talks a lot about Molokai's way of life and how we wanna preserve that way of life and what we can do to do that. So there's a lot of talk about pono, harmony, balance, and design. You know, we've always talked about our landscaping and our building designs how we want those to be harmonious. We also talk about standards for commercial activities in the rural and agricultural districts, under Planning Standards. They talk about visual compatibility -- and now these are portions of the Molokai Community Plan that actually support the Hale Maluhia, maybe not necessarily the use specifically but at least the physical appearance of the project. The community plan allows for special uses with permits in the Puko`o area in order to accommodate limited commercial uses which do not adversely affect the environment or nearby agricultural uses.

Okay, so then we go on to look at the -- the recommendations of the community plan that the proposed action is not in keeping with and that gets very specific, actually. The language gets very specific and talks about how the Kaunakakai area needs to be the area of urban uses; that these commercial and urban uses need to be concentrated in the Kaunakakai Town area, so I included that language. And we talk about recreational uses also, well, that was about firebreaks, but limit the visitor accommodation center to West

Molokai and require that any expansion approvals reflect the employment needs of the island's resident work force. Support special permits in the State Ag and Rural Districts only to accommodate limited commercial, public and quasi-public uses servicing the immediate community in areas such as Puko`o, Ualapu`e, and Kamalo, which are relatively remote from urban areas. So I think the intent of that language was to allow for like the Neighborhood Store, you know, Manae Goods and Grinds, and some other small scale, you know, commercial uses that actually provide things that the residents of that area would like to have out there, or a public facility such as a landfill, etcetera, well, I don't know about that one. But -- or to allow a use which is clearly accessory and subordinate to a principal ag use on the property, and then they talk about quarries too, but --

So, Economic Activity, we talk about a balance local economy; you know, allow expansion of the visitor industry within the existing tourist destination area at the west end; ensure that visitor facilities are in harmony with the landscape or surrounding character and consistent with the availability of infrastructure and resources.

Housing. One of the impacts that I have come across in my research is that, you know, we have a limited availability of rental housing stock on this island and there has been a phenomenon of people, you know, having being asked to move out of homes and then having them being converted into vacation rentals. So, you know, that's an impact that we really have to look at. There are a lot of economics involved with that but it's a greater issue than we can resolve just at this meeting but -- and, for this exercise, you know, we looked at discouraging land speculation in order to keep housing affordable.

And then the East End Policy Statement provided a lot of language that was very specific to the Puko`o area and Manae, in general, actually so -- and that was actually adopted as part of the community plan in 1984 and carried forward into 2001, so that's Appendix D of the community plan. I would encourage everyone to read it over. So they talk about compatible lifestyle; appropriate lifestyle; you know, traditional landscape; the keeping Manae Manae and keeping it for the residents so -- I also go on to talk about how I feel that this family does practice a lot of cultural values that people care about here on Molokai, such as malama aina, community service and giving back to the community.

But, as I go on, there are talks of a moratorium against the development of tourist related accommodations or businesses which will subsequently change the social infrastructure of the area, under Cultural Resources and Traditional Land Uses, I'm on Page 15.

Again, we're going on. We talk about the strong sense of community and the common activities it comprises, such as sports, educational programs, etcetera. So we have to talk about growth pattern guidelines. They want them to be unusually strict to prevent commercial development displacement of the larger portion of this population. So, obviously, it looks like something was even going on back in 1984, and so, you know, it's

been 23 years since the -- since the East End Policy Statement was originally adopted, written and adopted. These issues are still with us.

So, again, we go on and look at agriculture land use, so limiting commercial development. There is some language about allowing small landowners to subdivide for distribution to family members or for partial resell. So it talks about discretion. There is some flexibility included in this policy statement. But it talks about commercial development shall be guided by the appropriate agencies with regard to providing innovative solutions to the aforementioned problems. And limit retail commercial services on the East End to those businesses catering to the residents of the community, another idea was a gas station.

So I put some language into the summary, or this is actually from the East End Policy Statement, that commercial development cannot continue to substantially alter community patterns, trading the benefit of economic gain for the expensive loss of community identity, values, and its precious lifestyle. Development is welcome but must be made realistically responsible to the people it affects or, as elsewhere in Hawaii, we may become victims of the growth we seek without realizing the losses we may suffer.

And, under County Zoning, the purpose of the rural districts is to implement the goals and policies of the Maui County General Plan and community plans to provide low density development which preserves the rural character of certain areas to allow small scale agricultural uses and the keeping of animals and to serve as a transition between standard residential or other urban density development and ag lands. And the permissible uses are generally single-family, ag, public parks, and non-commercial recreation, and daycare centers and preschools.

So transient vacation rentals and other commercial accommodations are not listed as permissible uses with a special use permit in the rural district. Okay, wait. I talk about -- I included some language about agriculture because we have to look at that, the State land use, or the Land Study Bureau Classification D, so it's not prime ag land according to that classification, but I believe it was used as agriculture for many, many, many years prior to homes being developed in the area. But because that's the criteria that we use, you know, we had to say that it won't impact ag resources or adjacent uses. And it does not impact any archaeological, historic, or cultural resources because the home has already been built.

There is a comment from the water department, Department of Water Supply, that they -- when they are assessing a change in use, they're assessing that the use of the home would go from 220 gallons per day to 1300 gallons per day. How they make that calculation, I'm not exactly sure, but I'm sure they have a valid methodology for that. They also asked for domestic irrigation and fire flow calculations and a reduced pressure backflow prevention valve be installed on the house in order to switch to the commercial use. And the individual wastewater system, we're still -- the applicant is still trying to get

kind of a final approval on that one. And drainage is -- the change in use will not affect drainage. The access is considered adequate. There was a letter from the Highways Division attesting to that. And there will be no impacts to the infrastructure, to the telephone services, electrical. There could be accumulative impact on parks but I think that's really hard to assess, you know, whether or not the presence of vacation rentals in the area would actually increase impact on let's say beach parks versus, you know, local residents in the area visiting the beach parks, and I did put in that I thought that schools might be impacted because if you don't have long-term residents, you don't have kids going to school in the area. Your school population is going to drop. And, you know, I know they've talked about closing Maunaloa School and even Kilohana School, I'm not sure about that but -- so the owners or the agents for the owners have the waste removed and they recycle. There is no concerns about public services, police or fire. There may be some minor positive social economic impacts as far as some, you know, I'm sure it's not, you know, really highly paid kind of stuff but it is, you know, services that local residents can provide to these vacation rentals, to this vacation rental, but then, you know, it also looks like there might accumulative impact as far as reduction in the rental housing stock and it doesn't contribute to diversified economic development that is not solely dependent on tourism.

So I also, you know, was able to find that it's difficult for long-time residents to see whole communities kind of being taken over by a use that changes the nature of the community from rooted to transient, from local to, you know, foreign or from elsewhere, and from subsistence to commercial. Again, there's a lot of different factors involved but, as far as environmental impacts, because the home had already been approved and built as a single-family home, the change in use will not, you know, create additional impacts.

Again, there was a FEMA No-Rise Determination, which is a flood zone determination. So there was some public testimony that was received, written testimony, in time to include with this staff report. There was one letter in opposition to the project. There were concerns expressed regarding traffic, litter, lack of privacy, change in neighborhood character, and general cumulative impacts due to the proliferation of unpermitted vacation rentals in Manae, and this is from an adjacent landowner who's not yet built on the property, and it was reported that there are also several other adjacent rentals in the area, right in that specific area, and I have also heard that there may be up to eight in that vicinity. And there was one letter received in favor of the proposed change in use. Improvement in appearance of the property and improved safety and economic benefits were cited as, you know, positives. And there were some -- there was some testimony submitted on behalf of the owner and guest remarks from the guest book. Also a sheet discussing the guidelines for people staying at the house. And that pretty much concludes my staff report.

Mr. Vanderbilt: Thanks very much, Nancy. Do any of the commissioners have any questions to Nancy regarding the staff report? Commissioner Dunbar?

Mr. Dunbar: Yeah, Nancy, under your social economic impact you say, "The cumulative cultural impacts of a proliferation of vacation rentals." You consider one vacation rental being asked now is a proliferation?

Ms. McPherson: Well, what I was -- what I was looking at were cumulative impacts and it isn't fair to assess that for an individual application. You're correct.

Mr. Vanderbilt: Are there any other questions from the Commissioners? Commissioner Chaikin?

Mr. Steve Chaikin: Nancy, thank you for your presentation. I just had a question. This thing was first submitted in 2001. How long do these things stay open? Can they stay open indefinitely like this, or how does that work?

Ms. McPherson: Well, when I came to work for the department in August of 2006, we discussed these applications on Molokai, there were about five actually, and, at that time, the policy of the department and the administration was, so the mayor's office, was that we would be holding these applications in abeyance pending emerging legislation from the County Council. Well, the bill that had been proposed or the ordinance that had been proposed was not passed. The administration changed. We have a new mayor now. We also have a new Planning Director. And so we have shifted and are developing policy, and if you'd like to know more about that, I'm sure -- our Planning Director's here actually today, I don't know if he'd want to come up and talk about it, but we are developing policies and approaches for -- for vacation rentals and for the permitting process as well. We're working very hard on that right now.

Mr. Chaikin: Thank you.

Mr. Vanderbilt: Any other questions? Nancy, I have a question. Do you have any idea of how many vacation rentals there are in various sections of the island, say from the Manae area?

Ms. McPherson: Well, I've started doing some research on that and there seem to be quite a few. I haven't been able to get good numbers, but, you know, they do seem to cluster in certain areas, and I am going to be developing that data over the next month or so. So I could get that information to you at a future meeting. I'm sorry it wasn't ready for this one.

