

(APPROVED: 03/12/08)

**MOLOKA'I PLANNING COMMISSION
REGULAR MEETING
JANUARY 9, 2008**

A. CALL TO ORDER

The regular meeting of the Molokai Planning Commission (Commission) was called to order by Chairman DeGray Vanderbilt at approximately, 1:43 p.m., Wednesday, January 9, 2008, at the Mitchell Pauole Center, Kaunakakai, Molokai.

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

Mr. DeGray Vanderbilt: Okay, everybody, I'd like to call the meeting of the Molokai Planning Commission meeting of January 9 to order. With us today we have Commissioner Kip Dunbar down on the far right. Next to him is Commissioner Bill Feeter followed by Commissioner Joe Kalipi, Vice-Chair Steve Chaikin. And my name is DeGray Vanderbilt, and next to me is our Corporation Counsel, Michael Hopper.

We had a pretty full agenda today. We were hoping to go till later in the day. Unfortunately, we have some Commissioners that have to leave at 3:30. So that'll give us, if we start right now, that'll give us an hour, two hours -- yeah, an hour and 45 minutes. So I think we're gonna have to adjust the agenda somewhat because we have some folks that have flown in here from Oahu. Actually, everybody's flown in here, but there's some items that are gonna take longer than others, such as the SMA workshop. So I know that the Dorans have been waiting for several months to try to get on the agenda. Is that an accurate statement? Yeah, okay. And then we have Nathan over here who represents big box stores. And we have -- and then we have Doug Tom, and his staff, and the County staff on the SMA permit. And we have our final meeting on the Policy Plan to do -- to finish up which we didn't finish last time, and this is the last day we'll have a chance to do that, and then we have to take a vote whether we want to get on -- involved with La`au Point draft EIS, the new one that just came out, and the 45-day timeline starts today. So, anyway, with that, I would like to suggest that we start with the Doran pool, and we go to the super store, which I don't think will take a long time, and then hit the Policy Plan, and then the SMA. And what else do we have? Where is it?

Mr. Kip Dunbar: Mr. Chair, before you go on, I'm just curious. I think it's fine and we need to make a motion in order to have all that happen, but what did we not complete on the Policy Plan?

Mr. Vanderbilt: Well, in the -- if you look on your last agenda, it says we were supposed to review Chapters 1 through 5, and we only got through 4 and 5. We didn't review Chapters 1 through 3, or Sections 1 through 3. And it's noted on our last agenda as --

yeah, here's the -- the December 12th agenda says, yeah, that we would be working on Sections 1 through 5, and we only got through 3 and 4. So maybe we'll do the SMA and then we'll do the Policy Plan. If we don't get to it, we'll just have to come up short on that till --

Mr. Dunbar: Okay, so --

Mr. Vanderbilt: Okay, so right now, and we might amend on the run, but right now, we're gonna, if it's okay, if there's no problem with the rest of the Commissioners, we'll start with the Doran pool, we'll go to the super store, and then we'll get into the SMA workshop. Is that okay with everybody? No objection? Okay, alright. So without any further ado, let's start with Item G, Communication, Special Management Area Use Permit Assessment for the James and Reita Doran swimming pool and an oceanfront lot down at the Kaluakoi Resort and the Papohaku Ranch Lands Subdivision, I believe. And this has been exempted by the Director, and now it's coming to us to see whether or not we want to accept the Director's exemption. So without further ado, Nancy?

G. 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 following:**

- A. JAMES and REITA DORAN submitting a Special Management Area Use Permit Assessment for the construction of a swimming pool and related improvements at 3468 Kaluakoi Road, TMK: 5-1-007: 062, Kaluakoi, Island of Molokai. (SMX 2007/0069) (SMX 2007/0154) (N. McPherson)**

The applicant plans to construct a 23,500 gallon capacity swimming pool and perimeter fence to be used as a fire suppression reservoir for a new residence.

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

Ms. Nancy McPherson: Good afternoon, Chair. Thank you. Good afternoon, Commissioners. Nancy McPherson, Staff Planner, County of Maui, Planning Department. I'm just -- you've all hopefully read the letter and the SMA assessment. I also included 20 exhibits. Oh, I take it back, 25. And so I've provided you with as much information as I could mainly because the primary residence had already been exempted before your rules were changed for you to review exemptions. So that was actually originally processed by Thorne Abbott, who's actually here today, I don't know if you can remember everything about it, but what happened was that an SMA exemption was issued for the home. And then the applicant was unable to secure a building permit without meeting the onsite water storage requirements of the Department of Fire and Public Safety. So that comment was provided. They then came back in for another SMA assessment and a request for exemption for the swimming pool as one of the options that the Fire Department would accept for water storage, and they meet the requirement for how many gallons need to be stored on the site. The evaluation is \$70,000. So the project is to construct a 23,500-gallon capacity swimming pool and perimeter fence to be used as a fire suppression system reservoir for the new residents.

Now, I did a site visit and I took photographs. And it was -- I went with Don Williams, who's also here today and he's a contractor, and I examined the site. I also reviewed all the material pertaining to that particular parcel in the Papohaku Dune Cultural and Natural Resource Protection Plan, Preservation Plan. And so I applied that information in my analysis. And I determined that the construction of the swimming pool while -- an in-ground pool will occur in an area that was previously filled. So fill was brought in a few years back and the applicant can probably talk about that more. It's stable fill. And the archaeological -- as well, the archaeological resource survey was done and approved by State Historic Preservation for the primary residence. There were test pits that were dug. If you look at Exhibit 11, those are the test unit locations. The original study was done for the primary residence, and then the proposed swimming pool was then sent again to State Historic Preservation for their review and approval, which was received. Also, there's an approved farm plan for the residence. That's Exhibit 18.

So the project meets all the requirements per our Zoning Code and our SMA rules for the Molokai Planning Commission. It avoids the shoreline setback which was determined for the original project - the primary residence. And so I'm -- we are -- the department is recommending that it be exempted, and request your concurrence with our assessment and our recommendation. And --

Mr. Vanderbilt: Thank you, Nancy.

Ms. McPherson: Yeah, if you don't have any questions, I'd like to turn it over to the applicant.

Mr. Vanderbilt: Thank you. I do have a question. This is on ag land, right, in the Papohaku Ranch Lands?

Ms. McPherson: Yes.

Mr. Vanderbilt: Okay. Now what are the rules for swimming pools on ag land as far as permitting goes? Are they permitted uses? Accessory uses?

Ms. McPherson: I don't know that swimming pools are specified. Please -- and anyone from our department, correct me if I'm wrong, but I believe there is a clause that the different kinds of structures on the property need to be subsidiary to and supportive of the primary ag use. So there's --

Mr. Vanderbilt: Is that in the staff report anywhere?

Ms. McPherson: No, I don't think I included that. I apologize.

Mr. Vanderbilt: And the only reason I ask is, you know, it's just -- it's hard for us as Commissioners up here to make decisions, maybe set precedence, and we don't even -- there just seems to be so many things coming in aside at the last minute to us whether it be new fire regulations that warrant building swimming pools or whatever else. So that was just a question. And -- but I understand that the applicant -- the applicant had a pretty trying time getting this project to this point, and I would like one of the representatives to come up and explain that, but first let's see if -- Nancy, are you talking with Joe about this?

Ms. McPherson: Oh, I'm -- yes, I'm getting a little help here from Joe. He says that -- or well, I agree that the primary structure, the single-family dwelling, as part of a farm plan has been approved. The swimming pool, whether it was a swimming pool, or a pond, or whatever is used as a fire suppression reservoir to protect the farm dwelling, the farm structure, and therefore, that would be permitted in the ag district.

Mr. Vanderbilt: Okay. And then -- so you said a swimming pool or a pond. What are the options that you have for fire suppression?

Ms. McPherson: There's also you can build a storage tank, but again, there's the West Molokai Design Committee standards that also need to be applied in that area. I'm not so sure they support the storage tank option. The other option is a sprinkler system. And then we also have some issues with water pressure out there, from what I understand, as far as a hydrant system goes, but I don't have anyone here from Fire who could speak to that.

Mr. Vanderbilt: Okay. I think we can speak to that later. We have -- Ralph was here. I mean, it's hard to understand how you get subdivisions approved that don't have adequate fire flow.

Ms. McPherson: Well, this subdivision was approved a long time ago. So it wouldn't be approved on ag land today by today's rules and standards for ag -- the ag district. So it's kind of a like existing non-conforming.

Mr. Vanderbilt: Now, do you know what the capacity of the storage tank has to be?

Ms. McPherson: Well, there is a letter from the Fire Department, Exhibit 15.

Mr. Vanderbilt: Okay, thank you.

Ms. McPherson: "The proposed building will require a water supply of 23,000 gallons for fire protection." And I believe the swimming pool is 23,500.

Mr. Vanderbilt: So you don't have any idea how that would equate into a storage tank ... (inaudible) ... a storage tank?

Ms. McPherson: It would need to store at least 23,000 gallons.

Mr. Vanderbilt: Okay, thank you. Okay, maybe we could have a representative from the Dorans come up. And please state your name for the record.

Mr. Pip White: My name's Pip White. I'm an architect. And I'm here representing the Dorans. And I think that Nancy laid it out pretty well. We've been trying to basically get a permit -- to get a permit for about two years. We got -- we did get a waiver approved in October of 2006. I think that's included in your packet. Then as we went in for a permit, the Fire Department said you need to have a 23,000-gallon pool. And so we did it, and went back to get a permit, and here we are trying to figure out how to get a building permit. And if you have any questions, I'm happy to answer them. I think you know the residence, the single-family residence, has been approved. The Fire Department asked for 23,000 gallons. We're trying to provide it. If there's another way, I'm sure we'd be open to it, but this is the way that was suggested to us by the Fire Department, and so we're trying to follow their lead. If you guys have any more questions, I'd be happy to answer.

Mr. Vanderbilt: Okay. Does anybody have any questions? Commissioner Feeter?

Mr. Bill Feeter: Nancy -- yeah, thank you. Nancy mentioned there was a supplementary -- in other words, is there a fire hydrant adjacent to the Kaluakoi Road?

Ms. McPherson: Yeah, the problem is that the house is located more than 500 feet from that hydrant.

Mr. Vanderbilt: Which means what? That you can't enough water pressure?

Ms. McPherson: Well, and from the Fire Code, I believe. Then what's -- the Fire Department's response is that it needs to be stored onsite.

Mr. White: I think the issue there is that the fire line is not large enough to handle the flow to begin with. So if we add another fire hydrant, which is -- we suggested that early on, and it was -- you know, you -- we can't even support the fire hydrant that's on the road now, so --

Mr. Vanderbilt: Commissioner Feeter?

Mr. Feeter: Then does the owner know that they assume that this is a limited service area and that they, therefore, not hold anybody responsible for a fire?

Mr. White: Yes, they do. I think they're -- they understand that, but that's not what our current issue is. Our current is that we can't get a permit if we don't meet the Fire Department requirements.

Mr. Vanderbilt: Commissioner Chaikin?

Mr. Steven Chaikin: Yeah, I think this points to the bigger picture we're facing out there cause you're not the first person standing up here giving us that same story. And I think that we're charged with the responsibility of trying to, you know, protect the West End, and our water sources, and whatnot. And so I think that, you know, we need to really investigate what options there are for the future for all of those lots cause it's not just you. It's like everybody that wants to build out there all of a sudden has to come and ask us for a swimming pool. And I think that's problematic in an island where, you know, water is so critical. So, I mean, it's not necessarily your problem, but it's something that I think this Commission and the County is gonna have to take a look at it of what options there are in the future because what happens if you were within 500 feet? Then you -- is there water, enough water in those hydrants or is there not? So those are the kinds of answers, you know, things that we need to, I guess, address as we move forward.

One of the my questions is, okay, say you have this swimming pool, and it's filled with water, and from time to time, people actually empty the pools. They acid wash them and they clean them. They do various maintenance things. What do you do with this water that's got chlorine in it when you want to empty it?

Mr. White: There's two processes. One is the monthly maintenance which is backwashing and things like that where they do use some ... (inaudible) ... chemicals. That is all going into the septic system at the residence. The pool, which probably will be drained maybe once every five to six years -- I don't know. I've never had a pool. When I've been places with pools, I've never checked to see how often they drain them. I doubt they drain them very often. A 25,000-gallon pool, all I can tell you is that we've -- my family has some ag land on Oahu, and we have a well, and our -- the ag land uses about 25,000 gallons per month per acre. So that's about how much water you're talking about every five years for the pool and that's something that's used per acre, basically, for one month for regular ag use. So, I mean, it sounds like a lot of water, 25,000 gallons, but over the -- I think they plan to put a cover on the pool because, otherwise, it will all evaporate. They're gonna cover the pool when they're not there. And, you know, there's pools all over the place down there. So I'm not sure if this is a -- you know, to make an example out of these guys. It may not be exactly fair to them.

Mr. Chaikin: Yeah, my comment was not really directed towards -- specifically towards that. It was more like when you have this thing filled with water that has chlorine in it, once in a while you have to take the water out, and it's not gonna fit in the septic tank. It's gotta go somewhere. And I was just wondering if there's any management. Our job is really to protect the coastal zone. So what do you do with all that chlorinated water once you're taking it out of the pool?

Mr. White: I'll answer that directly. You use it for irrigation because, yes, it's highly chlorinated, but it's not that much more chlorinated than a lot of water systems. So the chlorine is something that dissipates more quickly into the atmosphere. Also, we talked to the Department of Health and they told us, oh, no, no, no, anything you want to do with that water is fine. Just let it out. So, I mean, it's not that I trust them, but that's what they say, and I think that's a good indication that the water is safe to go into the environment pretty much anywhere.