Mr. Vanderbilt: Commissioner Pescaia?

Ms. Mikiala Pescaia: Okay, so we are in the process of these crafting regulations and guidelines for -- to regulate vacation rentals on Molokai, right?

Ms. McPherson: For the County, actually.

Ms. Pescaia: For the County?

Ms. McPherson: Yeah.

Ms. Pescaia: Is it -- would it -- so it would just be a blanket ordinance -- I mean a blanket regulation for all the islands, Lanai, Molokai, Maui? It wouldn't be taking into I guess special consideration the uniqueness of the community on Molokai as oppose to --

Ms. McPherson: I'm going to defer this to our Planning Director, Jeff Hunt, if I may.

Ms. Pescaia: Okay.

Ms. McPherson: He's the one who's working very, very hard on this.

Ms. Pescaia: And also the time line, I mean when we could expect this to be in place.

Mr. Jeffrey Hunt: Good afternoon. The question is regarding the draft bill or ordinance that we're working on. The Planning Department, in response to the draft bill that was filed by the County Council, is going to come back with another bill in its place and that bill will address TVR's and B&B's across the entire County, so all three islands. The timing is we expect to get it to the Council within the next few months. From there, there will an opportunity, within each community plan, to further refine that policy, if it's so desired.

Mr. Dunbar: Yeah, Mr. Director, are you going to be asking us for our input to how to change the B&B ordinance or they just stamp TVR on top or --

Mr. Hunt: We just thought we'd kinda do it on our own -- no.

Mr. Dunbar: I bet you have.

Mr. Hunt: Any bill that -- any bill that we would draft would have to go through all the different planning commissions, we would hold public meetings and get the input from the citizens, and it would be, I'm sure, a very well attended public process. That's our intent.

Mr. Dunbar: Yeah, well, I would hope so because 19.38 didn't get that sort of agricultural zoning ordinance looked at real closely and there's certainly a few bugs in that.

Mr. Hunt: Well, that would be intent under my administration. I wasn't here for 19.38.

Mr. Dunbar: Thanks.

Mr. Vanderbilt: So, as I understand it -- excuse me, are there any other questions from the Commissioners? Yeah, Commissioner DeCoite?

Ms. DeCoite: So, Mr. Hunt, when this ordinance goes back, you said there will be another bill. What's the estimated time say if, I know they're asking for a conditional permit, if this thing goes back to County Council, would be based on the County Council's to either reject or follow through with a conditional permit, or would that be final say on Planning Commission?

Mr. Hunt: The Planning Commission makes a recommendation to the Council, and the Council can sit on it, they can act on it. The recommendation that you folks have to make has to be on the existing ordinances before you right now. The recommendation that we're making to you is based, in part, on our view of what the draft bill we'll be proposing and what we have heard from the citizens and other planning commissions and from the County Council, the concerns that have been expressed. So even though the draft bill is still a draft bill, our recommendation to you today takes that into account. Did I explain that well?

Ms. DeCoite: So, actually, time line on that if it goes back?

Mr. Hunt: The draft bill?

Ms. DeCoite: The draft bill.

Mr. Hunt: We anticipate having it to Council within a few months, then it gets kicked back to committee, it gets through the planning commissions, and goes back up the process.

Ms. DeCoite: Okay, thank you.

Mr. Vanderbilt: Excuse me, Jeff. Are there any other questions right now? Okay, I just have one. Just for -- I did get a copy of the Planning Committee Report of February of 2007 in which they shelved the -- the old legislation and, just for everybody's knowledge, it says, "Your Planning Committee further noted the strong and unanimous opposition of the draft bill transmitted by Resolution 6-32 expressed by the Planning Director and the planning commissions, and your committee acknowledge its appreciation for the well considered advice provided by the County officials and many concerned members of the public. After due consideration of all viewpoints, your committee expressed its desire to accept the guidance provided by the Planning Department and the planning commissions and recommended that the Council not pass the draft bill transmitted." And, therefore, they

voted to shelve it. Just to give everybody a little back ground that that bill did come before our Molokai Planning Commission. Thank you. Excuse me, Jeff. Could -- there was -- when Nancy was reading her point, her staff report, she mentioned that -- that the intent of a conditional permit was to provide an opportunity to consider certain uses that aren't specifically permitted and which have some special, and this is right out of the ordinance, and which has some special impact or uniqueness such that its affect on surrounding environment cannot be determined in advance of the use being proposed for a particular location. I don't quite understand what a special impact or uniqueness would be and who determines that. When you get an application for a conditional use permit, do you evaluate that application with the intent of conditional to say whether it should be processed or not, or are you under an obligation to process all applications for a conditional permit?

Mr. Hunt: Any application that is complete and the fees are paid, we have to process it. In terms of anticipating the impacts, that's part of the planner's job is to anticipate the impacts based on agency comments and citizen input.

Mr. Vanderbilt: And if a applicant wants to consult with the Planning Department as to whether something has a good chance or maybe not a chance or doesn't meet the intent, do you volunteer that information or give them some advice or do you just accept the application and move forward?

Mr. Hunt: We often explain that there may be an uphill battle or a tough battle based on some language in the plan. But if they choose to pursue it, we have to process it.

Mr. Vanderbilt: Thank you. Excuse me, Commissioner Chaikin?

Mr. Chaikin: Yeah, Jeff, I just wanted to thank you for coming today cause it's a real privilege to have the director here. And while you're here, I'm going to take this opportunity to, you know, ask you: We have a relatively new planner here, Nancy, and, as you are aware, this is a pretty small community and let's face it, she can make a lot of enemies or a lot of friends very quickly around here based on what she feels about different projects, so I would just like to ask, when you do come forward with your recommendations, that you could at least distance Nancy as much as you can and have her present the facts as she see it and the Planning Department and you, as the director, come up with your recommendations and keep Nancy kind of neutral so she can do the work she needs to do in this community without being labeled this way or that way.

Mr. Hunt: I think it's important for everyone to know that Nancy works for the Planning Department; I work for the Mayor; we try and get along with the Council; we serve the citizens. If there's any image that the Planning Department or one planner is a loose cannon, that image is totally incorrect. Now we may make decisions that people don't

agree with, but we make those decisions based on a lot of input and a lot of direction, so we're not just out there making up our own minds, and that goes for Nancy certainly.

Mr. Vanderbilt: Commissioner Dunbar?

Mr. Dunbar: Yeah, I think, you know, under that Title 19, Zoning, Chapter 19.40, Conditional Permits, I think one of the things that people overlook on that because I went through this process is determined -- the affects cannot be determined in advance of the use being proposed for a particular location, and what is often overlooked is the particular location, and that's right in the ordinance, and so -- and I agree with it. I mean I don't think you can and it could very well be that an area where the Feeter's want a vacation rental, one is fine and ten's too many. You know, I think we're going to find that all the way down the line here. And it doesn't say anywhere in the ordinance that you do not have a vacation rental; it says that you balance visitor and resident. Now is -- is 50 percent is too much, is 25 percent too much, is 20 percent too much? You know, that's the discretion of the board. You know, so what I'm trying to say here is that when you look at this 19, you gotta focus on that particular location because it could very well be that there's a stand-alone. There's nothing around it to affect.

Mr. Hunt: The conditional permit applies to any use, any conceivable use across the board that is not specifically listed within the zoning ordinances, within those districts, and this particular application you're dealing with a TVR and given the amount of input and concern that the Planning Department has received from citizens, from planning commissions, from the Council, we think that you can make a determination as to what those impacts are. There's been a lot of testimony that we've heard about the impacts on TVR's to the housing market and how it's affecting the price of housing and making -- contributing to the price of housing being unattainable to local residents. There's a number of considerable testimony on the impacts that these TVR's, because there's not an onsite manager, have on surrounding neighbors. So it's important that people realize that there's already some conclusions made regarding TVR's versus a B&B. If this had been a B&B application, the Planning Department's recommendation may have been different; the difference being that a B&B has an onsite manager and it's providing local housing for that manager or for that owner of that building. So the Planning Department, and you'll see this in your draft bill when it comes back to you, is going to make a very strong distinction between TVR's, which a lot of people have concluded have negative impacts that I addressed, versus B&B's, which people feel are acceptable because they do help out in the local --

Mr. Dunbar: I understand what you're saying but I think your -- where you have your problem is proliferation and, on Maui, you've got proliferation and I mean it's chaos. I think you can have a number of vacation rentals in isolated areas or in small areas or in small groups that only go to improve, you know, what's happening in that particular

neighborhood. And, Nancy, if you every wanna come out to Manae, I'll walk down the coast with you and I'll tell you every single one of them.

Mr. Hunt: And this is the department recommendation to this board. You don't have to accept that. You can make your own conclusion. I'll agree with you that the policies in the zoning ordinance and the community plan and general plans are open to interpretation that you could interpret them differently than the Planning Department does.

Mr. Vanderbilt: Okay, are there anymore questions for Director Hunt? Seeing none, thank you, Jeff, very much for coming over.

Mr. Joseph Kalipi: Chair? Chair?

Mr. Vanderbilt: Excuse me. Commissioner Kalipi?

Mr. Kalipi: I don't have a question but I do want to share a comment. I know I received the packet in the mail about Nancy's report, and just commenting, maybe in the future, I've already read it, can you summarize it in a shorter period of time after we already read it and stuff like that? Thank you.

Mr. Vanderbilt: Thank you. Commissioner Pescaia? No question's dumb. No question is dumb.

Ms. Pescaia: Okay, my new guy question. Okay, these two permits we're talking about, how long are these permits in effect? Is there like a -- they just stay in effect as long as they operate as a vacation rental, you know, the -- or, at some point, when the new policies are adopted, we would go back and revisit and make sure that they are in compliance of the new policies? And is their permit specifically limited to operating as a vacation rental and no other special uses beyond that? Does that make sense?

Mr. Clayton Yoshida: Good afternoon. Clayton Yoshida with the Planning Department. As far as how long the permits are effective for, that's specified in the permit. You know, it could be one year, three years, five years. Depends on what the Council approves it for.

Mr. Vanderbilt: Excuse me, Clayton. So it's one, two, and then they would come back for an extension?

Mr. Yoshida: If that's so specified in -- as a -- part of the condition of the permit that time extensions can be granted. Sometimes, you know, they're temporal because maybe there's shortage of available commercial space in town but things are on the books, projects may be available or space may be available in two years, you know, they may grant them a permit for two years.

Mr. Vanderbilt: But, generally, when you're doing a conditional permit, do you put in there that it can be extended? Because that's one of the requirements -- that's one of the requirements under the law it says extensions. They'll -- conditional permits shall not be extended unless the terms of the initial issuance explicitly provide for the same. So it would be up to us to put that in.

Mr. Yoshida: Yes, again, your role here is as a, for the conditional permit, as a recommending body to the Council. It's up to the Council, who is the final decision-making body, and it'll be up to them whether or not they place it as part of a condition on the conditional permit.

Mr. Vanderbilt: We cannot recommend approval with any conditions?

Mr. Yoshida: You can recommend approval with conditions but, again, the role of the Commission for the conditional permit is advisory to the Council; the Council is the final decision-making authority.

Mr. Vanderbilt: And the other thing is it says, "The extension. If the administration," which I guess is the Planning Department, "determines that there has been no substantial change in the factor surrounding the original application, no public hearing will be held on the extension." So my question would be: How does the administration determine this -- that there wouldn't be any public hearing? How do they determine -- I mean, for instance, nothing may have changed and there may be all vacation rentals around at that time. How does the public -- how do you determine there'll be no public hearing on the extension?

Mr. Yoshida: With a time extension request, we may look at whether there's been any complaints from the public during the time period. We may also send out the application to various public agencies for comments and see if they have any concerns since the project has been permitted.

Mr. Vanderbilt: Would the Molokai Planning Commission be one of those agencies that you send out for comment?

Mr. Yoshida: Normally they're public reviewing agencies that have, you know, some sort of purview, say Department of Health, Public Works.

Mr. Vanderbilt: Alright, we are an agency of the County, right?

Mr. Yoshida: You're a board of --

Mr. Vanderbilt: We're an agency of the County, right?

Mr. Yoshida: I believe --

Mr. Vanderbilt: Let's assume we are an agency cause we are, I believe, and we review things, and we have an obligation to this community, so it would seem that you would at least, if you were considering an extension, come back to this community at least and see if there were any comments, just like you would do any other agency.

Mr. Yoshida: Well, again, as part of the conditions of the original permit, the Commission could recommend that any time extensions or amendments be treated as a public hearing item before the Commission, and if the Council agrees with that, then, if they come in with a time extension request, then we would have to do a public hearing.

Mr. Vanderbilt: Well, thank you. That's very educational. I think -- I guess all of us need to try to understand these very complex rules because all of us are just lay people and it gets pretty difficult so I appreciate that ...(inaudible)...

Mr. Yoshida: I guess I neglected to answer Commissioner Pescaia's second question which was is it only for a transient vacation rental. It's only for the outright permitted use as applied for. If they wanted to do, you know, other types of uses, like weddings, you know, wedding receptions and so forth, they may have -- they would have to amend their conditional permit.

Mr. Vanderbilt: Thank you, Clayton? Are there any other questions for Clayton? Commissioner Chaikin?

Mr. Chaikin: Clayton, I just wanted to know if you could review what our options are, you know, we can approve or disapprove, is deferral an option, or could you just go over that, what our options are?

Mr. Yoshida: For the conditional permit or the special use permit?

Mr. Chaikin: For both.

Mr. Vanderbilt: Commissioner Chaikin, you think we might could wait till that comes at the time when we're reviewing the recommendations? It just seems like that might be --

Mr. Chaikin: Alright. I'll defer that question. Thank you.

Mr. Vanderbilt: Okay, are there any other questions for Clayton? Hearing none, would the applicant like to make a statement at this time? Frances, could you state your name.

Ms. Frances Feeter: I'm Frances Feeter and I'm the applicant for this vacation rental. Aloha, Chairman Vanderbilt, members of the Planning Commission and the Planning staff, and it's really nice to have our director here. Thank you.

You've been inundated with information so I'm going to be very brief. I think you have practically everything that I know on there. One thing I might mention is that when we started this originally, I went to Maui and I met with Robyn Loudermilk and the Planning Department at length and she told me this was the process I should go through to get -- to try to get approval for a vacation rental, so that's what we did. We went through the process, which, if any of you've ever done it, it's not much fun, but there's lots of information you have to find and get that you didn't even realize you needed.

One thing I want to say, we are very much in favor of short-terms rentals. We have tried, well, since 2001, to be in compliance with the regulations; we have always paid our GE and TAT taxes. Which reminds me, I feel strongly that the County should participate in those TAT taxes. They are generated in the County and a portion of those really ought to be returned to the County to help with enforcing regulations and so forth.

One thing I think also is that all three islands of Maui County are different, and I think each island should be able to decide what their own regulations should be on this type of thing, and I think one size does not fit all in this case.

I think other people have also said one of the reasons that vacation rentals I feel also important is the lack of adequate housing for visitors in Molokai. I don't know how many times you've known about a special event that's happened here, people cannot find a room and if it weren't for some of the vacation rentals, I don't know what would happen during Ka Hula Piko; the canoe races, particularly. They really like to stay in the house so they can be together and not be parceled out among a hotel. We've had people here for family wedding receptions, family reunions. These are the kinds of things that people really enjoy having vacation rentals available for. We've had people from Oahu and Maui come over here because Molokai is such a special place for them so they want to come and stay, and most of the people that come say, "What a wonderful place to come and relax." They'll spend -- I had one couple here that said, "We didn't move from this place. We stayed here the whole time we were here," because they enjoyed it so well. Another couple said, "I don't want to cook, so we go down to the hotel every night for supper." So there's a little -- people really enjoy it, they love the people they meet in the community, and the feedback we've gotten from our guest is that the community has been very open and accepting to them and they just thoroughly enjoyed their stay here.

Now, we've lived in Maui County almost 19 years. We were on Maui 3 years before we moved to Molokai and have been here almost 16 years. We feel Molokai is a very special place. Both of us have tried to volunteer in various places. We really want to keep Molokai

the way it is. I know Bill's very excited about the water situation, conservation and all that, so we are concerned with the community and we are happy to work with the community if they -- if there's anything we're doing that they feel is not right. We will correct it. And we have never had any complaints so far. One thing, traffic was mentioned, but I might say we've never had a guest that had more than one car. If we had full-time residents here, there would be two cars or maybe three or four, so I think traffic is less than it would be if there was somebody here full-time.

We do -- you do have a copy, we made up a little protocol that we send to all of our guest and we post in the house about things they might not know about being on Molokai and how to be a good visitor to Molokai cause I -- we've all seen -- we've all seen those terrible ugly Americans or whatever that come here and throw their weight around, and we really don't want our guest to do that. We want them to know what it's like to be a good citizen of Molokai.

And I know there's been many negative criticism about vacation rentals on our island but I ask that you support this in an unbiased and reasonable manner and consider all things. Oh, one other thing. Our daughter actually owns the property. She would love to be living here full-time but cannot now. When her son is old enough, her hope is to move here permanently; that's why she built the house. That's it. Any questions?

Mr. Vanderbilt: Thank you, Frances. Are there any questions from the Commissioners?

Ms. Feeter: Thank you.

Mr. Vanderbilt: Thank you very much, Frances. Okay, now we'll open it up for public hearing. So now we'll open it to public hearing. Is there anybody here that would like to testify? Yes? No, no, no. Come on up. And then after you -- state your name and then afterwards please just sign up over there when you're finished. Thank you.

a. Public Hearing

Ms. Rae Young: Aloha. My name is Rae Young. I live in the Manae community at Kamalo. We've lived there now for several years, about 13 years. We have tried to be part of the community. From day one, when we moved to Molokai, we've known the Feeter ohana, and I'm here to support their application. I live in the community and I know that there needs to be some economic growth in Molokai and there needs to be also a clear -- oh, how can I say it? We have to be very careful of what we pick and how we do it, and the people that come into these vacation rentals are the people that want to visit Molokai, the way Molokai is. Because if they wanted to be served in a four-star hotel, they would be there. They can pay for it, you know. They want the peace. They want the quiet. They want the interaction with the community. I think, for Manae, being that I, you know, I am

a Manae citizen, I live in that area, I think for us some vacation rentals would really add. There's a lot of people that live out there that are very low-income. It does help that they can clean a yard. It does help that they can clean a house, maybe two houses, maybe three houses. And these people don't have the resources to get in their cars and make a trip to Kaunakakai to attend a full-time occupation, but these little areas could support Manae's small little economy in a way that it wouldn't impact our community too much. And it's really sad that I see the community getting smaller and smaller, and it is, you're right, it is hard for the local people to own a house, but be realistic, who is going to own the house that is on a beachfront property? All those people got the houses there because we had to sell the property. So for us to come down and say that the Feeter's or whoever is doing it shouldn't be able to do what they want to do because some Hawaiian person should be there, that, you know, that's a really good thought and I would love for that to be true, but we all know that in reality it was owned by Hawaiian people and they had to sell it many generations ago. The Feeter's weren't the first ones to buy it from the original Hawaiian owner. So, anyway, I guess what I'm trying to say is -- oh, and one more point, before I leave. I wanted to say that I thought Nancy's report was very well but I was very confused because some of the report was more like it wasn't a six-person impact on the Manae community, which is what the Feeter ohana is talking about. Six people at a time at that house I don't think will impact the park that we have there, the school that we have there, the traffic that we have there. If anything, I see a lot of positive things because they will buy some of their entertainment from Food and Grinds, they'll provide some kind of employment for the people in the community. And also I wanted to mention the Feeter ohana. You know Molokai is a special place. We cannot keep people from coming here but we can be very selective in putting the right people in the right places. The people that believe in Molokai understand Molokai and want to be part of our community and not just talk about it but really do something, and the Feeter's do that. When Frances and Chrissy and Bill says that house would be available to the community for special projects, I believe them because I have seen it. You know, so just from me knowing the community that I live in and knowing the Feeter's, I think we should live in today's -- whatever is present today and not think about what might happen in the future, when that will happen. I think this is a good opportunity for Manae. I think it's a good opportunity for Molokai. And that's all I have to say.