Mr. Chaikin: Okay. I just -- I bring this up for Nancy. Maybe, Nancy, in the future when you get these swimming pools coming forward, they can have some kind of a plan of, you know, of what they're gonna do with that water when they take it out, and, you know, what's the intent.

Mr. White: That's what we -- that is what we intend to do. And in Nancy's defense, we did talk to Nancy exactly about that.

Mr. Chaikin: But I guess I missed something. I didn't really understand when you went forward originally and this house got exempted, it went through without the swimming pool, and then later on you found out the swimming pool was needed? Or how did that work?

Mr. White: It had a pool in the plans, but the pool was put on as a none in-contract pool. We didn't -- we weren't planning on -- Typically, when we do a swimming pool for a house, it's not an issue. So we'll put the pool that's not something that's covered under this permit. The reason for that is that typically pool guys have their own way of doing things. The pool may change shape. It may change size. There's a lot of things that go on between the time you submit for a permit and the time the pool gets built. And pool guys have a whole other way of looking at things. So we usually will leave that to the pool contractor. When we found out that we had to permit this one separately, or not separately, but at the same time as the house, then we did some pool drawings, we showed where everything was, and we resubmitted it, and then we said -- then it was like, oh, no, sorry, you have to come back. You're going beyond your original waiver. You need to come back and get an amendment.

Mr. Chaikin: Well, you know, I don't know. it's basically a learning experience for all of us: you and us and Nancy.

Mr. White: It has been for us.

Mr. Chaikin: And, Nancy, I just bring that out so in the future, maybe you could have all it together in one shot. Ask the people: are you planning to build a pool? and have it all come through with one package rather than piecemeal. That's all the questions I have.

Mr. Vanderbilt: Commissioner Feeter?

Mr. Feeter: Is there either north or south, is there either on construction or a home already constructed either side of this project?

Mr. White: I don't think so.

Mr. Feeter: Well, let me get to the point: will this pool be shared in cases of emergency?

Mr. White: Oh, for sure.

Mr. Feeter: In other words, the Fire Department has priority to use water as needed wherever they see fit?

Mr. White: I think they pretty much do that now. So I don't see that there's any -- would be an issue.

Mr. Vanderbilt: Okay. Kip? Commissioner Dunbar?

Mr. Dunbar: Yeah, Mr. White, I'm just curious. So I understand it correctly, so the water that would be moved out of this pool then will be used to water the agricultural areas and the native foliage that is on the plans? Is that what I heard you say?

Mr. White: You mean when they drain it?

Mr. Dunbar: Yeah.

Mr. White: It won't be a primary source of irrigation, but that's what it'll be used for when they do drain it.

Mr. Dunbar: Okay, so the plumbing will be going into that so it can be put onto the ground? And I guess only one other question I'd have is the -- is there any, and I don't know if you're the right person to ask this, is there any County liability with regard to a fire in the area that consumes more than 23,500 gallons and then the rest it burns down because you can't put out the fire because you've already used all the water?

Mr. White: I think -- I don't know the answer to that. I have absolutely no idea. You've got Corporation Counsel over there. Maybe he has an idea. I would think with or without the pool, the County has no more or less a liability ...(inaudible)...

Mr. Dunbar: Right.

Mr. White: You're way outside my area of --

Mr. Dunbar: Okay. Yeah, I'm just yeah, I mean, certainly I -- I certainly don't have a problem with someone trying to protect their home with a fire source. But if the fire source was then not adequate, and then it burnt down, I mean what's the ...(inaudible)...

Mr. White: I have a comment on that and that is although I think the Molokai Fire Department is really good, the Molokai Fire Department, let's say it takes them -- the house is on fire for five minutes before they get the call, and that's real optimum, and they drive as fast as they can, they're gonna get there 20 minutes, 25 minutes later and, you know, 25 minutes on a house fire, the house is puff. So, I mean, if you're asking me, the pool is gonna be too late and too -- I mean, it's gonna be a dollar -- you know, a day late and a dollar short, but I'm not -- I'm not the Fire, so we're trying to do what the fireman asked of us. And the thing is it could be used for other brush fires. I think that there are other -- they may have ulterior motives beyond just trying to save the house, which is what I would expect.

Mr. Dunbar: Okay, thank you.

Mr. Vanderbilt: Mr. White, I just had a couple of questions. You mentioned that when you -- when you first went and got an exemption for the house and -- but you're only seeking the exemption for the house and not a pool. Then you went for a building permit on the pool, and they said that you -- basically said you needed a 23,000-gallon swimming pool for fire.

Mr. White: Yes, that's correct.

Mr. Vanderbilt: Now, at the time they suggested the pool, did they also suggest the water tower and the sprinkler system?

Mr. White: The Fire Department didn't suggest that. Their --

Mr. Vanderbilt: Let me ask you one other ...(inaudible)... Was there anything -- when you go in for your plans and everything, did they give you any document that let you make a decision? You know, as far as fires, you need to do this, this, or this? Or is it just something you have to find out down the road on your own?

Mr. White: Well, I think we're really talking about such a -- I mean we talked about this earlier where if this were Maui County, we would be done, but since it's Molokai, we have to go back to the Planning Commission which is fine, but, you know -- so this is -- this is a new thing for everybody. Everybody's learning how. I think that this is such a limited problem that they haven't come to grips with it yet. I will say that Nancy and I talked about several different ways to approach it.

Mr. Vanderbilt: Okay. And I don't think it's a limited problem because we've got 300 lots out there that now can be subdivided.

Mr. White: Oh, no, no, no. I'm sorry. I realize it's not a limited problem. When I say -- it happens only here, not in the rest of the County. So the County Planning staff hasn't caught up with it yet. That's what I was implying, not that it was a limited issue.

Mr. Vanderbilt: So there's -- did you ever look at -- you had two options beside the pool. You could put in a water tank, or you could build a house closer to the road so that you could get sufficient water pressure for the sprinklers. Would that be a fair assumption?

Mr. White: We could perhaps, but we were -- when we checked with -- I checked with some people at Molokai Ranch and asked them about the water system and how much pressure it had and they, basically, said it's not gonna matter. The pressure is not adequate right now for that -- the hydrant on the road. If it had been an issue, we -- you know, I would happily have avoided this and brought in a hydrant onto the property, but that --

Mr. Vanderbilt: And I appreciate that. I think all we're trying to do is get on the record because it's unfair to you to come in and have no regulations or procedures or protocols you gotta go through as the person trying to build a house. We have that same problem dealing with the County staff because there's no procedures or protocols that we can rely on to be the same. So we're dealing with different things. We've got the same project, and then we get a different wrinkle coming out on each project and it's very frustrating for us because we can have -- we have empathize with you.

Mr. White: Well, I appreciate that because it's been frustrating for us too. We've been trying to get everything together and do it all right. And we think we've got it. And we very quickly find out, no, we don't have it done right.

Mr. Vanderbilt: Did you look at a water tank at all?

Mr. White: We did, but we felt like it would have to be up taller, and we were in discussions both with Nancy and other people at the Planning Department. They were very concerned about views from the highway towards the ocean, views of this and views of -- and I wasn't sure we would be allowed to put a tower up.

Mr. Vanderbilt: Nancy mentioned earlier that the West Molokai Design Review Committee doesn't like these water towers. Did you run into that at all?

Mr. White: We ran into issues with pretty much everything and we tried to pick the path of least resistance. And, you know, maybe we were wrong, but we thought about towers. We thought about tanks on the ground. We thought about hydrants. And everything seemed to be -- because I could just as easily be maybe not here, but someplace else in Kahului trying to talk somebody into saying, yes, you can put a fire hydrant in your yard, or, no, you can't. And the answer to me at that point, the initial response was don't try it. It won't work.

Mr. Vanderbilt: You mean from Molokai Ranch?

Mr. White: From the people who knew about the system, the water system down there ...(inaudible)...

Mr. Vanderbilt: Alright. Then did you have any -- what concerns did the West Molokai Design -- because they're gonna have the same concerns for everybody that comes before us, so it might be good -- did they discourage the water tower or --

Mr. White: I'm not sure who -- are you talking about the Kaluakoi Design Review Committee?

Mr. Vanderbilt: Yeah, you have to -- you're supposed to submit your --

Mr. White: We did, and we -- no comment. No problem.

Mr. Vanderbilt: But you didn't talk to them about a water tank?

Mr. White: No, we didn't. At that point, when we went in, we hadn't encountered this problem yet.

Mr. Vanderbilt: Okay. Are there any other questions?

Mr. White: Well, thank you very much. I appreciate you guys taking a look at this project.

Mr. Vanderbilt: Thank you. I'd like to call back Nancy, if I could, and then we'll go to public testimony. Nancy, you mentioned about the Kaluakoi Design Review Committee might've had -- and it probably wasn't on this project, but in the past may have expressed some displeasure for water tanks on ag land?

Ms. McPherson: Well, they do not prefer metal exteriors. In fact, I believe someone built a metal barn out there, and they had to then subsequently cover it with wood. Actually, Art Parr was here earlier. He could've helped us out with that but --

Mr. Vanderbilt: Was that on ag land also?

Ms. McPherson: I believe so. I believe it was at Papohaku, yeah. So -- but, you know, I did not consult with them directly on this specific project.

Mr. Vanderbilt: Okay. I just didn't know if you had any -- okay, do the Commissioners have any other comments? Commissioner Kalipi?

Mr. Joseph Kalipi: I have a comment or question for Nancy. And maybe just to get on the record what's going through my mind is that how can in the future that you can -- the department can help us to assess, you know, another person comes before the Commission to request a pool permit and stuff like that? I mean, how can we really assess how much pool is enough on the West End? Or how much pools or that amount of water would be damaging per population in the sense if there's about 300 people there in that community versus a thousand people in Kaunakakai, and 60% of the water is gonna be on the West End for 10% of the people that are there? I'm just saying that we need appropriate information going in for the next person or even -- I agree it's not fair that we scrutinize or even we look at certain individuals that come for the SMA process. And then others that are not in the SMA process, literally will get the permit, no problem. And I know we're responsible for what happens in the SMA, but we need to have more information that's gonna allow us to make a better decision to say how much is enough, how much will be damaging. Is there another room for another 500 pools on the West End, and it's not

gonna be no problem because then it's gonna help with the fire? Kinda need some input and some help on who does that research and how can we get that information.

Ms. McPherson: Well, I think there's several factors at work here, and I've been struggling with this as well, so you're not alone. We have the issue of water availability on the island. And that we are in a sole source aquifer and a water -- we have management areas. So I do think that the water supply issue has to be looked at and analyzed. You know, I can start working on that. So we would have to develop some kind of threshold. That's how it usually works. There's the transmission issue. So I think that's a bigger County level issue where we have to look at the problem with the transmission lines, and the fire hydrants, and the water pressure out there. Ultimately, again, there's the issue of the Fire Department not having a fire station out there, which I've gone to several meetings with Jenkins at the Fire Department to meet with the community out there, and they are discussing doing their own fire station. So that's something that could be five or ten years off, however. And then also what I think we're gonna need to do is develop a policy for pools at Papohaku. And, you know, there's a bigger issue of islandwide supply of water that's involved. So those are all things that I can start working on so that we don't run into this over and over again. I've also been in discussions with some contractors, and the Design Committee, and different folks out there who, you know -- and also our Administrative Officer here, Joe Alueta, who says that you can do a booster pump that will make a sprinkler system work in your home, you know, with little water pressure. So that's another option that I wasn't aware of. So these are all options to work with the Design Committee on the storage tank issue, to work with the people on the sprinkler system issue, and then the bigger issues of supply and transmission and having an overall plan or policy because the Fire Department is taking the easy way out, I guess.

Mr. Vanderbilt: Joe, does that pretty much answer your --

Mr. Kalipi: Somewhat, in a sense. Thank you, but I'm just hoping -- it's not gonna really help me think. Yeah, thank you, Nancy.

Ms. McPherson: I don't want to put you through this again.

Mr. Vanderbilt: Excuse me, Commissioner Kalipi, I just wanna say that, you know, you talk about transmission, and water supply, and everything else. I think the basic thing we need to know is just some of the things that Mr. White went through and the Dorans went through just trying to get a permit, and being suggested this, and not being suggested this, and not having alternatives to look at before they got so far down the road. And our understanding of this because -- I wanted to ask, is there any reason -- Joe mentioned that this would be a pool, this is in sort of an ag accessory, ag-type use because it's used for farm -- suppression of a farm dwelling. So if you have a second unit, an ohana unit, would they be able to put a pool in based on the same -- same -- so on every lot you could have two

pools: one for the main house and one for the ohana unit. Maybe Joe -- Joe's right there. Maybe he --

Ms. McPherson: Joe's here and then Thorne Abbott also had some comments, if you want to hear them.

Mr. Joseph Alueta: Commissioners, my thinking is true if this is their only source for fire protection. Okay? From our aspect, and in talking with Thorne, is that it wouldn't be an accessory use if it's not gonna be used for fire protection. And I think, Mike, I guess our question and discussion is, you know, and I'm not sure where it came up as far as fire sprinkler systems, like if you can do a fire sprinkler system, then the pool wouldn't necessarily be an accessory use for farm structure.

Mr. Vanderbilt: But the way we understand from the Fire Department is they give an applicant a choice of putting --

Mr. Alueta: I guess it falls onto you then to make --

Mr. Vanderbilt: So you're saying that if there's other options, what was quoted as being fire retardant for a farm dwelling wouldn't apply?

Mr. Alueta: ...(inaudible)... As indicated, I built a very similar house and under similar circumstances. And I have a sprinkler system in my house because it's required because I was too far from the fire hydrant. And my sprinkler system is tied to my water meter. So if you have a water meter, you can do a sprinkler system. If you don't have the adequate pressure for the sprinkler system, you put in a booster pump. So I don't understand why -- if you got a water meter, then a sprinkler system should be an option. So it appears -- he can correct me if I'm wrong, but did he do it because he was told that he needs to do a 23,000-gallon storage facility either by a tank or a pool? Or -- and then he cannot do a sprinkler system? Or is he choosing to do storage facility as opposed to a sprinkler system?

Mr. Vanderbilt: Thank you. Thorne, did you have anything to add to this? And then we'll give the public testimony.

Mr. Thorne Abbott: Yes . . . Coastal Resources Planner. I reviewed this project, initially. This was before Nancy was on board with you. You'll all continue to see these come back to you. And to the gentleman representing the applicant, whether he was on Maui, Molokai, or Lanai, he'd have exactly the same problem, I'll tell you, of how we run our process for the special management area. The SMA is a conceptual review. We don't get into, for example, how many steps between -- on your stairway between the lower floor and your upper floor. So what we do is we look at conceptual review. I don't recall if you

proposed a pool initially or not. You're on an ag lot. So let me give you a few definitions from the Zoning Code. This is 19.04 --

Mr. Vanderbilt: Excuse me, excuse me, Thorne.

Mr. Abbott: I'll be quick.

Mr. Vanderbilt: Michael wants to say something.

Mr. Michael Hopper: I'd like to note that for the SMA permit to come up here, it is already assumed that they are in compliance with zoning laws. That has to be an assumption before the SMA permit comes up. The project has to be already approved when it comes up for an SMA permit. You're to look at the impacts on the ecosystem, basically, on coastal resources for your SMA permit, but there should be an assumption, and it should've been reviewed at this point that the project would comply with the underlying zoning before the SMA permit comes up because in order to get your SMA permit, you should be in compliance with the zoning as it is. So that should be assumed, first off.

Mr. Abbott: In fact, there's a very good point, and that's exactly what we do, and why we -- whether he -- if he came in and proposed a pool, I'd recommend -- I wouldn't recommend it. I'd deny it. Let me explain why so you can understand what the problem is at Papohaku Dune and other ag lots. I was hoping this will help us all understand what the situation is here. Okay?

So under definitions for outdoor recreation, it lists a bunch of different things: recreational activities you do in the open air. Examples of accessory structures for outdoor recreational pool includes swimming pools. Okay? So then you go to what's permitted on an ag lot. Ag lot says you're allowed to have a farm dwelling. And you're also allowed to have accessory uses. This is under 19.30A.050, permitted uses on ag lots. Accessory uses, uses which are incidental, or subordinate to, or customarily used in conjunction with the permitted principle use. A permitted principle use would be agriculture. It's an ag lot. Not a residential lot. It's an ag lot. So a swimming pool does not have a use that is customarily used in conjunction with farming. I suppose that after working all day in the fields, you probably want to jump in the pool and cool off. So we deny it. Then they go and go to building permits and the building permits sends it over to Fire, and Fire says you don't have any fire suppression. You need fire suppression because you're more than 500 feet from the fire hydrant. You better come up with something. One is a standpipe. The problem with a standpipe is out on Papohaku Dune, we wouldn't like that as it applies to view planes. Two, you can do a water tower. Same issue - it's gonna have a view plane impact. In addition, if they're in a flood zone, generally you don't wanna stick big, water tanks in a flood zone that can get washed away, and then they become a hazard to the public. Three, they can put in a sprinkler system in. Four, they can put in a swimming pool. You asked

about – Joseph, you asked about sizing of the swimming pool. If somebody came back and said I only have two choices, according to the Fire Department, I can put in sprinklers or I can put a swimming pool in. Then I'd say okay, how big's the swimming pool have to be to put out the fire because now it's your accessory use that's supporting your farm dwelling? Does that make sense? It's not my job to tell them which of these four options they do. The other thing they can do is they can move the house to within 500 feet of the fire hydrant. So actually they have five choices. Two of those we're not gonna recommend, as I mentioned because of view planes. Or if it's in a flood zone, a water tank's not a good idea. And actually, there's a sixth option, which is they can use salt water. They don't have to use fresh water to put out a fire. So that's why you're getting this rotisserie of its -- we're approving it. We're sending it off. They get to the building permit stage. It goes to the Fire Department. The Fire Department says you have these options. And it's being sent back to you.

Now having said all that, last and not least is under Permitted uses, 19.30A.050, you can have open land recreation on an ag lot. Well, it says, "Open land recreational uses or structures," and we just defined that a swimming pool -- a swimming pool not using -- not used for fire suppression, just a swimming pool for fun is an outdoor recreational structure. And it says "Open land recreational uses or structures not specifically permitted in this section are prohibited." So we can't approve just a swimming pool for fun on an ag lot. However, it also says, basically, that the Commission can approve it under special circumstances. It says, "Certain open land recreational uses or structures may also be required to obtain a special management area permit pursuant to HRS 205A." And it provides you with the authority. It says -- it lists a bunch of things you can do. And then it says, "Such uses can be approved by the Molokai Planning Commission as conforming to the intent of this chapter." And that would be 19.30A.050, Subsection 11. The bottom line is, if you want to build a swimming pool on an ag lot for fun, you can't. We gotta deny it. If you want to build it for fire suppression, there are options. You can do sprinklers. You can do salt water. You can do a pool. It's not us -- up to -- and you can move the house to within 500 feet of the fire hydrant. It's not our job to tell the applicant which of those three you should choose. Thank you.

Mr. Vanderbilt: Thorne, is there anything that an applicant, like Mr. White, could get from the Planning Department that summarizes all this stuff up in one two-page document?

Mr. Abbott: Probably I told them at our first meeting.

Mr. Vanderbilt: It would be good to do --

Mr. Abbott: I would tell anybody on an ag lot the same thing. And I do it on Maui too.

Mr. Vanderbilt: So most of the people that come in for initially say at Papohaku, most all the lot owners come to you?

Mr. Abbott: Prior to Nancy being here, yeah. And I said the same thing.

Mr. Vanderbilt: Alright --

Mr. Abbott: So the Commission does have the authority, you know, if you feel fire suppression using pools sized appropriately for that fire suppression is an option you wanna pursue, you can approve that in an ag lot.

Mr. Vanderbilt: Now, if we approve it on an ag lot, is that setting a precedent, or is this a case-by-case basis?

Mr. Abbott: It says -- I'd have to read the code, and I'd defer to Corp. Counsel, but it says in special circumstances. So I think you're saying, is this a special circumstance? Yeah, clearly it is.

Mr. Hopper: You're not here to approve based on the zoning law. That's not how this was agended. This is an SMA exemption right now. It is assumed right now that the use is permitted under underlying zoning law. You don't review underlying zoning laws to see if a specific project complies with the zoning laws in most circumstances. Right now, you're looking at based on HRS 205A, if you believe that the exemption was issued properly by the Planning Department. In determining that, you would want to see if you think that this swimming pool as built, and it is presumed that it is a permissible use under the zoning law, the Planning Department needs to verify that, and if it's not, that's a problem, but before it can come to you for the SMA, it has to make sure that it's in compliance with zoning and you have to make the determination based on the State law and your SMA rules if you believe it's a development or not a development. And that's what your determination is here today, not on anything regarding whether or not it's permitted in the underlying zoning. So it's gonna really be in the end when you determine whether it's a development or not, it will be based on whether or not you believe there's a significant adverse environmental or ecological affect from this swimming pool in this particular situation. And that's the standard that I would point to for your review today.

Mr. Vanderbilt: Thank you. So we can come back and ask some questions, but at this point, I'm gonna open it up for anybody that would like to testimony on this issue. Is there anybody out there that would like -- Yes, could you identify yourself, please, Judy?

Ms. Judy Caparida: Happy New Year. I gotta be a good girl, you know, now. Anyway, my name is Judy Caparida. And I'm a kupuna for our community here on Molokai. And we've been through these many, many years. The water is very important here on the island.

If God no give us rain, no more water. We just won a case that went to the Supreme Court on the water. It is because of wasting of water. We under water management here on Molokai, and if you guys don't know, you guys better know. You gotta know your homework so you can know how to answer the questions. We're under a water management, special management thing on Molokai. Okay? And so we're not against you folks having swimming pools, but if there's no more water, how can we afford to have you guys to have swimming pools? For each home dwelling, it takes 5,000 gallons of water per household. You know how many gallons of water you going be using for the swimming pool? And do you know how many homes you can fill up with water? This is the problem that we having in development. What we have to do is really get our Realtors to let all the buyers know that there is a problem. On Molokai, there is a problem. On Lanai, there's a problem. On Maui, there's a problem. The trees are all dried up on Maui because of what? They giving out too much water and not enough coming in. That's what's wrong with Molokai. We no hate you guys. We just don't wanna give the water out if we cannot even give the existing, the families here that is in existence to give them water. There's a lot of homesteads, homestead homes up here that they cannot have their homes built because there's not enough water. So this is why I wanna make it clear to you, if you guys don't know. You Board have to know all the rules because there's house rules on Molokai. This is what we call "house rules." House rules that Molokai need that has to be met. And with all the new plans you made, you better make sure the house rules run into your plans. This is where we get plenty pilikea. A lot of people come from outside to develop, but they don't know the house rules. And the house rules is if you don't have enough water, honey, the ocean is the biggest swimming pool. And down there is the most beautiful beach with a lot of white sand over there. And to tell you that – what's the problem with the fire station, that's not our problem. We wanted our Maunaloa to have fire station. It's coming up because we were pushing for it. We're gonna have a new one here in Kaunakakai, and we're pushing for one for Maunaloa because you folks are all our people. Anybody that live on this island, his concern is part of us. So you know what? I need to let you guys know that we love everybody that comes here. But you know what? Look to the needs of us that is gonna be here, not gonna stay two, five years, and then move out, and another problem come up. This is what's happening for Molokai - so much problem. They sell out. Two years - sell out. Then a new people come, they go through the same problem again. So we need to let everybody know that you know what? Water is the problem. Recreation, Bruddah, jump in the ocean. There's a lot of recreation. You can do anything you like in the ocean. You can do anything climbing up the mountain, walking on the roads. Hey, find something to do. Molokai get plenty to do. I love you guys. Aloha.

Mr. Vanderbilt: Thank you, Judy. Any questions for Judy? Hearing none, is there anybody else out there that would like testify on this?

Ms. Mahealani Davis: Mahealani Davis. I wanted just to say that in agreement with Auntie Judy, there are overriding concerns that come in the big picture. I would ask that the

Commissioners get a hold of a copy, if you have not already, December 26, 2007, the Supreme Court vacated and remanded the Kukui Molokai Incorporated water permit for eight or nine different reasons, but basically saying that it was not properly reviewed, and that the permit itself was requesting water for new uses in addition to the existing uses as of, I think, 1992. So here we go back to square one.

I'm not sure if the water at Papohaku is coming from Well 17, which is potable water, or if it's coming from the mountain systems that Molokai Ranch takes up to Pu`u Nana and filters and uses for different purposes. I'm not sure where exactly where the water at Papohaku is coming from, but in any case, it's a limited source. And I think it's up to the consumer, new residents, people that are planning to do any kind of development to look at the supply side of things and what is really available. I would've gone -- I would not have gone to Molokai Ranch to ask their opinion about availability of water because they have not been forthright with any of their customers about the source of water and the supply of water ever. You could have gone and could go now to the Water Commission and the USGS to get better information as much as we know about what's available on the island.

My personal opinion is that most of the development permits on the West End should either be held up and a moratorium put on them until some of these issues are worked out about what is really available. We have, potentially, hundreds of lots that could be developed, and every one of those people has an inspection of water for domestic use and now this new thing from the Fire Department - you can't get your permit unless you have a pool. It's -- I wish somebody from the Fire Department was here since it's their recommendation or requirement. It's backwards planning to allow people to go through all the work to get a permit, put together a plan, and architectural drawings, and everything else only to come to this point and be told there's a problem. And the problem is known. It's not an unknown fact. That there's limited water supply. That the delivery systems are poor at best. That Molokai Ranch has been skirting the issue about whether or not there are waters to develop their lands at all. And some of those problems need to be dealt with before any more applications are reviewed, in my opinion. Thank you very much.

Mr. Vanderbilt: Thank you, Kathy. Is there any questions? Hearing none, is there anyone else that would like to speak on this issue? Yeah?

Mr. Don Williams: I'm Don Williams. I'm the general contractor. Most of you are personal acquaintances of mine. I do agree we probably do have a problem in the future with the development of pools. However, there's dozens of them that are going in every day. And I happen to be the only one in the island that has a copy from ... (inaudible) ... witness this It's firsthand. And unfortunately, this Commission doesn't have the choice to review all the things that are going on.

I personally feel that this particular project is very deserving in the fact that they have spent a lot of money and developed pre-planning, including all the archaeological, the wonderful architectural stuff we've done. We've checked every aspect of everything that needed to be - covered all the bases. It is in a SMA zone, which allows you to have an opinion on it. It's hard to, in my opinion, it would be hard for you to deny an application especially since the Planning Commission is -- I mean the Maui Planning has recommended that it be approved because we have met all the conditions. But in the future, if you're gonna -- if we're gonna make an issue out of something, I think we should bring it all together, and kinda work the problem out rather just deny right now at this point, because it's really kinda unfair when you have all these pools being developed, and just because they're in the SMA zone that you deny this one.

The other factor that I'd like to bring up is I happen to be one of the few licensed contractors on the island. This is very detrimental to our well-being. I employ eight local families from this island. We're all depending on this project to go forward so we can feed our face and our families.