Mr. Vanderbilt: Thank you, Rae.

Ms. Young: Any questions?

Mr. Vanderbilt: Are there any questions for Rae? Yeah, Rae, I have just one question. I agree with everything you said about the Feeter's. They've been just great people on this island and contribute a lot of their time and effort and everything else, but you mentioned about being selective and if ...(inaudible)...

Ms. Young: Okay, I mean just that, selective, we were talking about an onsite manager, they will be here. They live here.

Mr. Vanderbilt: No, no, and I agree, but just say everything's proper but just say this Commission does approve this --

Ms. Young: Yes.

Mr. Vanderbilt: And then we're approving a conditional use and then the next guys comes in and he's --

Ms. Young: We're not doing the next guy, sir.

Mr. Vanderbilt: No, no, no, no.

Ms. Young: We are doing this guy.

Mr. Vanderbilt: No, no, I'm just -- I'm just saying what the dilemma is if we approve it. We're supposed to -- and this is something maybe we can ask --

Ms. Young: No, this is one application.

Mr. Vanderbilt: One application.

Ms. Young: I totally disagree with what you're saying.

Mr. Vanderbilt: No, no.

Ms. Young: This is -- I'm not here for everybody who comes in with an application for a vacation rental. I am here for the property in Puko`o that I have been -- I've seen the site, I know the people, I live in the community; that's why I'm here.

Mr. Vanderbilt: Right, and there has been testimony from people in the community that may feel other -- which is fine.

Ms. Young: Which is fine.

Mr. Vanderbilt: I'm not even going there. I'm just going that we're operating in a -- so it's hard on us. Here we have the County Council that didn't even take the time to address --

Ms. Young: I think we're digressing from where we should be. All I am is here in support of this application at this time, not for what the County might write up in regulations in the future --

Mr. Vanderbilt: Correct.

Ms. Young: Not for whatever future applications will come in and will impact Manae and Molokai, but I am here for this specific place, for this specific application.

Mr. Vanderbilt: And thank you for your testimony.

Ms. Young: And so if you have any other questions --

Mr. Vanderbilt: And I agree with everything you said about the Feeter's.

Ms. Young: Okay, thank you.

Mr. Vanderbilt: Next testifier.

Ms. Paula Kakaio: Hi. I'm Paula Kakaio.

Mr. Vanderbilt: Hey, Paula, how are you?

Ms. Kakaio: I'm good, DeGray. How are you. Hi. Commissioners, Chair, I also reside on Manae side and I've also spent the last ten years working for the Feeter's, and one of things that surprise on Nancy's report was the impact for Kilohana. My kids have been at Kilohana for five and six years and I've never heard one word whispered about that school closing, okay, and I don't believe that vacation rentals is impacting the number of students. The DOE is doing a great job of that on their own.

I am here to testify on behalf and support of the Feeter's. I don't support all vacation rentals. I support this one because I know what they have invested; I know what their life plan is; I know that they intend to take their last breath on this island. I know their daughter personally. I consider her a friend. She does a lot for the community. As a matter of fact, she sewed a lot of my stuff for my wedding. On top of that, she's held sewing classes for the community, she's also, I don't know if you know, at 17 years old, giving windsurfing lessons. She's very active in the community.

I just -- I just -- and I don't know if everybody in this room is aware, if they read the papers, I'm not sure how many people do that, if any other people do that, but the Feeter's donate five percent of every penny of rental income to Molokai Habitat for Humanity. I'd like to ask the Planning Commission to make that a criteria for everybody instead of people coming

in here using us to subsidize their second, third, fourth, fifth homes, whatever the case may be.

Their daughter's plan is to -- they bought here so she can move here and take care of her parents, okay. I am all for that. That's the kind of people that we want to come here, not people who are just coming to take our money, and that's basically what I have to say. I have a lot of respect for what they do in our community and I hope that you approve their permit.

Mr. Vanderbilt: Thank you, Paula. Any questions from the Commissioners? Hearing none.

Ms. Kakaio: Thank you.

Mr. Vanderbilt: Yes, Donna, just state your name.

Ms. Donna Paoa: I'm Donna Paoa and I'm also here on behalf of -- testifying in favor of this vacation rental. Bill and Frances are our neighbors, and have been for 16 years. They're our next door neighbor. We have a gate that opens between the houses. We walk through. We walk into each other's houses. We share bananas that Bill grows down at Puko`o. These are good people. We have neighbors on the other side that are doing vacation rentals, \$400 a night, it's called The Mother Ocean. They may be good people too but they don't live here. They're in it for the money. They have five houses. They live in Palm Springs. You know, they're not the same. It's -- that's the discretion that needs to be done. I think also that's the discretion that goes back to the Planning Department. People are different. These are local people that have got a mortgage on the place that need to pay for it that are giving back to their community. They cannot be used as the example. And since they've been trying since 2001, they're actually closer to the time that Kip tried to do his then they are to 2007, much less to 2008 when whatever new -- new permits are coming through the Planning Department. I agree that regulations need to be in place, so do the Feeter's. I agree that things need to be permitted. That's what they're trying to do. You know, now is not the time to hurt the one family that's trying to get permitted.

I wanted to say that the part that giving back to the community, at one point, when their daughter was doing well, she essentially funded a whole year of Friendly Isle United Way, that was the amount of the donation that she made, and I'm not going to say the amount, you probably have it, but you see when they make their Friendly Island United Fund Goal, with that red bubble, they always have a goal, she gave that whole amount one time, okay. They're giving back five percent. They have protocol. They're good people.

I also wanna say that other local folks are doing this. You might can see this as being enterprising or entrepreneurial. Just yesterday, one of my staff members mentioned to me:

Oh, I did the same thing. I had to go to Honolulu for six months, I couldn't find a renter. I just put it on the web, put some calendars up and started doing short-term. Never even thought that maybe it wasn't legal or permitted. Other folks are doing it and, in a perfect world, maybe it's not so bad using your house to have a little bit of income since we don't have the highest per capita income on this island. It's a way of using something that you have and letting it work for you.

There's also -- I do agree with the canoe guys that come in. Entrepreneurial people will leave their home and go down and rent a room at Molokai Shores for two nights and rent their house out for a thousand bucks. Five hundred a night. And, all of a sudden, they got a thousand bucks and plus they had a good weekend at Molokai Shores. I mean, you know, it happens. It's happening. Local folks are doing it. Everyone's doing it. It needs to be regulated. It needs to be permitted. These guys have been trying for a long, long time, and that was my point. So I guess, essentially, they pay their taxes, they don't mind being regulated, I would say let's not make an example of them unless we approve it. Thank you.

Mr. Vanderbilt: Thank you, Donna. Are there any questions for the testifier? Hearing none, alright the -- excuse me, the next testifier that had signed up the Akaula School presentation. If you guys could come on up. I think each of the Commissioners got a copy of their presentation. And if you could come up and state your name and, hopefully, you can educate us on all the research that you've done. Can you state your name, please.

Ms. Eesha Dudoit-Alapai, Kj Tanaka, and Keolewa Puhī (*Akaula School presentation*):

This year in Prism we investigated the issue of vacation rentals. We sampled 190 Molokai residents on their opinion. The resident questions we looked -- oh, wait. The research questions we looked at were: To what extent do Molokai residents know about vacation rentals on Molokai? To what extent do Molokai residents believe that the law on Molokai vacation rentals should be changed? To what extent do Molokai residents want to limit the number of vacation rentals on Molokai? And to what extent does the perceived knowledge of Molokai residents affect their opinion about whether vacation rentals should be permitted on Molokai?

We're not here to state our opinions but what the data shows. Some of the recommendations we came up with, after our initial investigation, are that the laws be changed to make it easier and less costly to get a permit, and that the limits be set on the amount of rentals that can be located in a residential neighborhood.

We just wanted to share our findings with the Commission to help you in making your decisions; it contains the question we asked, the data we collected along with our conclusions and inferences. We hope it will be of some help. Thank you for your time.

Mr. Vanderbilt: Thank you very much ladies. Is there any questions for our testifier's today? This was a tremendous job. I wish we'd had it a few days earlier to digest it, but thank you very much for your input and contributing to the whole planning process on Molokai. Alright, the next person who had signed up is Kirk Clarke.