I also believe you should know that the Dorans are gonna be full-time residents here. They're not just building this as a play place. They're very religious. That's a good factor. She wants to be very involved in the community in helping the children. And I think she's gonna be a viable part to our community in solving some of our issues here. He is retiring just as soon as I can get this project constructed. So they are gonna be full-time residents. I think that's a plus, but I would beg that you would judge this on its merits and really give them a chance. It would be a shot in the arm for all of us.

Like I said, our economy, I really think that I'm impacting the local economy by hiring all local. I have ever since I've been here, which is near 14 years now, and I'll continue to do so. I'm very devoted into making local people work, and I think you all know that about me. So I would then again, I would like to ask you if you would favorably consider this one. And in the future, maybe we should all get together and work out some plan like moving the houses to acceptable locations for fire protection if that need be, but to just spring it out here now, and say, okay, we've made this rule, and we'll deny it, or postponing it, or whatever, I think that's unreasonable at this point. Thank you. Are there any other questions or do you have any questions?

Mr. Vanderbilt: Yeah, I had a question, Don.

Mr. Williams: Yes, sir.

Mr. Vanderbilt: So do you know if the Dorans would be willing to build the house without the pool if there was another means of fire suppression?

Mr. Williams: You know at this point, I couldn't really speak on that. I think that they, number one, designed the pool as the best solution to address the problem both aesthetically, as well as -- you know, the other way, the design of the structure is not such where you could put a sprinkler system. To be honest with you, we do a lot of open beam framing and it would just be a nightmare to try to incorporate something like a sprinkler system.

Mr. Vanderbilt: How many square feet is the house?

Mr. Williams: The house is about 4,000 living area. And it's got -- it's elevated in the air, so -- cause it is in the flood plain, that gives us another option of putting something underneath it, but it's not really practical, I don't think.

Mr. Vanderbilt: Did you mention that there's another lot out there that has two swimming pools?

Mr. Williams: Yes, that was the other point that I mentioned to you earlier. There are several oceanfront properties being developed right now. I don't know how they got through, but there's one example, he hasn't put them in yet, but he actually has two pool permits. And I have all that data with me. I pull, and I review, and I look everybody's permits all the time just for my own knowledge. But he's got a large flag lot. It's ten acres, so he's building a guest house up there about 700 feet from the road. And then further down, another thousand feet is the house. So they're required two permits, and they have permits. I've seen them.

Mr. Vanderbilt: Okay. Well, I appreciate you coming out. You've come to several of our other Planning Commissions as a contractor, one of the few that comes out, and you've provided us with a lot of good information, and this Commission appreciates that.

Mr. Williams: I want to definitely remind you that we have never gone in there and done anything totally on the fly. We always try to cover all the bases. We're very respectful to the aina, and we'll continue to do so in the future.

Mr. Vanderbilt: Yeah, and our Commission is trying to cover all the bases, too, and understand so people like the Dorans don't have to run into this problem again. So thank you.

Mr. Williams: Thank you.

Mr. Vanderbilt: Is there any other testimony? Hearing none, I'm gonna close public testimony on this. And I'd like to ask Mr. White just one other question, if you wouldn't mind coming back up to the mic.

Mr. White: I can answer it from here.

Mr. Vanderbilt: No, if you could come up to the mic, I'd appreciate it because it has to go on the record. Thank you. Yeah, so earlier you said that you were told that you had to apply for the pool at the same -- the building permit for the pool at the same time as the house, right?

Mr. White: The Fire Department wanted us to permit the pool at the same time as the house. We need to permit the fire suppression system at the same time as we permitted the house or they wouldn't give us the permit.

Mr. Vanderbilt: So it wasn't that you had to do the pool. It was you could do the pool, if that was gonna be your fire suppression. If there was another means of fire suppression, you'd have to have that in the plans also? Permit that, right?

Mr. White: That's correct.

Mr. Vanderbilt: Okay.

Mr. White: But I think the reason the pool was chosen, as Don pointed out was that, you know, that seemed to be best choice. It seemed to be the one that -- we had no idea that there was gonna be this kind of an issue. It was required. You know, it was required for the fire suppression and we had no idea we were gonna run amuck of all the various issues that we've heard about today.

Mr. Vanderbilt: Did anybody talk to you about that option that Mr. Alueta mentioned about at his house, they they have their -- a long distance from the fire hydrant, so they have a water meter, and they tag on a booster pump to it to get enough pressure for their sprinkler system?

Mr. White: We did talk about that, yeah.

Mr. Vanderbilt: Is that something that would work? Or is it just --

Mr. White: No, it would probably work, but again, it was -- we had choices to make, and we made the choice. We didn't know that there was gonna be a huge issue with the choice we took. We thought we could either take A, B, or C. And the sprinkler system was difficult to put into the building system that we have. And the pool was a better choice, aesthetically. And also, you know, I mean, it could be used for other things. It could also be used to put out fires that were around the house, which is really the biggest threat is whatever comes at you that --

Mr. Vanderbilt: No, and if I was in your shoes, I would've chosen the pool also.

Mr. White: Yeah.

Mr. Vanderbilt: But I guess this is where we have a -- as far as the Planning Department, I can't believe they didn't -- somebody didn't tell you that pools are a hot issue on Molokai at this point, but that's not your problem.

Mr. White: Well, I know it real well now, and I knew it several months ago, but we were, you know, rolling along. And we've been trying to get this resolved, like I told you earlier, since August so --

Mr. Vanderbilt: Okay, thank you. Thank you very much, Mr. White. Commissioners, does anybody have any questions of staff or anybody?

Mr. Dunbar: Yeah, I got a question.

Mr. Vanderbilt: Commissioner Dunbar?

Mr. Dunbar: And I don't know really who to address it to. I guess, Mr. White, maybe yourself. You said that you're able to put in another line -- or maybe Mr. Alueta would be better able to do this. You put in another line. You put another meter in it. So now you got a 5/8" meter at the end of it, and you think that's gonna pump --

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

Mr. Dunbar: No?

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

Mr. Vanderbilt: Joe, could you -- could you come up?

Mr. Dunbar: So you put in one meter. So you put in a 4" meter?

Mr. Vanderbilt: Joe, Joe, could you come to the mic, please?

Mr. White: I can explain it, too.

Mr. Dunbar: Okay.

Mr. White: Typically, you'd take your regular meter, and you'd have a 500,000-gallon, whatever, whatever the engineer's determine is, the appropriate sized storage tank, you

hook up a booster pump to that, and when the sprinklers go off, the pump's with enough pressure and you've got a little bit of a cushion, because you've got water coming in from your regular domestic water line, and the pump pumps it down, but you got -- it's pumping down, it's filling up so, hopefully, you'll have enough water to put out whatever the -- but typically, those systems, Mr. Dunbar, those systems are inside the house only. It would be probably enough to help the structure, but it wouldn't help keep the fire away from the structure.

Mr. Dunbar: Okay, yeah, I just -- I mean, I heard people talking about running another water line, and then adding a meter to it, and you got a 5/8" line, and all you're sucking out of that pipe is 5/8" water. You're never gonna get enough to power any --

Mr. Vanderbilt: Excuse me, Commissioner Dunbar. What I -- I didn't understand that that's the way Commissioner Alueta was explaining it earlier. Oh, Commissioner, I mean -- oh, it might as well as be a Commissioner. He's here all the time, more than most of our Commissioners, as a matter of fact. So I didn't quite understand that your setup was the same. And is your setup approved by the Fire Department?

Mr. Alueta: Yes. I just talked to him. Mine does not require a tank. It doesn't require -- or nor does it require a booster pump. A booster pump is just added to the line to add the pressure to the system, and there is no storage tank involved. So -- and it's only in where you have low pressure because, again, I have a two-story house so -- but I had adequate water pressure for my facility. Most homes don't have adequate water pressure and what they do is you add a booster pump to the system only, and there is no separate tank.

Mr. Vanderbilt: But you said your house -- how far is it from the hydrant, roughly?

Mr. Alueta: More than a mile. A mile, maybe.

Mr. Vanderbilt: And you're tied into your hydrant as for fire protection?

Mr. Alueta: I'm tied into my water line, my water meter.

Mr. Vanderbilt: Your water meter?

Mr. Alueta: Correct, 5/8" water meter.

Mr. Vanderbilt: And you have some kind of booster on that water meter?

Mr. Alueta: I don't need one because I'm at a bottom of a hill so the gravity pressure just serving the line creates the pressure. And the pressure -- and that's the only reason I have enough pressure. But in most cases, the original design of my house called for a booster

pump, not a storage, just a booster pump. And in most of the other homes in the neighborhood, just have a booster pump to add that extra pressure for the sprinkler system.

Mr. Vanderbilt: Thank you. Are there any other comments at this point? Do we have a motion from anybody?

Mr. Dunbar: I don't know how this motion's gonna fly, but I'd like to make a motion that we approve it. I think in this particular case, couple of things that I've heard is that, one, no precedent is gonna be set. I believe that they've been -- you know, they've gone through the process since 2005 in order to get this done. And I think as people now know, some of the rules have changed. So it even means that anything that comes after this is not gonna create a precedent. I don't see that there's any County liability with regards to this approval. And as I believe in a special case, and I believe that the family contractor on the island where he's doing something on the island, you know, for local residences is something that we have to look at. So I would -- I'd make a motion that we approve predicated on the Planning Department's approval for it.

Mr. Vanderbilt: Is there a second?

Mr. Kalipi: I second.

Mr. Vanderbilt: For discussion.

Mr. Kalipi: Just for discussion.

Mr. Vanderbilt: Commissioner Kalipi.

Mr. Kalipi: I would like to comment this. Just to comment, we still can make a precedence in the sense of just a comment. We could charge the Planning Department when people are trying to get a pool permit, or going through the process with the Fire Department to push them to say, hey, the sprinkler system is the way to go, or move your house 500 feet inwards to the fire extinguisher or the -- And then the third, if you're gonna come to the Planning Commission, we're gonna give you some trouble because we don't have the proper information to make the decision. We are in a water management crisis. And so if you wanna -- don't have any problems, and you want, you know, choose Option A, the booster sprinkler, choose Option B, which is the 500 feet. Problem C, you will get problems from us. I think we can set that as a voice to those who are putting in -- on the application. If we do have our information from the Fire Department, the water companies, and everything else, I think it would be great to say we can have another 500 swimming pools over there, but we don't have that information. If the Water Commission is gonna go out or whoever else is giving somebody the permits on that side, that's their irresponsibility for not doing what they're supposed to do to protect the Molokai people or the community. But

for us, we're charged to protect our aina, our supplies, our resources. And so I think it's a good statement to put on record that, you know, we're not in charge of what they're gonna do with their permitting process, but we're gonna scrutinize. We're gonna take a look and set a precedent of those who putting the permits through us.

Mr. Dunbar: Yeah, Mr. Kalipi, I think that was well said.

Mr. Vanderbilt: Commissioner Dunbar?

Mr. Dunbar: I think that was well said. And I'm glad that there's a second to it. Thanks.

Mr. Vanderbilt: Okay, is there any more discussion? Commissioner Chaikin?

Mr. Chaikin: Yeah, I'd like to just say that I concur with the other Commissioners that just spoke but, you know, I really think that swimming pools are problematic, you know, going forward considering the situation that we're in. And I think that it's really important that this Commission set some kind of a policy with regard to swimming pools. Now, I don't think now is the particular time to do that, nor do I think we have adequate information that we can draw any meaningful conclusions. And I hope we get some kind of -- something out of this and what that would be would -- for the Fire Department, to come forward with some kind of a report to let us know what's going on in those lines, those fire suppression lines in the West End: whether they have adequate water, there's not adequate water, and it would be even nice for the Fire Department to come here and speak to us specifically so we can ask questions about options such as moving the hydrant onto the property, or providing extra lines, or maybe the law's inadequate, but we have to do something moving forward with the whole swimming pool issue. But barring the fact that we don't currently have a policy, I think it would be inappropriate for this Commission now to say that this guy can't have a swimming pool. We just got done approving a swimming pool. So what we need to do is set a policy, you know, at some future meeting, so we can have something to go with; not every application that comes forward we, you know, we take a look at it differently because they're all basically in the same boat. That's my mana`o.

Mr. Vanderbilt: Thank you. We'll see if there's any more discussion. Any more discussion? Commissioner Feeter?

Mr. Feeter: Just a comment. Two things: that we're not talking about a swimming pool, we're talking about a fire suppression source, and so it's been very well said by two gentlemen on our left that that actually is what we really need, and also on the right. It's fire suppression. It's not a swimming pool. And so in the future, don't call it a swimming pool. It's a fire suppression. And secondly, the Planning Department is again, this is too long a time to deal with this. It should be -- it's been over -- almost a year. And in fact, I believe the timing on it was prior to that. Granted, we've had two or three different

directors, and so hopefully, there'll be some stability in this department. And I just wanted to make a comment on that. I have faith in that. So I think again we need to support the Maui County Planning Department, and hopefully, there is some stability in that for the future because there has been so many opinions in the past and I see good things coming from the present administration. Thank you.

Mr. Vanderbilt: Thank you, Commissioner Feeter. I just have one comment. I think the problem goes deeper than this. I mean, we had Thorne Abbott talking about rules and why they might get denied or approve. And the use of ag land has gotten so compromised by the County of Maui with farm plans that call for you to do nothing else but put in a grass land, a grass lawn, or just do nothing with half of your property. That's a farm plan. And all of this stuff that goes on is just pushing the envelope as far as the intent of agriculture. And I don't think this pool -- I, personally, am against the pool. Now whether I'm gonna vote against it, I don't know yet. I still haven't decided. But I just -- we need to get something. We need to get the West Molokai Design Committee down here, the Molokai Ranch, the Fire Department, the building permit people, and the Planning Department, a representative person from there and we need to understand this and come up with a policy because we could have several hundred pools out there especially if some of them have two on a lot. We have a La`au Point proposal with 200 lots that each could have two pools. That's another 600. And it's just getting really out of whack. And you got Molokai Ranch, which is the water purveyor, which isn't doing anything on the infrastructure and is not really taking care of the water resource. They're just moving forward trying to get more projects approved when they haven't even taken care of the infrastructure for the current ones that were already approved in which they've already gotten money for.

So with that, if there's no other comments by the Commissioners, I'm gonna call for the vote on the motion.

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

It has been moved by Mr. Dunbar, seconded by Mr. Kalipi, then

VOTED: To approve predicated on the Planning Department's approval for it.

(Assenting: K. Dunbar, J. Kalipi, S. Chaikin, D. Vanderbilt.)

(Dissenting: B. Feeter.)

(Excused: L. Kauhane; L. DeCoite; M. Pescaia; S. Napoleon)

Mr. Vanderbilt: Okay, the motion fails four to -- there were only four votes.

Mr. Dunbar: Well, Bill, what might --

Mr. Vanderbilt: Are there any -- were there -- Alright. All those against the motion, raise your right hand. One. So four to one, motion fails. Okay.

Mr. Dunbar: So, Mr. Feeter, is there any part of this proposal that you would change in order to move it into an approval status? Or are you just -- there's nothing about it that you could approve?

Mr. Vanderbilt: Well, I think we were talking about the exemption for the swimming pool. And at this point, and I will talk to -- maybe we could get somebody from Planning, is there any reason the house cannot be built without the pool at this point, and at some later date, the pool be put in?

Ms. McPherson: They cannot get their building permit signed off on until they have a minimum of 23,000 gallons of water stored on their property based on the site plan that they're now using.

Mr. Vanderbilt: So the option of a booster pump is not an option?

Ms. McPherson: Well, no. I believe that the sprinkler system is a viable option also. The previous one that I worked on had three options: the storage tank -- this is what was given to the applicant by the Fire Department. Why they didn't include all of those options in their letter for this one - I don't fully understand, but there's a storage tank, the swimming pool, or the sprinkler system. Now, without someone from Fire who can verify that -- I think Scott English usually reviews the plans -- you know, I can't say that for certain, but my understanding is for a project very similar to this, those were the three options that the applicant was given by the Fire Department.

Mr. Alueta: In reading this Exhibit 15, the reason he makes reference to the 23,000 is that the proposed swimming pool for fire protection that is shown needs to be permitted for fire system approval. So he's only commenting on the plans that he received which were us -- which were a single-family house or a farm dwelling with a pool. So that's the reason he made the comments with regards to 23,000.

Ms. McPherson: I believe the plans that were submitted showed the swimming pool as proposed future pool. And as the architect mentioned, it was left on there for reasons that that's the way they usually handle these things. They left it on there. Anyway, they left it on the plans. So they submitted those same plans for the building permit with the kind of the shadow pool still on the plans. So they just went ahead and said, well, now we wanna go ahead and get the pool because that'll meet the fire suppression requirements.

Mr. Vanderbilt: Thank you. Yes?

Mr. Hopper: Just wanted to note that under your rules, since Planning has exempted this project, you would have 30 days from today to make your recommendation, or to make your final decision. If you decide that it is a development and should not have been exempted, you need to have findings of fact and conclusions of law upon which to base that, and that needs to be provided to the Planning Department by you as the Commission in order to essentially, rescind their exemption, and require the person to apply for the appropriate SMA permit. If you take no action within that time, then it appears that you would not have, provided that any decision with respect to Nancy's exemption and so, though that's unprecedented, that would run the risk that the project would be exempted and would be able to go on consistent with the Planning Department's recommendation. So I just wanted to get that on there for the record.

Mr. Vanderbilt: Excuse me, Mike. So you're saying -- well, we made a decision, but you're saying that the decision has to be backed up by conclusions, facts, and conclusions of why we did not exempt it?

Mr. Kalipi: Corp. Counsel, can I jump in just for a sec? You're just saying that we gotta refer -- if I'm understanding correctly, you just gotta refer to a law or a section that why you're denying it? Just not saying we're gonna deny it because I wanna deny it. You wanna refer back to a section that says what's the reason of denying it? Is that correct?

Mr. Hopper: First of all, you haven't denied the project yet. You just had a motion that failed to approve it. You need to have an affirmative vote of five people to take any action whatsoever. So you've taken no action at this point. If you do take action to deny it with a vote of five people, you need findings and conclusions. If you don't take any action by a vote of five people for anything, then you will have taken no action, and the project may go on after the 30-day time period as being exempt. So that's the situation.

Mr. Kalipi: Thank you.

Mr. Vanderbilt: Corp. Counsel, could we in a sense defer action on this, and ask for some information from various things, and schedule it at our next meeting?

Mr. Hopper: You could. You're still within that 30-day time period, and you would probably want to be prepared if there is a denial with findings of fact and conclusions of law because that obviously is not something that's necessarily written in a very quick manner. That would take some time for either you to write or to dictate to Nancy to write. So -- but, yes, you could defer as you did with the last project as long as you make your final decision within the 30-day period.

Mr. Vanderbilt: Well, I'd like to make a motion that we --

Mr. Kalipi: I'll move to make a motion to defer.

Mr. Vanderbilt: Is there a second?

Mr. Chaikin: I'll second it.

Mr. Vanderbilt: Joe, could that be deferred to the next meeting?

Mr. Kalipi: Yes, I'm sorry. It would be to defer --

Mr. Vanderbilt: Okay, we have a motion that's seconded to defer this to our next meeting this month. And hopefully, at that time, we will have some answers to our questions. And I would ask that the Planning staff, as quickly as possible, get the minutes, the portion of the minutes from this meeting typed up so that that can be included in our packet next time. And hopefully we can have somebody from the Fire Department here also, and possibly the Ranch or the West Molokai Design, so we can get -- so we can figure out where we're going on this thing.

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

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

VOTED: To defer this item to the next Molokai Planning Commission meeting.

(Assenting: B. Feeter, J. Kalipi, S. Chaikin, D. Vanderbilt.)

(Dissenting: K. Dunbar.)

(Excused: L. Kauhane; L. DeCoite; M. Pescaia; S. Napoleon)

Mr. Vanderbilt: Okay, it's not deferred. Kip, you didn't vote for --

Mr. Dunbar: I'm not voting for deferral.

Mr. Vanderbilt: Okay. So there is no action on this at that time -- at this time. So I think -- I'll have to consult with our attorney, but I think the Chair, and the Planning Department, or the Chair has the -- we can put this on the agenda even if it's not deferred. What's the situation there, Corp. Counsel?

Mr. Hopper: If there's no action taken, no matter, if there's no motion to do anything, in substance it's going to be deferred because it won't be disposed of. So it can come up on your next agenda. I mean, that's not a problem.

Mr. Vanderbilt: Thank you. Okay. As we move on, we're gonna take real quick -- How's our time doing? We got -- five-minute break, and we'll see how our Commissioners are doing on time.

(A recess was called at 3:17 p.m., and the meeting reconvened at 3:26 p.m.)

Mr. Vanderbilt: We're back on the record now. What is our time line on the superstore ordinance?

Mr. Alueta: January 10th.

Mr. Vanderbilt: What?

Mr. Alueta: Tomorrow.

Mr. Vanderbilt: Kip, you gotta go when -- 3:30?

Mr. Dunbar: Three minutes now.

Mr. Vanderbilt: Okay. Joe, we're gonna take the superstore real quick then.

F. UNFINISHED BUSINESS

- 1. MR. JEFFREY S. HUNT, Planning Director transmitting Council Resolution No. 07-108 referring A Bill for an Ordinance to Prohibit Superstores in Maui County to the Lanai, Maui, and Molokai Planning Commissions. (RFC 2007/0099) (J. Alueta) (Public hearing conducted on December 12, 2007.) (Commissioners: Please bring your copy of Resolution No. 07-108)**

The Commission may take action on this matter.

Mr. Alueta: Okay. I passed out a staff report or a little memo report that I did which summarizes the department's position, as well as agency comments. Again, we're looking from a department's standpoint --

Mr. Vanderbilt: Excuse me, Joe. That was passed out at this meeting?

Mr. Alueta: Yes, it was. It should be -- it's dated December 19, 2007.

Mr. Vanderbilt: Did you get it? It was passed out this -- nobody seems to have it, Joe.

Mr. Kalipi: Is it this one? Is that that one, Joe?

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

Mr. Vanderbilt: Oh, okay.

Mr. Alueta: So if you all have that report. Basically, the department doesn't really have an objection for or against superstores. From our standpoint, we're looking at more to if the superstore bill is or superstore ban is done or implemented, our recommendation would be to keep it simple, and to just do it on a square foot basis, as well as to include the prohibition of superstores or list it specifically within each of the zoning categories where such a structure could be built, and those would be within the business districts as well as within the industrial districts. So we would -- so we don't have any objection for or against as far as the bill in itself just from the structural standpoint and from an enforcement standpoint.

And I also highlight in my report the advantages and disadvantages of our proposal. If you went with our proposal as opposed to the Council's proposal, which includes in their definition of a superstore includes 25,000 stock-keeping units, as well as a 20,000 square foot grocery store; one, it would make all of the -- at least five stores on Maui, existing nonconforming uses based on the size, and would not allow them to expand their items or to move into the grocery items. If you went with our item, our definition, again, those stores would be existing nonconforming; however, they could modify and either add items if they did not exceed the 25,000 or reconfigure their internal store to include a 20,000 square foot grocery store as defined by what a definition of a superstore. And again, because our item is simplified to 90,000 square feet, it would basically set a cap on the size of structures that would be built within the business districts or in an industrial area to a 90,000 square foot cap. Again, you have five structures out there now that we feel that probably meet that or exceed that 90,000 square feet, and those would be the K-Mart Store, the Costco Store, the existing Wal-Mart, Home Depot, and Lowe's. And that's pretty much the summary. So we're just trying to -- if you --

So your options today are to one, accept the definition that the Council has proposed, accept our definition, or make a recommendation that you accept our definition to simplify it, or you can reject the whole concept of the superstore bill ban and just leave the ordinance as is, I mean, leave the law as it is and not prohibit Superstores.

Mr. Vanderbilt: Can't we come up with our own definition of a superstore?

Mr. Alueta: You can do that also. And that is -- from the Hana Advisory is recommending, I believe, 75,000. I put in my -- 70,000 square feet. And the Cultural Resources Commission, their only condition would be that it have a Hawaiian architecture.

Mr. Vanderbilt: Alright. Are there any questions? Commissioner Kalipi?

Mr. Kalipi: Joe, the existing five superstores, so to speak now, would they be grandfathered in or, I mean, how does that work? They're gonna have to -- they can't conform their building size to the proposed bill, but they're gonna have to conform the inside of what they distribute?

Mr. Alueta: Again, as I indicated in my staff report, and as I just reiterated, they would be existing nonconforming based on their size. Under the Council's proposal, they would become existing nonconforming, and they would not be able to modify their internal structure of the building or type of products they sell that would meet the superstore ban, meaning they couldn't do groceries. If Wal-Mart wanted to expand or Costco wanted to expand and have 20,000 square feet of grocery items, they wouldn't be able to do that under the existing bill, under the way it's proposed by Council. Another thing about the Council bill is it wouldn't set a maximum building size so you still could have someone do a 140,000 or 200 square foot building. The difference in our proposal is we're setting a cap for all buildings that size only, a 90,000 square foot size, determines to be a superstore. The existing buildings that are now over 90,000 could rearrange what they sell meaning they could do groceries.

Mr. Vanderbilt: Okay. Bill, you had a comment for Joe or a question?

Mr. Feeter: Joe, just to clarify it, the Planning Department says what limit on square footage? I see in the algorithm here, for example, the Hana Committee says 70,000 square feet, for example.

Mr. Alueta: Yes. So what's your question again, Mr. Feeter?

Mr. Feeter: What is it the Planning Department's recommending in square footage?

Mr. Alueta: We don't have a recommendation. We do not. We do not have a recommendation for or against. All we're saying is, if you're going to put a superstore ban, keep it simple, and make it only based on a square footage, not on a square footage, plus a square footage of a grocery, plus how many stock-keeping items. We say just make it one -- make it based on the size of the building and that's it. And that'll make it easier for us to determine.

Mr. Feeter: Mr. Chair, I'd like to -- is it appropriate for -- to make a motion at this point?

Mr. Vanderbilt: No, no, we need to have public testimony on the -- on this item first, Commissioner Feeter.

Mr. Feeter: Okay, at this point then I'd like to suggest that it be limited to not more than 75,000 square feet.

Mr. Vanderbilt: Okay. Well, we'll get into that discussion once we have the public comment. Is there any public testimony on this item? Alright, hearing none -- Oh, yes? Come on up here.

Ms. Ruth Manu: Aloha. I'm Ruth Manu. I'm one of the faithful kupunas. I'm here to say about the superstores. What's wrong with our stores? We seem to love them. They're very faithful sending our goods when we want them. Rough days or even send them by air, they still bringing our goodies. If we had the superstores here, how can we pay? We hardly have any job on this island. And when they come here, you know the taxes going up and everything else is going up. What's wrong with Friendly Market? Takeo just got a new store. And then we have Misake. They probably going start building again. So I'm very thankful for the stores that we have now even in Kualapuu. If we having all these big stores come in, we're gonna shut down everybody. All our small business gonna be closed up. And then where our people gonna work? In the big stores? We no can afford it. Hello. We cannot. What we have? 7,000-something people right now? Maybe even 8. You think we can afford it? I don't think so. But that's my opinion. But, you know, truly, I like having our stores now. Aloha.