Mr. Kirk Clarke: My name is Kirk Clarke and I live in the Kamalo area, Manae. I've known the Feeter's for the better part of 15 years. They're really great people. And I'd like to mention on the vacation rental set up, the people that come to Molokai and do vacation rental are usually a much, well, better class, I'm not saying they're the greatest, but they're usually financially and otherwise better people than you would get at say Maui or Waikiki or something like that. And when they come to Molokai, and they do vacation rentals, they usually love the aina. They've usually been here two, three, four, times before they discover a decent vacation rental that they can rent, and that's why I recommend it. They, the Feeter's themselves, are great people. They do a good job. They pay their taxes. They bring money into the economy for our local people. And so I highly would like to see you folks recommend them. Thank you.

Mr. Vanderbilt: Thank you, Kirk. Are there any questions for Kirk? Hearing none, the next testifier that had signed up was, let's see Rae already testified, so the next person would be -- would be Debra Mapel.

Ms. Debra Mapel: Hi. Good afternoon, Commission. I thought there were a lot of people here to testify. I'm Debra Mapel and I used to be on that side of the table. I was a commissioner when Kip Dunbar's vacation rental came before us and, you know, I don't know how much past history they gave you folks but last year when that bill came forward, I sat through a couple of those hearings and it kind of became clear that not much past history was brought forward. I'm not going to tell you how to do your job cause I know how that feels, okay, but there's some things that I think you should know about, and we had three meetings, three very long meetings about vacation rentals when we heard Kip's, and one of them was a nighttime meeting at Kilohana School, and one was here, and I believe we had one in Kualapuu. But, you know, we discussed it and discussed it and we learned a lot through that process, and I still believe a conditional use permit is the best way to go. I was not in favor of the bill last year to put it as a B&B. It is not a B&B. That's plain and simple. There's so many good parts about a conditional use permit and one of the best is that, as Kip found out, when you get this conditional use permit, automatically your property tax is going to be adjusted. It's going to go to the highest rate, the hotel rate, and that money goes to the County, so we lose the TAT. Well, the County has been shooting itself in the foot. We could have been getting tons of real estate tax if we had got these things permitted and it would have gone right to the County, and so that's a good thing. You know, and that doesn't affect any of the adjacent property owners. So it is a way for the County to benefit more from permitting these. And there's just so many reasons it should be permitted but to create a whole new category is a tremendous amount of work; no

matter how hard you work on it, there's going to be things come up that you never thought about. Sometimes we put our names to things and we're like, oh darn, but conditional use permit is very specific. It's gone when the owner sells the property. The next person does not pick up the permit. It doesn't mean they're going to get one either because this is case-by-case. Yes, you can approve this one and deny the next one. That is your privilege. I'm sorry, you can make a recommendation to deny cause we don't approve them, we just make recommendations, and I do believe our recommendations are heard, okay. As long as you guys put your stipulations. When you put a recommendation out there that you don't wanna approve it, you better list your conditions cause they need to know everything you know. Don't assume that they know anything cause they really don't. No offense. So, you know, whatever way you go, be sure and put those conditions on it, and just like a few of the things we had recommended to the Council cause we did want it to be more of a guideline to follow, you know, this vague thing and they throw it at us and we have to figure it all out. It's not fair to the people applying for the permit; it's not fair to you.

So our biggest concern was a renter being displaced because somebody sold the property and the new person who bought it was just going to make money off of it as a vacation rental. And that's kinda what happened. Cause this was what? Five, six, seven years ago we did this; property values, you know, went really high and a lot of people bought these as investments, and that's the one thing we didn't want to happen, okay. And so there were a few things we suggested, I'm not sure how many of them were legal. Number one was you could only have one vacation rental per TMK. If you can put a house and a cottage on one TMK, well you can't turn both of them into a vacation rental. Only one per TMK. And if a person had more than one property and wanted to do more vacation rentals, well only 50 percent of the properties you own could be vacation rentals. The other 50 percent had to be long-term rentals. And that way we guaranteed long-term rentals and vacation rentals, both existed. We had to find some way to make sure we didn't lose housing for people who lived here and everything convert to a vacation rental, which is kind of what's happening on Maui too. But these are simple little things. Simple little wordings that you can put into things and it does give it a guideline and that you can carry from permit to permit. There were other things we came up with like --

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

Ms. Mapel: Sure. One of the other things we came up with was you could only be a Hawaii resident. I don't think that will carry. But we kinda thought that would be good that you had to be living here in Hawaii to own one. And that you had to be in a vacation rental at least so many weeks out of the year, but I subsequently found the IRS doesn't allow that so, you know, there's all kind of guidelines out there.

But, you know, as a Commission, it's hard when the first one hits you you just gotta going, going, going, going, you got a thousand ideas. It's one permit you're talking about. But

make your ideas carry on to the next one. Find some kind of guide that you're going to live by and suggest it to the County. Thank you.

Mr. Vanderbilt: Thank you, Debra. Any questions for the testifier? Commissioner Chaikin.

Mr. Chaikin: Thank you, Debbie, for that useful information. I was just wondering, when you did hear Kip's, at that same time period or while you were a commissioner, were there other transient vacation rentals that you guys had to hear and decide on?

Ms. Mapel: Well, this was kind of a new concept for the County and so, you know, this was the first one permitted that came through and, in the process of hearing this one, somebody brought a list of 20 more that were out there so then the County knew about them, had to investigate on them. People then had to start going and get the applications. I believe Feeter's maybe that was around the time they got their application and, all of sudden, we knew, as a commission, we were going to hear about 50 of these. It was like massive. So there were a whole bunch of people that then realized they had to get permitted, even though they were paying their GE's and TAT's, they needed the conditional use permit, so they went to the County. The administration has changed twice since this happened. The administration went out right after this one was permitted. They new administration went towards a bill and they halted permitting, not halted, but they kinda slowed down on the permitting cause they wanted to write a bill. That administration's gone. Now you have a new administration. So every time you have a change of administration, the permitting has gone like this, but that's why I said, I believe conditional use permit is the best way to go at this time, but there's people out there that have been trying, and that we know that those 20 that were notified at that meeting were going to be coming forward.

Mr. Chaikin: So no other applications came before you?

Ms. Mapel: Not at that time. No.

Mr. Chaikin: Thank you.

Ms. Mapel But that was the Planning Department that held them up. It wasn't because they weren't applied for.

Mr. Vanderbilt: Do you know, as a Commissioner, we get a list of all the people that have applied, do you know how many people roughly applied? You mentioned you thought you might get 50 or 20 or however many. Do you know how many people may have applied?

Ms. Mapel: I have no idea how many people actually went to the County and pulled a permit, pulled the application, but people were turning in names to the County. All of a

sudden, everybody become a watchdog and was notifying the County that they existed. So I don't know how many of those people actually did pull a permit.

Mr. Vanderbilt: Okay, thank you.

Ms. Mapel: Thank you.

Mr. Vanderbilt: Any other questions? Okay, the next testifier is Russ Kakaio.

Mr. Russ Kakaio: Hi, Commission. My name's Russ Kakaio and I guess you heard a lot of the good stuff as far as vacation rentals. As far as the bad side as far as vacation rentals, I've been cleaning for probably 10, 11 years and came across a lot of vacation rentals which I -- I actually enjoyed cleaning private homes better than the vacation rentals because there's just so much scrutiny between the vacation rentals, even between the cleaning, for example a bad vacation rental was that place in Wailua where we were, after the people were still there, we went in to clean, it was raining, there was holes all over the roof, leaking in there, that people pay good money, and we asked the people who we were working for, what are they going to do to remedy this. So what they did is they stuck a couple bricks on top the roof with some plastic bags. And these are professional people that are managing on this island. Like I said, you guys heard pretty much what a good rental does, you know, they give back to the community. I see them put a lot of their time into it. I've been cleaning them for ten years. I still prefer private homes. You get a little more personal with the people who live there. Bill and Frances, they live here, and they're pretty much the watchdog over the place. And, like I said, there is a few bad apples out there but, like I said, I've been cleaning for these people for quite a bit of time and they've treated us good, the work is good, and I'd just to see a good person who enjoys what they're doing and shows what this island's about get discounted from this but, like I said, I think you gotta take each individual vacation rental. And I think I was here eight months ago and asking if there was any kind of regulator here to look over everything what's going on and I think, till this time, there's still none, no regulator. Maybe you should have these kids maybe go through to each individual place and do their investigating and see what they come up with. But, like I said -- that's all I have to say. Thanks.

Mr. Vanderbilt: Excuse me, Russ. Anybody have any questions for Russ? Hearing none. Is there anybody else? I think that's all that have signed up. Is there anybody else that would like to testify? You can sign up afterwards.

Mr. Ed Kaili: Hello. I'm Ed Kaili. I'm from the same place at Puko`o where the Feeter's is at and they are very nice people, and it's a nice area too, so I'm here to support them and, hopefully, everything will go fine like that. You know, that's all I have to say.

Mr. Vanderbilt: Thank you very much for your testimony. Does anybody have any -- Commissioner Dunbar. Excuse me, Commissioner Dunbar had a question for you.

Mr. Dunbar: Yeah, I'm curious. The driveway goes right by your house.

Mr. Kaili: Yeah, right.

Mr. Dunbar: Yeah?

Mr. Kaili: Yeah.

Mr. Dunbar: Do you ever find that that's something you don't like or don't want or is it, you know, is it too much, is it, you know, I mean do you have a problem with it is --

Mr. Kaili: Oh no I don't have --

Mr. Dunbar: I mean you're the closest neighbor and you're the one that's going to be, you know, and you've always been a neighbor to the Feeter's, so I just have to ask the question if it's -- you know, you're kind of the final word so far as I'm concerned. You know, if you like them --

Mr. Kaili: Oh yeah.

Mr. Dunbar: I don't have a complaint.

Mr. Kaili: No, I got nothing to say. Everything's all good.

Mr. Dunbar: Okay, thank you.

Mr. Kaili: Thank you.

Mr. Vanderbilt: Which is your lot?

Mr. Kaili: The lot in front of the Feeter's. Right on the main road.

Mr. Vanderbilt: You're on the main road?

Mr. Kaili: Yeah. And the Feeter's is behind of me.

Mr. Vanderbilt: Is that near the -- is that Aipa?

Mr. Kaili: Yeah.

Mr. Vanderbilt: That's the almost two-acre lot right --

Mr. Kaili: Yeah, right.

Mr. Vanderbilt: Right there in the front?

Mr. Kaili: Yes.

Mr. Vanderbilt: Okay. Thank you.

Mr. Kaili: Okay.

Mr. Vanderbilt: Are there any other people that would like to testify? Yes, Linda?

Ms. Linda Place: Hi, everybody. Thank you.

Mr. Vanderbilt: Please state your name for the record, Linda.

Ms. Place: My name is Linda Place and I live on Ohia, Molokai, and I'd just like to say a few things. First of all, I aloha the Feeter's, and they are good citizens to our community, and we need to stick to the issue on vacation rentals, and I know that it's going to be a hard thing to chose. Anyway, these are just some of my thoughts.

Vacation rentals are permitted and encouraged in areas west of Manea by the Molokai community and the Maui County zoning regulations. Tourist accommodations are specified cited as undesired and not recommended in Manea, as stated on Page 7, Item 10, of the East End Policy Statement, Exhibit D of the Molokai Community Plan, and not allowable at all under the Maui County zone regulations. An application for a commercial resort business, such as vacation rentals, is a unilateral effort to impose new zoning on a long established rural neighborhood. A neighborhood which has already expressed its rejections of such activities in its policy statement. Residents of Manea have chose to live here because of its rural unspoiled nature. A friendly traditional community that supports and hopes to maintain a subsistence type of lifestyle. The Maui County zoning regulations and the East End Policy Statement are designed to protect this way of life. A lifestyle that has been lost in too many other Hawaiian communities from adverse development. Bringing tourist accommodations into the middle of a working class tightknit neighborhood creates a disruption to local lifestyle and just isn't pono. The unique Manea community is too valuable an asset to cultural -- of Hawaii to have it be sold off as just another resort destination.

Many long-term rental homes have been converted into more lucrative vacation rentals, essentially eliminating any hope for local families to find a place to rent in Manea. We want

to support our local families and not lose our local style or just -- so a bunch of people can -- or off-islanders can have a place to play.

And the other thing I just want to bring up is that I tried to do a little survey of my own and I noticed that on the internet there are a total of 16 owners that are -- that have vacation rentals and at Wavecrest, which is allowable, they have 11, you know, in that area, which is -- it's alright with the community because that's where it belongs. And then on the realtor part, I have of homes in Puko`o and Wailalua and I just came up with a total of six, and there might be a lot other that are not listed and, anyway, I'd like to thank you at this time for letting me to speak.

Mr. Vanderbilt: Thank you, Linda. Are there any questions for Linda? Commissioner DeCoite?

Ms. DeCoite: Linda, I saw your testimony from -- and it's signed off as you and Malama Pono O Ka Aina Molokai. What are the numbers of members in your organization?

Ms. Place: Right now we have about 39 to 50 people, members.

Ms. DeCoite: And their feeling on this is basically what is stated in --

Ms. Place: Right, because we did write that in April of 2006, as you can see.

Ms. DeCoite: Okay, thanks, Linda.

Ms. Place: Okay.

Mr. Vanderbilt: Thank you, Linda. And you did send in -- you did give us the written testimony already?

Ms. Place: Yeah. This was just something I wanted to add just from being seated there and listening to everyone, you know, testifying but --

Mr. Vanderbilt: Thank you very much.

Ms. Place: Thank you.

Mr. Vanderbilt: Is there anybody else here that would like to testify? Roland?

Mr. Roland Salmon: Good afternoon. My name is Roland Salmon. I'm a long-time resident here, for 30 years, and happen to own a little piece of land, a quarter of an acre, right in the middle of these vacation houses here. I'm surrounded by vacation rentals,

everywhere you look, except the north side. All these rentals are illegal commercial structures. In fact, rentals are mini hotels. That's what they are. The traffic and the private easement is becoming a nuisance: lack of privacy; all kinds of cars and trucks; strangers in and out; walking through my land a lot of times; picking my fruits. This is an invitation to crime. Garbage left behind. Please consider this. Three rentals to the east; two to the south. The applicant just sold one a couple years ago and he's applying for another rental on Lot 11. More rentals southwest on the beach. We have the local store, the Neighborhood Store, and it's very busy as you know. A lot of traffic there. Across the river ...(inaudible)... home, heavy traffic on the road. The little beach access is there also. A lot of cars there, and more cars all the time because of the fire station is also there, and these people need room to maneuver. They don't need more cars, they don't need more rentals, and so on. You know, you gotta keep this area clean so it's safe. So what they need is not more traffic that's what I'm saying. Finally, on the east side, as you know, we are what we call a ...(inaudible)... that's the worse turn on Molokai. Even the school bus cannot negotiate the turns. It's very, very dangerous. In fact, some people have been killed in the past there. So that is a dangerous road, very hazardous turn. Even the school bus has to stay in the center, as I mentioned.

Being a very long time resident, it is abuse to me that most structures were built for commercial purposes and not as vacation cottages, like it was applied for, as stated in their permits, legal dwellings, you know. I believe it's called residence dwelling permits. Puko`o is a nice rural area and not a commercial area. Puko`o this time continues to be destroyed and exploited. A lot of them are absent, greedy landowners that never contributes to this island economy. They don't care about preserving the beauty, the native ...(inaudible)... we once had. We lost that already in Puko`o -- I mean in Waialua. Today, I'm asking this Commission to protect the sanctity, the ecology, and the native lifestyle by taking steps to correct the mistake made of the past. I would like to see better oversight. Please say no to more illegal vacation rentals. This is my mana`o. Thank you very much.

Mr. Vanderbilt: Thank you, Roland. Are there any questions for the testifier. Commissioner Kauhane?

Ms. Linda Kauhane: Aloha, Mr. Salmon. My name is Linda Kauhane. I have a question for you, please.

Mr. Salmon: Yes?

Ms. Kauhane: With respect to Mr. and Mrs. Feeter and the fact that you're a close-by neighbor, do you see any way of compromising where you would be happy and they would be happy?

Mr. Salmon: I wanna make sure of something very clear here. Listening to all the testimony, I almost felt that Mr. Feeter was on trial here, that he was applying for probation. These are good neighbors. Good gardener. Sound people. I don't think even the character should be involved here. That has nothing to do with Mr. Feeter. That has to do with a cancer ...(inaudible)... this Commission, not you people because we probably have the best Commission ever right here sitting here, that's -- I feel that way. I have the privilege to know some of you, but what happened in the past is a free for all and if we don't clean up the mess now before it keeps oozing, you're going to lose Molokai as it is, and you already lost that in many areas, you know that, especially the locals feel that. They cannot afford houses anymore. They are pushed away. Some of them are forced to sell their land ...(inaudible)... Puko`o, I don't feel like building a little house over there, a shack. I don't anymore. I'm working in my garden. I smell the cars passing by. I see people walking through my land. I come back two, three days later to pick up fruit, they are gone. I pick up the garbage. No. It's not so. No more privacy down there. And it's happening. I'm not against vacation rentals. I would like rather to see bed and breakfast because then you can limit the ...(inaudible)... do you see what I'm saying because the family would be there to check it out ...(inaudible)... make money. And that would be the local's making the money. It's insane to charge 3 to \$500, whatever it is a night. It's insane. You're creating poverty doing this. That's greed. That's all it is. Greed. It's a sickness.

Mr. Vanderbilt: Any other questions? Excuse me, Roland. How long have you been on Molokai?

Mr. Salmon: Twenty-and-a-half years. Twenty-nine and a half years.

Mr. Vanderbilt: And the only reason I ask is that, in your testimony, you said for a very long time so --

Mr. Salmon: Yeah, a very long time. Yes, it's 35 years altogether in Hawaii.

Mr. Vanderbilt: Alright. So your lot --

Mr. Salmon: It's number ten. It's right in the middle of it ...(inaudible)...

Mr. Vanderbilt: Okay. So as far as the easement goes, do they have an easement over your land for the driveway?

Mr. Salmon: Yes. And I still wonder why --

Mr. Vanderbilt: Can you talk into the microphone.

Mr. Salmon: I didn't realize there was a microphone there. I can see it now. What's happening is that I was given this easement when I bought the land. It was -- came with it. And what I failed to understand, actually, is why the easement is crossing our land because, basically, there is a government land on the east side at ...(inaudible)... which could have a very well the ...(inaudible)... build there and I would keep at least all of my land, you know. I don't understand why. It's lack of ...(inaudible)... obviously from the County long time ago.

Mr. Vanderbilt: And how large is your lot?

Mr. Salmon: Pardon me?

Mr. Vanderbilt: How large is your lot about?

Mr. Salmon: It's a quarter of an acre exactly.

Mr. Vanderbilt: About 10,000 square feet.