Mr. Vanderbilt: Any comments for Ruth? Hearing none, is there any other public testifiers? Hearing none, I'm gonna close testimony on this. Joe, where does it say the zoning where these would be allowed in the ordinance?

Mr. Alueta: As indicated, currently they are allowed within the business districts, as well as the industrial districts. So I would say that you would want to make a -- we would recommend that the prohibition of these types of commercial or retail outlets larger than 70,000 square feet be prohibited within each of those zoning districts.

Mr. Vanderbilt: Excuse me. So, you're saying that superstores are permitted in business and industrial districts?

Mr. Alueta: No. Under the existing law, anywhere that's there a retail, or a commercial grocery store, or anything like that, or any industrial areas, you could build -- have a commercial complex --

Mr. Vanderbilt: And there's no restriction on the square footage?

Mr. Alueta: No restriction on the square footage or size except for FAR's, floor area ratios, and height limits that are currently in the building code.

Mr. Vanderbilt: Thank you.

Mr. Alueta: This would just be another sort of like a building code issue where you'd say you can do up to 90 or up to whatever square you set provided you meet the other requirements.

Mr. Vanderbilt: And then if we did not want major retail stores outside of our business areas, you'd have to change the ordinance?

Mr. Alueta: You do that -- you control your retail, and business, and resorts, or whatever by your zoning.

Mr. Vanderbilt: Okay, so right now, in any of our industrial park or anywhere else in the industrial or business district, you can put a store that's only limited in size by the lot restrictions and various things?

Mr. Alueta: Correct.

Mr. Vanderbilt: Okay, thank you.

Mr. Alueta: So you wouldn't have one of these in the agricultural district.

Mr. Chaikin: Joe, I just have a couple questions here. I'm just wondering - I know like in some of our zoning ordinances, we have like height restrictions, and you can't go above that height. Oh, but you can get a variance or something and build higher than, right? Or if you get it approved. Is that the same with this? Somebody could theoretically go out and get a variance or something and build a larger than whatever ultimately gets approved, if it does?

Mr. Alueta: Potentially, you can get a variance for almost anything or a conditional permit. As we're seeing, you get a conditional permit for a TVR in the rural or agricultural districts. So you can get anything you want. It's just whether or not it gets granted. With regards to a variance, in this case, you'd have to get a variance. It would be very hard to get a variance because you'd have to show some type of hardship.

Mr. Chaikin: Right. Okay, I got it. Another question: on the 90,000 square foot figure, I'm just wondering, you know, I know that all the other islands came up with that 90,000 figure

and it looks like you guys just took it and ran with that. I'm just wondering where that comes from and, you know, because you talk about superstores. And when we got the Wal-Mart information, the super centers that Wal-Mart have are about double that size. Even their regular Wal-Mart is significantly larger than 90,000 square feet. I'm just wondering like a Foodland or something like that, how many square feet is the average large grocery store on Maui?

Mr. Alueta: I believe Safeway -- like a Safeway in Kihei, which is one of the largest ones in the State is about 40, 42,000 square feet. That's my recollection from some other research I was doing. Again, this came out of like Council -- I guess the Council, out of a HSAC, Hawai'i Congress of Council Members, they met and they decided to come up with some kind of a ban on this, and they took it back to their various communities. If you look on Kauai, Kauai chose 75,000 square feet. So not everybody just chose 90,000. Hilo chose 90. Kauai was 75. Again, Hana Advisory recommended 70. It varies from municipality to municipality.

Mr. Chaikin: And Molokai is no exception. This bill is largely irrelevant, the way it's written to Molokai because no one's ever gonna come here and build a 90,000 square foot. The real question before this Commission is if we wanna make a recommendation to make it relevant to, you know, put something forward that would, you know, limit the size of the stores that could be built here on this island. And that's something that this Commission has to figure out is if we wanna put forward a recommendation for limiting the sizes of buildings here. That's all.

Mr. Vanderbilt: Thank you. Anybody else have any questions for Joe? Hearing none.

Mr. Kalipi: I got. Joe, really roughly, on the top of your heard, Costco, Lowe's, Wal-Mart, what are their sizes even now, the Maui one, if you know?

Mr. Alueta: I think they range between 139 and like 142,000 square feet.

Mr. Kalipi: Okay, thank you.

Mr. Vanderbilt: So, Joe, we could define a superstore as being 10,000 square feet?

Mr. Alueta: You can do -- yeah, can do whatever you --

Mr. Vanderbilt: And the Mango Mart is 1,000.

Mr. Alueta: You make your recommendations to the Council.

Mr. Vanderbilt: Alright.

Mr. Alueta: But again, if you do any type like say, we'd like you to have it -- try to get it through the various business districts, as well as keep it simple by doing the square foot only.

Mr. Vanderbilt: Thank you. Do we have any --

Mr. Chaikin: I'd like to make a motion.

Mr. Vanderbilt: Okay.

Mr. Chaikin: I'd like to make a motion that we recommend that we accept your -- the Planning Department's recommendation for the bill, and with the addition that you add "except for Molokai." And on Molokai, the maximum number of square foot allowed for a retail building would be 10,000 square feet, and it would only be allowed in the business district and not the industrial district.

Mr. Alueta: Just to get clarity, so Molokai only, the definition for a superstore would be 10,000 or set the maximum building size at 10,000 square feet, okay, and for business district only. Now, if you're in the industrial district, could you go bigger than 10,000? Is that -- so you're only going to limit the restriction to the business district? Is that correct?

Mr. Chaikin: Well, I guess we'd have to limit it to both business and industrial areas, 10,000 square foot, and the reason for that is is that there could be some operation that comes in and literally wipes out all these mom and pop operations that we have going in on Molokai. That would be the rationale for limiting, you know, the size of the stores.

Mr. Alueta: So it doesn't matter where it's located? I mean, as long as it's a commercial area and it's 10,000 square feet? Okay.

Mr. Vanderbilt: Is there a second?

Mr. Dunbar: You know, you had my attention for a second all the way up until you got to the 10,000 number. You know, I mean, clearly --

Mr. Vanderbilt: Wait, wait, wait. Could we see if we have a second?

Mr. Dunbar: We're discussing, yeah?

Mr. Vanderbilt: No, we haven't had a second. Is there a second on the motion? Any second on the motion? No second to the motion. Okay, the motion dies. Do we have a new motion?

Mr. Feeter: That was a good motion, but I would amend it, if I may. I'd make the motion that still 75,000 --

Mr. Vanderbilt: Go ahead. Make a new motion.

Mr. Feeter: I make a motion that it be limited to 75,000 square feet, and as Steve said, in the appropriate zoning district, whatever that may be.

Mr. Vanderbilt: That would be the business and the industrial.

Mr. Feeter: Well, as determined by the Planning Department.

Mr. Alueta: Okay. So, 75,000 similar -- 75,000 square feet max for everyone including Molokai?

Mr. Feeter: Yes, that's correct.

Mr. Alueta: Okay.

Mr. Feeter: I'd just like to add one comment, if I may. These stores have other services. They have tire stores. They have banks. They have optical stores. Other community services, not just groceries. That's just a comment.

Mr. Chaikin: Just on further discussion, I mean, you're putting forth the largest sized retail establishment that could be established here on Molokai is about one and a half times of Foodland. It's literally, a huge, huge operation.

Mr. Vanderbilt: Did we have a second to the motion? Anybody seconded the motion? No second. Okay, I'd entertain a motion that -- I'd entertain a motion that -- one option is just to do nothing, right, Joe? And it'll just stay like it is. Because I don't -- personally, I don't wanna be promoting a superstore at any size because it's contrary to our community plan and everything we're doing about protect our -- you know, protect our small towns and authentic towns, and that's something that even Maui is trying to get back to now that they're all going. And when I look at -- when I talked to David Makame and he said that even if a satellite store from Longs came in, he'd have to sell out because the margins are so small. And so anyhow, I'll -- do we have another motion? I'll entertain a motion that we --

Mr. Kalipi: Okay, I'll make one.

Mr. Vanderbilt: Okay, Joe.

Mr. Kalipi: Let's say we agree with -- I know it's not gonna work, but I'll throw it out anyways. I'll agree with the Planning Department with the 90,000. Exempt Molokai, period, on the superstore meaning that we don't want no superstore here in any manner of size close thereof. So we would agree with the Planning Department with their specs. Exempt Molokai.

Mr. Alueta: I respect your motion. The only problem is the way you got it worded is that basically someone could come to Molokai and they could -- they wouldn't be limited by the 90,000. They could do any size they wanted. So I think that if you wanna -- if you like having the 90,000 square foot max for superstores, and then say except for Molokai, set a lower number, if you wanna protect -- then that would be the way to go, I mean, if that's your intent. But the way you have your motion now is that it would only apply to the rest of the County, and then for Molokai, anyone could do -- can do a 150,000. There is no limit.

Mr. Kalipi: Right, right. I hear you, Joe. The thing is, I don't -- we don't -- well, for me, I don't know enough about square footage in a business in Molokai. And we had no presentation or information provided to us to say, you know, how big is Friendly Market, how big is Misake, what kind of square footage are we looking at locally, and so that's the challenge of saying that 10,000, 5,000, 3,000 or whatever for Molokai and that's why -- I mean, I don't know what clause or information that we can put to say, you know, we don't want anything decided for Molokai right now. I don't know.

Mr. Vanderbilt: Could I ask if the Commissioners might entertain a motion --

Mr. Dunbar: Okay, wait, we have a motion on the floor now.

Mr. Vanderbilt: Okay, is there a second?

Mr. Dunbar: And I'm gonna second the motion just so we can discuss it and then amend the motion which is how we should do it.

Mr. Vanderbilt: Okay.

Mr. Dunbar: So now for discussion is, I agree with everything you say, but I do think that we have to have the "except for Molokai" where large stores won't exceed 20,000 square feet or 25,000 square feet, which would give some of our local vendors, such as Misake's and Friendly Market, the option to expand and make their lines a little bit more accessible when you go in there on a Friday afternoon or a Sunday afternoon. So it is a size issue on Molokai, and I agree with all of what you're saying. So that's not what you said, but that's a discussion. So now I guess we have more discussion and look for an amended motion.

Mr. Chaikin: Well, I agree with everything you've said except for maybe the 20,000 figure. I mean, that's sounds like a very, very big store. I mean, considering that right now it's only what -- 3 or 4,000 square foot or even that? And so to go to 20,000, that would be a five times --

Mr. Dunbar: Friendly Market is 18,000 square feet, including the warehouse.

Mr. Chaikin: Oh, yeah, they got the whole back area, too. It's 18,000 total square feet? Does that sound right?

Mr. Vanderbilt: I don't know. That's it?

Mr. Dunbar: I'm pretty sure that's the figure.

Mr. Feeter: Chair, if I may? I have a point to take.

Mr. Vanderbilt: Commissioner Feeter?

Mr. Feeter: The information I have here is that 75,000 square feet is roughly twice the size of the average Safeway or Foodland. I'll say again, 75,000 square feet is roughly twice the size of the average Safeway or Foodland. I don't have what the average Safeway or Foodland is, but if it's 18,000 for FMC, why --

Mr. Kalipi: Yeah, I'd like to comment or respond. Is that possible?

Mr. Vanderbilt: Kip, what were you -- what? 20,000?

Mr. Kalipi: 18,000, he said, Friendly Market.

Mr. Dunbar: Yeah, I mean, I'm throwing it out. I'm throwing, you know, 20 or 25 to give our local vendors something that they can work with. If they can't work with it, then now we've poho'ed them again.

Mr. Kalipi: See, I like that, but to get back to Mr. Feeter real quick is that Foodland versus Costco is a little bit different store providing services. And even Wal-Mart and K-Mart, I don't know about you guys, but when I go to Maui, I like the convenience that I can jump into American Savings, and you know, do some banking while I'm at the store like that. I'm referring this to Mr. Feeter because then, you know, I think he's stuck on the size of 90,000 versus 70,000 and 75,000. He also commented that there are other stores in the store. And for example, like there's maybe McDonalds in K-Mart, or Wal-Mart, or there's like a pizza. And, you know, as a consumer, I think it's comfortable for me when I go shopping or if I wanna feed the kids and whatnot, I think it's cool that I can go and feed my kids over

there, and then do some banking while I'm at it. So I'm comfortable with the 90,000. And that's kind of like right now, the Wal-Mart and K-Mart, Costco is at 140,000 right now and whatever as Joe said. And so I'm just trying to comment to bring Mr. Feeter along of the thoughts of the 90,000. The other thing I, you know, I agree with Kip. If it's 18,000 at Friendly Market, yeah, 20, 25,000 is sufficient for my comment.

Mr. Dunbar: Yeah, I guess the comment is that because the Friendly Market, I mean, it's already bursting at the seams. I mean, if it could possibly acquire more property, I bet you they'd do so. So, you know, I think if we try to limit it except on Molokai to like 10,000, that's too small a figure. Now whether or not it's 20, 25, 30, whatever, it doesn't make any difference to me. It's just that I don't want it to be restrictive to our local merchants.

Mr. Vanderbilt: Okay. And Friendly Market did -- was planning a new store, of course, right across the street there at one point. So, anyhow, so okay. And just my comments on this, I would like the motion to include that Molokai does not support superstores and -- but we will go with the Planning Department's recommendation with the 20,000 square feet or 25,000 square feet.

Mr. Dunbar: Okay, so then let's have an amended motion.

Mr. Vanderbilt: Can we withdraw the others?