Mr. Salmon: Yes, or nine something that it's a quarter of -- it's registered as one quarter.

Mr. Vanderbilt: So the easement comes straight down towards your property.

Mr. Salmon: Yes, straight south from Kam V there.

Mr. Vanderbilt: Then it cuts off to the east and comes back to the south across your property again?

Mr. Salmon: That's correct. Yes. And it should actually be right on the government land instead of being on my land but that's the way it has been.

Mr. Vanderbilt: Well part of it is on the government land.

Mr. Salmon: Yes.

Mr. Vanderbilt: Okay.

Mr. Salmon: Yes. Probably.

Mr. Vanderbilt: Now how many vacation rentals you anticipate there are?

Mr. Salmon: Okay, yes, yes. As far as I know, there are three to the east, that would be Mr. Swenson, there would be two for Mr. McKinney and --

Mr. Vanderbilt: Alright, Mr. McKinney's lot --

Mr. Salmon: Mr. McKinney's lot that's --

Mr. Vanderbilt: He has two lots, right?

Mr. Salmon: Yes, number eight and number nine, I believe.

Mr. Vanderbilt: So those would be between you and the water?

Mr. Salmon: That would -- exactly. Straight to the south of me.

Mr. Vanderbilt: And Mr. McKinney's lot is next to the Feeter's lot?

Mr. Salmon: Yes, that's correct.

Mr. Vanderbilt: Okay.

Mr. Salmon: Mrs. Feeter is straight west from Mr. McKinney.

Mr. Vanderbilt: Then --

Mr. Salmon: And then down -- if you keep on down the beach, you have more vacation rental of course.

Mr. Vanderbilt: Alright, there is something called the Puko`o Molokai House, which is next to the Feeter's. It's a pretty big lot. It's somebody from Redwood City owns it. Puko`o Molokai House.

Mr. Salmon: Yeah, I'm not aware of that but I know the area --

Mr. Vanderbilt: Okay. Near the fire station. Okay.

Mr. Salmon: But I know it's all vacation rentals. Pretty much the rest of the beach is.

Mr. Vanderbilt: Okay.

Mr. Salmon: My point, basically, is this, you know, how many vacation rentals do you want? I'm not saying that we should eradicate all the vacation rentals, but how many do we need?

Mr. Vanderbilt: Well I -- and I think that's a question that's going to come up right now, we're in the process of redoing the Molokai Community Plan, and this is an issue that's going to be taken up, standards and everything else, how many, how many are there now. There'll be a real needs assessment. A lot of this work is going to be done by technical reports from the County Council so this will be an issue that we will be taking up in this process that is ongoing right now.

Mr. Salmon: So the County they are going to ignite some laws. They should follow their laws and be able to enforce them. It's no use to have a law that you cannot enforce.

Mr. Vanderbilt: Well that's -- that's been the problem to date and that's the difficulty we're facing now because we're operating without an overarching standards of laws.

Mr. Salmon: I'm aware of that. Another point I want to bring that in the past the very commissioners that's supposed to ignite the laws are those with their hand in the cookie jar, meaning they could, you know, vote one way or another.

Mr. Vanderbilt: Not this Commission though.

Mr. Salmon: No, that's what I'm saying. The commission of the past. And this we gotta make sure it doesn't anymore. Thank you.

Mr. Vanderbilt: Thank you, Roland. Is there anybody who would like to testify at this time? Okay, we'll take a break right after; I'd like to enter into the record though two -- two testimonies that were handed in to the Commission today; one was from Tootchie Kalipi, and she is not in favor of vacation rentals. I think Tootchie lives out right near the Kilohana School. There was another letter from Tina Thompson who said she doesn't know the Feeter's personally but welcome them to the neighborhood but she didn't welcome the business in a single-family neighborhood. We must keep our single-family neighborhood just as single-family neighborhoods. And with that, if there's no objection from the Commission, we'll take a ten-minute break. Excuse me. Alright, before we take a recess, since there's no more public testimony, is there anybody out there that come in between last five minutes? No? Seeing no more public testimony, public testimony is closed. We're in a ten-minute recess.

(A recess was called at 2:53 p.m., and the meeting reconvened at 3:04 p.m.)

Mr. Vanderbilt: Okay, I've been informed that staff has to leave in about ten minutes, and so we have some people that have flown in here from Canada for the next item and, let's see, that would be on the Pollack residence for the exemption, and I would like to entertain a motion from the Commission that we defer action on the Feeter's TVR application and open it up so that the representatives for the Pollack's that have come in from Canada can

at least give us -- share their mana`o with us before they have to go back to Canada and then don't have to come all the way back at the next meeting.

Mr. Dunbar: The question I have is is that should it be recessed or should it be deferred, and I ask that of counsel?

Mr. Michael Hopper: You would defer it. There's no need to recess. You've got 45 days in order to transmit your recommendations to the Council so you'd still be within that period if you defer it to the next meeting.

Mr. Vanderbilt: And the Chair was just entertaining a motion. He wasn't making a motion.

b. Action

Mr. Dunbar: I'd like to make a motion to defer.

Ms. Pescaia: Until the next meeting? I second.

Mr. Vanderbilt: Any discussion? Clayton, do you have some discussion here?

Mr. Yoshida: Before we leave this item, can we close the public hearing?

Mr. Vanderbilt: We did.

Mr. Yoshida: We did. Okay.

Mr. Vanderbilt: A little belated but we did.

Mr. Yoshida: Okay, thank you.

Mr. Vanderbilt: Okay, is there discussion on the motion? All those in favor -- excuse me. Commissioner Chaikin?

Mr. Chaikin: Just one clarification. If we do defer, do we have to hold another public hearing on this?

Mr. Hopper: Yes, it doesn't have to be as a public hearing as far as the advertisements in the newspaper or anything, but as an agenda item at the next meeting, people could give public testimony on that item.

Mr. Vanderbilt: Any other discussion?

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

It has been moved by Mr. Dunbar, seconded by Ms. Pescaia, then

VOTED: to defer to the next meeting.
(Assenting: K. Dunbar; L. Kauhane; M. Pescaia; S. Chaikin;
J. Kalipi; L. DeCoite)
(Abstain: B. Feeter)
(Excused: S. Napoleon, Jr.)

Mr. Vanderbilt: Motion carried. Okay, could we move on to Communications, Item E., regarding the exemption request of -- from special management area rules for the Pollack residence, farm dwelling, that's out at the Kaluakoi Resort, very near the Papohaku Dunes. Now, Nancy, these guys have gotta leave so keep it --

E. COMMUNICATIONS

- 1. MR. JEFFREY S. HUNT, Planning Director, requesting concurrence from the Molokai Planning Commission pursuant to their Special Management Area Rules, as amended, that a Special Management Area exemption can be issued for the construction of the Pollack Residence, a farm dwelling at 388 Kaluakoi Road, TMK: 5-1-006: 062, Kaluakoi, Island of Molokai. (SMX 2007/0019) (N. McPherson)**

The Commission may act on whether or not to concur with the Planning Director's determination that an SMA exemption be issued.

Ms. McPherson: Extremely short, yeah. Well, this is a special management area assessment and shoreline determination for the Pollack residence at TMK: 5-1-006:062. I assume you've all read the material so I'm not going to go into details to summarize that. Suffice it to say that this project has undergone revisions by the applicant in response to the concerns of the Planning Staff. Thorne Abbott and myself worked to help make it more appropriate for a project on ag land and to meet all of the requirements of the ag district, etcetera. They do have an approved farm plan. I believe you got a copy of that. Okay. And, so, yes, they're here and if they'd like to make a statement. According to our current regulations, the project is in conformance and is eligible to be exempt, defined as not a development by our SMA rules.

Mr. Vanderbilt: Thank you. Could you state your name for the record. Welcome to Molokai.

Ms. Karin DeKock: My name is Karin DeKock. I'm a long-time friend of the owners. I'm here to represent the owners. I'm also an architect located in Vancouver and have been incorporated in the project together with Art Parr a local Molokai architect.

From the beginning, the owners had the intention to make this a sustainable development. They provided their own electricity by using photovoltaic solar panels, as well the solar water heaters for solar water, so even though it already is a one-family residence at the moment, they're making a larger one-family residence, and rather than increasing the use of electricity, it will be a diminished. They also were aware when they bought the property that it's in a water management area being the west side of the island. They immediately decided to do their own rainwater collection, so all of the water for gardening will be from rainwater that we collect in water tanks under the house, and all of the gardening they're intending to use native drought resistant Hawaiian plants. T

They bought the property because they like the rural aspect of Molokai and they also want to keep the property in that -- I'm not sure -- they are a one family, I mean the use of the land is one family. It's a fairly large house. The reason being is that they are a large family, they have five children between the age of 1 and 18. They're intent is to, in the beginning, use it as a part-time residence but they have the intention of moving here on a permanent basis and being a part of the community. Elena is a doctor, dermatologist. Even the first week when she came here, she talked to people, she said, "Oh, people don't have a dermatologist here. They have to fly to Honolulu and Maui. If we move here, I could volunteer at the clinic and give my time, give back to the community." So even though they -- I've been hearing a lot of that today about the Molokai spirit of giving back to the community and those are the kind of people that has the experience in them of giving back to the community being appropriate to the Molokai landscape and the whole house has been designed in that intent.

We, because we are in the flood zone, we also engaged a coastal engineer, Westmar, who's a -- so we also have taken the whole flood issue really seriously. We had a flood study done for this property and we're using pile foundation so the -- the house is anchored at a deep level, so this has been -- I just wanted to stress that they have taken this project seriously and with awareness and respect for the community.