Mr. Kalipi: Yeah, or amend it. The original motion was to accept the Planning Department's 90,000 except for Molokai. And Molokai would be 25,000 square footage.

Mr. Vanderbilt: Okay, second?

Mr. Kalipi: And please -- I'm sorry. And please put the statement as DeGray said that by any means, we don't support superstores in that.

Mr. Vanderbilt: Okay. That wouldn't go in the ordinance, though. Alright.

Mr. Alueta: And for the record, Commissioners, we don't have a -- the department doesn't have a size of 90. We just use that as an example that we wanna simplify the permit. So we're not coming up with any numbers, so --

Mr. Dunbar: Right, we realize that.

Mr. Alueta: The 90 came out of Council and 75 was out of Kauai.

Mr. Vanderbilt: Okay. Alright. So it's been moved and seconded. Any more discussion on this?

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

It has been moved by Mr. Kalipi, seconded by Mr. Dunbar, then

VOTED: To accept the Planning Department's 90,000, except for Molokai, and Molokai would be 25,000 square footage. And include the comment that Molokai does not support Superstores, as discussed.

(Assenting: K. Dunbar, J. Kalipi, S. Chaikin, D. Vanderbilt.)

(Dissenting: B. Feeter.)

(Excused: L. Kauhane; L. DeCoite; M. Pescaia; S. Napoleon)

Mr. Vanderbilt: Motion dies. Is there another motion?

Mr. Chaikin: You know, I like the concept. I'm just a little confused about the square foot figure, you know, because it seems like some of these Foodlands are like 40,000 which are -- if you go in them, they're absolutely enormous. So there might be confusion as to, you know, floor space, or type of building, or what. It would be nice to get some information. Cause I think we can support a store twice as big as Friendly Market is right now. I mean, that's what I would feel comfortable just doubling the size of Friendly Market and not much more bigger than that. I would feel comfortable with it, but what is that? You know, what is that figure? It just -- it seems so unclear what that is. Because if you double your figure of 18, and you go to 36, that's almost as big as a Foodland, but that doesn't sound right.

Mr. Dunbar: Oh, yeah, no, no. I understand what you're saying. I think what you're looking at is everything under roof, and they have their storage under roof of, you know, of the other building. So you looking at -- you're not just looking at the sales area. You know, you're looking at the reefer area where the guy hanging all their meat. You're looking at everything they got behind in their other reefer area. You got where they're storing all their dry goods. You got where they got their parking on the outside where they have to run in their containers. So, you know, I'm saying that I know they've tried to expand twice, you know, and for one reason or other, they haven't, and I don't feel that I should curtail them.

Mr. Vanderbilt: Well, alright. I guess we -- if we don't do anything, they can expand to as big they want. Friendly Market can go to 140,000 square feet. So if we don't do anything, and I would entertain a motion that the Molokai Planning Commission does not support superstores, but is not taking a position on this ordinance.

Mr. Dunbar: You know, I would do that, you know, and I think that's the easy way out. The problem is then if they decide that they want 90,000, then we're subject to their 90,000.

Mr. Vanderbilt: Well, hopefully, we can get our community plan or something done or -- before that happens.

Mr. Kalipi: What's the timeframe to comment on this? Cause can we task somebody out to find out what's the Friendly Market and Misake size? I don't know if that's gonna help us.

Mr. Vanderbilt: No, well, Kip said 18 was Friendly Market.

Mr. Dunbar: ... (inaudible) ...

Mr. Vanderbilt: They have that whole corner almost back to the -- yeah. Okay.

Mr. Dunbar: ... (inaudible) ...

Mr. Vanderbilt: Okay, Commissioners, we gotta come up with something and --

Mr. Chaikin: Well, I would rather do something rather than nothing. I mean, you know, if we were gonna do nothing, I would rather just support Joe's proposal and his proposed ordinance because it sounds better than the Council's version where they have 25,000 stock-keeping units. It seems like a nightmare. So if we're gonna do nothing, I'd support Joe. But, you know, I would rather us do something for our community, you know, to limit it. But we all voted for it. It's Bill. I mean, Bill, do you have anything that you feel like you would feel comfortable putting forward for specifically, for this island?

Mr. Feeter: Using the precedent of what happened on Kauai, their bill was -- they limited it to 75,000 square feet, and I would assume the Planning Department would put that in an industrial/business zoning area. And for Molokai, we're -- this is looking way down the road. It's not in our time, actually. And as we heard last time, Wal-Mart has no intention of coming here. So this is really a Maui issue. And I would tag on it "except Molokai" again. So limit it to 75,000 square feet with -- and this is in parenthesis or assumed that that's looking another generation down the road and which is bound to happen. Our population is growing and so forth and so forth. But then also add "except Molokai," and at that time, make a decision on it. This is not a life or death matter. This is a Maui issue again. And we can always say, well, that's not for Molokai. And that's my mana`o on that.

Mr. Kalipi: Mr. Feeter, I used the same language when we originally talked to Joe to say 90,000 except Molokai, and his response was that if we don't put a limit and we just say "except Molokai," that means anything goes on Molokai. So we would have to set a

precedence to say what square footage. So if we say "except Molokai," that means anything goes. So then the argument was, okay, 10,000 from Mr. Chaikin. Then went to 25,000 from Mr. Dunbar. And then -- yeah, in compromise, what I do see we probably can agree with Joe, I mean, just discussing, agree with Joe to say, yeah, we going put the limit on the, not the product, but saying that we agree with Joe because Joe's -- the Planning Department does not have a size criteria at this time. If we agree with them, we're saying that we're not agreeing for the square footage; however, we would like to limit a square footage on Molokai to 25,000. I don't know, 20,000, 25,000, I don't know. Does that make sense?

Mr. Chaikin: Yeah, I mean, but even, you know, if 18,000 is a correct figure, then even 25 is too small because that's just barely getting bigger than, you know, the crowded stores that we have right now. So it just seems like even 25 doesn't make sense. It should even be bigger than that.

Mr. Kalipi: Well, I would just recommend 25, and you can come in with a conditional or one variance, and come back if you extend it. It just gives the local stores now a cushion to extend. And if we're looking more than 25 in the near future, then -- I mean, there is a process according to what Joe said that you can come in for a variance, or a special condition permit, or whatever. Is that correct, Joe?

Mr. Alueta: Yeah, I think it would be tough to get. I think they would have to do is -- if you put in a square footage for the County, right, as we're recommending like say 90,000 or 75,000 for Maui County, except for Molokai, you limit it to 25,000, right? Then that would -- if by some miracle one of the stores on Molokai wants to expand, they could just come in and amend -- request a change in zoning or ask for a resolution by the County Council to change the "except for Molokai" to make it a little bigger. And that again would have to come before this Commission. So it's whatever number you put in, right? Whatever law you put in could always be amended later on if someone, you know, down the road wants to expand it beyond what you set it. Okay?

Mr. Vanderbilt: And I think that we're coming up on our community plan review and there's a new term out there called "conditional zoning" and -- that can be applied, a conditional community plan designation. So when you designate something hotel, it's gonna be a hotel and it won't be say, a church, you know. So when we revisit the community plan, there's a lot of good stuff on the record and I think at that time, the community can say, when it's looking at business and industrial, it can address this issue. But for the interim, if we have something in there like 25,000, then at least that's a starting point.

Mr. Chaikin: Well, I'd go ahead and make a motion. I mean, we had a motion for 25 and it failed. I would make a motion for 30,000 that we use the Planning Department's bill for

an ordinance that they wrote up, and say at the end of that, "except for Molokai." And our maximum square footage for a superstore would be 30,000 square foot.

Mr. Dunbar: Second.

Mr. Alueta: Wait. Just to clarify, it's just -- again, we don't have any recommendation. The number, the example, we gave was 90,000 that's within the existing bill that they limit it only to by square footage. So the number that's out by Council for a superstore as far as is square footage is 90,000. So if you wanna make any motion, make it with the 90,000 by square footage only and then for "except for Molokai," what did you say, 30,000?

Mr. Chaikin: Yeah. Okay, so you didn't actually put out a separate bill for an ordinance. This is just the Council version?

Mr. Alueta: Yes.

Mr. Chaikin: Okay, I got it. So, you know, let me just rephrase my motion and say that we're gonna adopt the -- or recommend that the resolution or the bill for an ordinance for superstores as set forth by the County Council be accepted with the following revisions that we use only 90,000 square foot, and not the stock-keeping items, no reference to any particular units, except for Molokai where the maximum superstore would be 30,000 square foot.

Mr. Vanderbilt: Is there a second?

Mr. Dunbar: I'll have to second it only for discussion because --

Mr. Vanderbilt: Seconded for discussion by Commissioner Dunbar.

Mr. Dunbar: And the reason being is I like the Planning Department's bill better than the resolution. I like the 30,000 to give us the flexibility. So I think your -- what I would support, and I think it's supportable, would be the Planning Department recommendation, which does not list any square footage, and the fact -- except on Molokai that stores be 30,000 square feet or less.

Mr. Alueta: That's what he said. That's what the motion was.

Mr. Dunbar: This is just discussion.

Mr. Hopper: Just as a comment, there's no Planning Department bill. They did make a recommendation as to form only. And their form only recommendation, the best place for you to see that is if you look at the Kauai bill, which is in your packet there. They go

through each separate zoning area and say that stores of 75,000 square feet in those areas are not permitted. And the Planning Department's recommendation would be a fine way to phrase it. Just to clarify, they don't have their own separate bill from Council. They just have a recommendation on how to implement the Council's bill if you think the basic idea is correct that superstores should be prohibited.

Mr. Vanderbilt: Okay, Joe, that Section 3 of the County ordinance, it talks about stock-keeping units or SKUs. So would we have -- if we adopted the ordinance, would we have to either be in agreement or not agreement with that? Isn't that new language? I'm not quite sure what all that stuff --

Mr. Alueta: That's just the definition section. The only areas that you would be amending is further on when you turn that page over on Page 2 of that same exhibit from the Council, they have "Superstore means that business exceeding 90,000 square feet gross area offering sales of more than 25,000 --"

Mr. Vanderbilt: And at the end of that, we'd have "except on Molokai" where it would be 30,000 square feet only without all these --

Mr. Alueta: What you would do is everything after -- from the department's standpoint, we would say "Superstore means any business exceeding 90,000 gross square foot," period, or comma, "except for Molokai, any building exceeding 30,000 square feet." Okay?

Mr. Vanderbilt: There's a change in the stock-keeping unit too. Is that any -- on Page 1, that's underlined.

Mr. Alueta: On Page 1, it's just a definition section. And if you add that as a definition to 19.04, it doesn't change the definition. By adding it, it doesn't affect

Mr. Vanderbilt: The superstore --

Mr. Alueta: The superstore because we're striking the reference to stock-keeping items in the definition of superstore.

Mr. Kalipi: For discussion, we're still discussing the motion on the floor. Can I amend -- this is a friendly amendment to amend the proposed motion? What if we thought about having no comment for the superstores in Maui or whatever, but we putting in our own comment from Molokai only? Whether they go 90,000, 140,000, whether they sell -- limit their sales of groceries or sell groceries in all different areas that -- let's say we amending the proposal saying that whatever they wanna do, that's fine. We have no comment. However, we want to put for Molokai, the except for Molokai would be put in to say 30,000 square foot.

Mr. Vanderbilt: Okay, Commissioner Kalipi, can I just suggest something that we do a motion that the stock-keeping unit, I don't see if Molokai wanted to keep out of that stock-keeping unit, we could? We could say "except on Molokai" there.

Mr. Alueta: Well, we are again, the department is recommending that you not even use the stock-keeping unit as a criteria in determining a superstore. So the only criteria to be determined where a superstore is is gonna be the 90,000 square feet because you're gonna strike -- we propose --we recommend that you strike the rest of that sentence: "where offering for sale more than 25 different --" all that's being struck. Now, that section where it says -- where it defines what a stock-keeping item has no bearing. Okay? You can strike it if you want.

Mr. Vanderbilt: Well, we always hear that, and then --

Mr. Alueta: Okay, well, you can strike it. If you wanna recommend that it be stricken, that's fine, too, but it has no bearing on -- because it's being placed in the definition section because stock-keeping units is being used in the definition of a superstore. You understand that part? So if you strike all -- the whole reference to stock-keeping units as well as 20,000 square feet of grocery store, the only definition, the only thing that we're gonna be looking for in what a superstore is is the 90,000 square feet.

Mr. Vanderbilt: Which except on Molokai is --

Mr. Alueta: Going to be 30,000.

Mr. Vanderbilt: As Joe said, would be 30,000.

Mr. Alueta: Correct.

Mr. Chaikin: Yeah, I put forth a motion and it was seconded by Kip. And the motion that I set forward didn't have any stock-keeping units in it. It was based merely on total square footage; a different figure for Molokai than the rest of the Maui County.

Mr. Vanderbilt: Okay. We have a motion on the floor. And is there any more discussion?

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

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

VOTED: To recommend that the resolution or the bill for an ordinance for Superstores as set forth by the County Council be accepted with the following revisions that we use only 90,000 square foot, and not the stock-keeping items, no reference to any particular units, except for Molokai where the maximum Superstore would be 30,000 square foot, as discussed.

**(Assenting: K. Dunbar, J. Kalipi, S. Chaikin, D. Vanderbilt.)
(Dissenting: B. Feeter.)**

Mr. Vanderbilt: Okay, four to one. It fails. Okay. As far as this then, I don't see our Commission taking any action. And I would just leave it at that. We got no action, so they're gonna make a decision. The law will stand the way it is and hopefully in our community plan --

Mr. Dunbar: ... (inaudible) ...