They have been waiting for one year now for the permit. This is the last little issue they need to get. They're getting at the point where they're starting to feel quite desperate -- are they ever going to be able to come and live here, so I hope you'll look at the application favorable.

We also have been working with Nancy and Thorne Abbott and we voluntarily made a lot of changes that we didn't need to that was just suggestion that they made towards us that we prefer as to change, like we had an approved farm plan, then Nancy brought the issue

to us that we have the part of the land that in the, the first 20 feet, I don't know the exact amount, but the first -- the part of the land that they have, such as the dune, and we, even though we had an approved farm plan, the owners agreed to change it and do conservation in that area that's the special management and plant native dune plants that were recommended in a study that Nancy McPherson did specifically for the Papohaku Dunes. So I, yeah, just wanted to give that background information of the general attitude the owners have had in this whole process towards the, yeah, Molokai Commission.

Mr. Vanderbilt: Well, thank you very much for coming. Are there any questions for the testifier? Commissioner Dunbar?

Mr. Dunbar: Yeah, I have a couple questions. You know I know that this is a two million dollar construction cost. Is that correct?

Ms. DeKock: Yeah, that's what we estimated.

Mr. Dunbar: That's the estimate?

Ms. DeKock: Right.

Mr. Dunbar: And these people will be living here part-time?

Ms. DeKock: To begin, they will live part-time, and they have the intention of moving here permanently and becoming residents of Molokai.

Mr. Dunbar: And how long will that take?

Ms. DeKock: I don't know the exact time frame from that.

Mr. Dunbar: And so the proposal is to build a two million dollar residence down there that will stay vacant until they decide to move here, except for their use on couple months out of the year?

Ms. DeKock: No. No, well, the first two or three years it will only be a few months out of the year but they have the intent of moving here on a permanent base and it will take them a few years to make that move -- to move here.

Mr. Dunbar: Okay, and so the residence stays vacant for ten months while they're away?

Ms. DeKock: They will have -- we are building -- they are building an ohana on site and so somebody will live in the ohana permanently, so it won't be a vacant --

Mr. Dunbar: So that would be the groundskeeper or something or --

Ms. DeKock: Yeah, something like that.

Mr. Dunbar: The housekeeper, but the main residence will remain vacant? I mean it's not going to be used as a vacation rental?

Ms. DeKock: No, it will not be used as a vacation rental. No, but you have to understand that you have a family with five people, you can't just switch your life in one month. There always is going to be a transition period between using it on a temporary basis before they can move here permanent ...(inaudible)...

Mr. Dunbar: Oh, I understand that. I'm just --

Ms. DeKock: Yeah, but when they're not here, it will be vacant. There will be somebody like somebody living in the ohana who maintains the grounds and they have no intention to rent that as a vacation rental and they've actually submitted a letter to the building department in Maui with that intent in signing the letter. Because when we applied for a building permit, that was a question they got as well, and so the building department has the --

Mr. Dunbar: Yeah, I'm just -- I'm just trying to make sure that it's not going to be used as a short-term rental while they're not here.

Ms. DeKock: No, it will not.

Mr. Dunbar: Or while they're waiting to come here.

Ms. DeKock: No, it will not, and they actually have a signed -- I mean they signed a letter that they will not use it as a vacation rental and the County of Maui has that letter.

Mr. Dunbar: Or a B&B.

Ms. DeKock: I don't know if Clayton has it or --

Mr. Vanderbilt: Excuse me, I think --

Mr. Dunbar: Thank you.

Ms. DeKock: I mean if you want, I can forward a copy of it if ...(inaudible)...

Mr. Vanderbilt: I think -- I think what I would like to do is maybe we could make a -- I'd like to entertain a motion that we defer this item and that Nancy make available to this Commission the copy of the correspondence regarding the vacation rental and also a list for this Commission of all the work you have done with this family as far as adjusting the site plan so that it is more palatable.

Mr. Dunbar: Well, five seconds more of discussion. I guess really what we're deciding on, because this is a special management area plan that's being brought to us, we can assume that the Planning Department has gone through this entirely so that it's not within the -- within the confines of either the dunes area and it does, you know, it does qualify and -- and become everything else except for the SMA permit. Is that correct?

Mr. Hopper: It's been exempted. It's been exempted because it's a single-family home and will not have a -- well it's been recommended exempt because it has -- it's a single-family home and has -- and it's been determined there's been no detrimental or significant ecological effect or cumulative impact under HRS 205A. Under that, you have the authority to review that to concur or to not concur, and if you do not concur, you have to issue findings of fact and conclusions of law, basically, saying why you don't concur with the Planning Department's report.

Mr. Dunbar: Well, yeah, that's exactly where I was coming from. So if Nancy has recommended that it -- that it -- we should concur with it because she's reviewed it that it is proper within the SMA, I guess the question is: Why are we deferring it? What are we deferring it for?

Mr. Vanderbilt: The only -- the only reason I mentioned to defer is we all -- this is the first major exemption that we've had and there's some talk, like you brought up, where you're not going to use as a vacation rental. That's not something we can put on -- I don't think we can put conditions on anything that we do. We're not allowed to put -- so I'm just trying to understand the process, and I'm not taking exception to what Nancy does, but we, as a Commission, need to understand these process cause we're going to get a lot more of these, and I think when we understand what they've done, which might have set some good precedence for things in the future, at least we need to understand what was -- what was done, at least I do, I don't know about the other Commissioners so -- but anybody can make a motion. Are there anymore questions of the applicant though?

Ms. DeCoite: Yeah, I see --

Mr. Vanderbilt: Commissioner DeCoite, go ahead.

Ms. DeCoite: Yeah, I'm looking at the layout you guys have on Exhibit 2, which you claim is the -- is that the farm plan? What you guys plan on growing on this farm plan if we're looking at ag in relation to this farm plan?

Ms. DeKock: We're not growing crops. It's conservation. So in the --

Ms. DeCoite: Okay, well, I thought I overheard you say you guys looking at farm plan on there.

Ms. DeKock: Oh, because -- oh, maybe you should --

Ms. McPherson: We have a couple of options for farm plans under the ag rules for Maui County. One of those options is to do conservation and so what that involves is not active commercial agriculture but allow, you know -- in this case, part of it's going to be the grass that's there, the sour grass is going to be allowed to continue to grow, they're going to leave kiawe trees, and then in the front they're going to re-vegetate with native dune species. So it's part of the ag rules for the ag district.

Mr. Vanderbilt: Yeah, and I think, Lynn, they're following the rules that are set down in this ag ordinance and so a farm plan is just leaving half your land undeveloped. Commissioner Chaikin?

Mr. Chaikin: Thank you, Mr. Chair. I guess, when I reviewed this, one of the things that jumped out at me was the statement in here that the Maui County Fire Protection requirements, yeah, requirements of a minimum of 30,000 gallons of water storage capacity based on the size of the main house so, as a result, they're building a big huge swimming pool so that they can have all that water available in the event of a fire, and I'm just wondering, where is this taking us? I mean anybody that has a large lot and is more than 500 feet from a fire hydrant, all of a sudden, they can't build a house or they have to build a big huge storage tank or a swimming pool. Could you address that?

Mr. Art Parr: My name is Art Parr, and I'm an architect, and I'm helping Karin with this project. The rules regarding fire protection are that if new construction is more than 500 feet from an existing fire hydrant, you have to provide an auxiliary water supply: a tank, a swimming pool, or another option is to put a fire suppression sprinkler system inside the house; that's not an option for us. But the, you know, we had an engineer calculate the amount of water necessary for fire protection and we're opting to put it in a pool instead of a storage tank. We do have the small catchment tank for irrigation but we prefer to have the amenity of a pool instead of a big water tank for this auxiliary water supply.

Mr. Vanderbilt: Thank you. Thank you, Art. I think, again, we got the staff that is trying to catch a 4:15 plane so, at this time, I mean I'm open to any motion that anybody has.

Ms. DeCoite: I make motion to defer this to the next meeting.

Mr. Chaikin: I'll second that.

Mr. Vanderbilt: Any discussion?

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

It has been moved by Ms. DeCoite, seconded by Mr. Chaikin, then

VOTED: to defer to the next meeting.
(Assenting: L. Kauhane; M. Pescaia; S. Chaikin; J. Kalipi;
L. DeCoite; B. Feeter)
(Dissenting: K. Dunbar)
(Excused: S. Napoleon, Jr.)

Mr. Vanderbilt: Motion carried. Alright, so we have a motion to adjourn? Well, yeah, and I think we defer the rest of the items to the next meeting, and the Commission also needs to talk about starting the meetings earlier or something because when we have two difficult items like this, it's pretty hard for this Commission to wade through it so, anyway, we can discuss that at a later date. But, anyway, if there's nothing else, and there's no objection, meeting adjourned.

K. ADJOURNMENT

The remainder of the items on the agenda was deferred to the next meeting. The meeting was adjourned at 3:23 p.m.

Respectfully submitted by,

SUZETTE L. ESMERALDA
Secretary to Boards & Commissions I

RECORD OF ATTENDANCE

Present

DeGray Vanderbilt, Chairperson
Steve Chaikin, Vice-Chairperson
Kip Dunbar
Bill Feeter
Lynn DeCoite
Joseph Kalipi
Lynn Kauhane
Mikiala Pescaia

Excused

Sherman Napoleon, Jr.

Others

Jeffrey Hunt, Planning Director
Clayton Yoshida, Planning Program Administrator
Nancy McPherson, Staff Planner, Molokai
Michael Hopper, Deputy Corporation Counsel