Mr. Vanderbilt: Yeah, it's probably not gonna happen. We're not gonna have a 90 or 140,000 square foot building within the next couple of years, 24 months, so hopefully our community plan will be done and we'll have implemented some guidelines for the future of large stores. Anyhow, so is that okay with the Commission? We just take no action on this? Okay.

Mr. Alueta: We can note your discussion on it and where you were headed.

Mr. Vanderbilt: Yeah, I would like you to attach the minutes of this portion of the meeting with what goes up just so the Council has it.

Mr. Alueta: Okay. If you want, if it's okay, what I'll do is I'll note your discussion that you discussed limiting it to square footage only and establishing some type of lower limit for Molokai, but could not agree on a number for Molokai.

Mr. Vanderbilt: And that there was some discussion about not really supporting any superstores.

Mr. Alueta: Correct. Yeah.

Mr. Vanderbilt: It wasn't agreeable by everybody, but there was some discussion. Okay.

Mr. Dunbar: I don't know about supporting no superstores. I mean, I kinda support a superstore on Maui.

Mr. Vanderbilt: Well, then leave that off, then.

Mr. Alueta: Okay, I will. I understand.

Mr. Vanderbilt: I mean -- okay, now let's see. We've lost our -- we still got everybody here till 4:30. Okay, did anybody have any -- let me just say, did everybody get Julia's e-mail regarding Sections 1 through 3 of the Policy Plan? Alright. Did anybody come up with any suggestions? Okay. I have a bunch of them, but I don't -- you know, at this point, we've lost our SMA workshop guys. No, I mean, the CZM.

Ms. Julia Staley: They have a flight at 4:40. So they're trying to figure out --

Mr. Vanderbilt: Well, you're gonna have to get going right now. You guys --

Mr. Abbott: Pardon me, Chair. Yes, we're waiting for a phone call to see if we can re-book those flights. Doug Tom had a Federal mandate to speak to this Commission. He cannot reschedule as far as I know. And his deadline was the end of this month. So it was -- he was discouraged that he couldn't share with you about the Coastal Zone Management Program. Hopefully, we can arrange some kind of way for him to come back, but at this juncture, it does not appear that he can come back. His flight was at 4:15, so that's why he had to leave.

Mr. Vanderbilt: Okay. So you're saying that he had some kind of Federal mandate to make this presentation?

Mr. Abbott: Yes, that's correct, sir. So we'll try to rearrange that at another time, but at this juncture, it does not look like that can be put on a future agenda.

Mr. Vanderbilt: When is his deadline? Does he go to jail or what happens to him? Does he get penalized, fined, or --

Mr. Abbott: Well, it's his program, so I can't speak to another program. I'm just saying that --

Mr. Vanderbilt: Okay, well, that wasn't shared with our Planning Department. The Planning Department didn't share it with us. I had recommended to the Planning Department that we defer the Doran pool to the next meeting so --

Mr. Abbott: Well, nonetheless, we're trying to re-book our flight so we can give you the presentation.

Mr. Vanderbilt: January 22nd is our next meeting. Would that work for the deadline that Mr. Tom's working under?

Mr. Abbott: I believe he has another scheduled meeting with a different commission. We will try to arrange -- rearrange it, but he wanted to apologize that he could not present to you because he had to leave on his 4:15 flight.

Mr. Vanderbilt: Okay, thank you.

Mr. Abbott: Sure. If I may, since it looks like we've missed our flight at this juncture.

Mr. Vanderbilt: No, well, you haven't missed your flight.

Mr. Dunbar: You can be there in ten minutes.

Mr. Vanderbilt: Yeah. Yeah, I would say try to get your flight. I mean, there's -- and I really think one of the reasons is that you'll be dealing with only three Commissioners that are gonna be here next year. Kip and I go off the Commission so we don't even have a lot of the people here that really should hear this important information. And that's not your fault.

Mr. Abbott: We were -- Kaimana Lee is here, and we're hoping to present cause she was the person that was actively involved with the study. And she will not -- it will be difficult for her to return as well. If you could give me two minutes to contact our office and see whether they were able to re-book or not, then maybe we can jump in here.

Mr. Vanderbilt: Okay. Alright.

Mr. Kalipi: Thorne, we're gonna lose quorum at 4:30, so does that make a difference?

Mr. Abbott: I think we could make our presentation.

Mr. Vanderbilt: Go ahead and give the call to the County.

Mr. Abbott: Okay. Then I'd defer to Julia. Thank you.

Mr. Vanderbilt: And is there anything that you have in writing or anything on your report or all of this? Okay, you got -- alright, I see.

Mr. Abbott: We've provided you a handout on the --

Mr. Vanderbilt: Alright, I got it. Okay.

Mr. Abbott: Thank you very much.

Mr. Vanderbilt: Alright.

2. **MR. JEFFREY S. HUNT, AICP, Planning Director, transmitting the 2030 Countywide Policy Plan (Plan) to the Molokai Planning Commission pursuant to the provisions of Chapter 2.80B of the Maui County Code. The Molokai Planning Commission may review and provide recommendations on Sections I - V of the Plan, which was revised to reflect the recommendations of the Maui, Molokai and Lana`i General Plan Advisory Committees. Emphasis will be placed on Sections 1-3 of the Plan, the Implementation Chapter, and the Department's Transmittal to Council. (S. Bosco)**

Mr. Vanderbilt: Go ahead, Julia.

Ms. Staley: Okay. My intent today is just to finalize and complete the review of the Countywide Policy Plan that you guys have been working on for the past four months, and this is pretty much your deadline to get anymore comments to me. I'm here in place of Simone because she is on deadline cranking out your guys' work to Council. And basically what I wanted to go over today on the agenda states that I'd like to take comments on Sections 1 through 3. I certainly am open to accepting comments on anything else that you guys had concerns about. I brought two packets of Sections 1 through 3 in case you guys wanted to look at it. And all I'm gonna do I'm not gonna be on the computer. I'm just gonna be writing down any comments you guys have.

Mr. Kalipi: Besides 1, 2, 3, I'll give an overall comment, and then people can jump in for the 1, 2, 3. The overall comment was it really bothered me in the structure on how it was presented to the Commission knowing that the GPAC has worked and put forth a proposal, and then the department came back and came with another proposal that we separate policy or put it into two sections. They changed the wording and put in something that called "Implementation." And so I thought that was really kind of not so smart to go through that process with the GPAC, and not bring it up there to then oversee the GPAC, and then it bring it and change it, their recommendation, here with the Planning Commissioners.

Ms. Staley: Okay, so let me just make sure to get this straight. You're not satisfied with the fact that the Planning Department did not disclose to the GPAC that there would be a separate section called the "Implementation Section?" Is that what I understand?

Mr. Kalipi: Somewhat. The process of how it was done. So that kinda sums it up.

Mr. Vanderbilt: Well, Julia, and I can just sum that up because at the last meeting, we asked to see what work we had done on the Implementing Section. They didn't have it. So we basically went on the record and really didn't support an Implementing Section in the Policy Plan because that's something that should be in the island and the community plans because there's -- it says in the new bill that you really have to think through these implementing actions and get some cost associated with them, and not just have a wish list. So I think Vice-Chair Chaikin made a point that the implementing action and the Policy Plan was just sort of a catchall which for policy statements that didn't seem to fit as far as the director was concerned, and to a policy statement were more implementing actions. But I think we put that all on the record.

Ms. Staley: Okay, so you're saying that the implementation actions would've been --

Mr. Vanderbilt: And, Joe, the GPAC didn't have time to review. They ran out of time, too, so they didn't review Sections 1 through 3. So anyway, there's just a lot of things in this Section 3, the concerns about -- the reference to Maui Nui needs to be --

Ms. Staley: Okay, can I stop you for a second? If you have specific concerns, can you please direct me to the page so that I can make sure --

Mr. Vanderbilt: Well, I don't know if we have time.

Ms. Staley: Okay, so just overall concerns.

Mr. Kalipi: I guess he's making comments because of time constraints. So I don't know.

Ms. Staley: Okay.

Mr. Dunbar: I'd like to ask a question. Julia, when you go through this Section 1, the introduction as it goes through, is there anything in there that is -- I mean, it seems to me that when we reviewed this the last time before we went on a break that we went through this already. We kinda skimmed this section, but we focused on 4 and 5. And we got that, you know, that was -- we got that through. So is there something specific in here that you wanted us to review that you felt would impact the -- the plan?

Mr. Vanderbilt: Commissioner Dunbar, we did not look at -- we did not spend one second on Section 1 through 3.

Mr. Dunbar: Yeah, I realize that so -- so the question is --

Mr. Vanderbilt: No, but it's up to us to review this and see if there's any outdated, wrong dated. There's some data in there for Molokai that's not quite accurate.

Mr. Dunbar: So is there information that you reviewed that there is? I mean, if you reviewed it so that you know that there's something there, well, point it out.

Mr. Vanderbilt: Well, I was gonna point it out one step at a time.

Ms. Staley: Okay.

Mr. Dunbar: Then do it.

Mr. Vanderbilt: And -- but at this point, I'm not gonna -- there's another couple of things we need to do that are even more important than this, and I'm not gonna go through -- I'll put my comments and you can do what you want with them, and I didn't have time to write them all down, but I have them all written down, and there's probably about 20 or 30 comments in there.

Ms. Staley: Okay, so you're going to submit that?

Mr. Vanderbilt: And it's not all about just what's wrong, it's where we took out Focus Maui Nui on the other ones, and we need to do -- we need to have some consistency with the Policy Plans and everything. And then a lot of the information is really outdated. I mean, it's 2000, 2001. And if you're gonna have these kinds of forecasts or historic stuff, it needs to be more current, I would think, because this is like five years old, a lot of the data in here.

Ms. Staley: Okay.

Mr. Vanderbilt: And regarding the Kaluakoi stuff, there's some wrong dates in there just to when it started and everything. But -- and I had few other comments here just asking that there's -- there's various situations in here where it says like on Page 15 it says, "For purposes of this Policy Plan, the Planning Department produced a series of technical studies. These studies included --" and then it gives two specific ones, and says "additional resource studies," but it hadn't been updated to include what additional studies you've been using during this review of the Policy Plan by the GPAC and the Planning Commissions. And there's a lot of statements like that where -- this was put out a long time ago, wasn't it?

Ms. Staley: Yes.

Mr. Vanderbilt: Yeah, it was put out a long time ago.

Ms. Staley: If you're looking at the February --

Mr. Vanderbilt: We've gone through the Policy Plan. There's been a lot of things. And just try to make -- try to make this as much as you can consistent with some of the things that have come out in the policy statements. You guys got all the minutes and everything. And did the Maui Planning Commission or the Lanai Planning Commission review this Sections 1 -- ?

Ms. Staley; No.

Mr. Vanderbilt: They didn't? They didn't have time?

Ms. Staley: No.

Mr. Vanderbilt: Okay, so we're all under time constraints including right now. So I don't know have any more comments. I'll send you my comments in, but it's not from the Commission. It's just some editing things, a few things that seem to be wrong, and you can check them out, and then --

Ms. Staley: Alright. Alright, I'll let Simone take a look at this.

Mr. Vanderbilt: And I think that's the easiest way to go at this time.

Ms. Staley: Okay.

Mr. Dunbar: And so then we're gonna review this again at some point?

Mr. Vanderbilt: No, no. We're out of time. This is our last meeting for this. That's why --

Ms. Staley: Your time expires tomorrow, so this was our last opportunity to go over anything that you guys had concerns with regard to the Countywide Policy Plan.

Mr. Vanderbilt: Well, I think Joe put on the record and everything else. So I think we'll just have to go cause we didn't have enough time to do this. And thank you for coming over and the work that you did but

Ms. Staley: Thank you.

Mr. Vanderbilt: The Council had a meeting yesterday, and they were very concerned with the extreme situation with the Planning Department lack of staff. And they're saying, let us know. We'll get you some more enforcement people. We'll get you some more planners so you can get through this next round with the Policy Plan in good order because everybody's just maxed out on the time and it's too bad because this is gonna be an important document going forward. But anyway, thank you, Julia.

H. CHAIRPERSON'S REPORT

1. Laau Point EIS Process

Mr. Vanderbilt: I just have one thing under the Chair's Report on this La`au EIS process. You know, we got involved with this as far as making comments on the last EIS. A lot of our comments -- It just came out today. I got a letter from -- that somebody dropped off here from PBR why -- giving a tape to me and the Commission or a disk on the 2,650-page new draft EIS which we have 45 days to review and comment on. I know for a fact that this is missing a lot of the key documents that were not included in the last one, including the rural and ag easements. And they really didn't address the cumulative impacts that our Commission was asking for. So I think we need a motion to say that at least approve that the Commission review this and make comments. And I think Nancy said she's willing to go through and see how they did, and come up with another comment by February. I think it's February 22nd. So is there any objection to the Commission providing comments on this new draft EIS similar to the way we did it the last time?

Mr. Chaikin: Yeah, well, I think we have to review it and see if we do have any comments cause we just got the information. So what we're going to do is review it, and if there's something that we feel is inadequate on that after looking at it, then we should comment on it.

Mr. Vanderbilt: Okay. That's fine. And then so we'll just put it on for the next agenda to see if anybody has any initial comments and keep it on there, because I think the community hasn't even gotten it. Kate over here got one before anybody else in the community. That's good. She's a power broker so anyway -- but maybe she could sum it all up for us. But anyway, well, with that, we -- I apologize to the other Commissioners, and appreciate you sticking in here, Kip, and Joe, too, because it's kinda hard to operate with just five people on this Commission and hopefully, we can get a better attendance. I'm gonna talk to Linda Kauhane about -- if there's no objection from this Commission, just ask her to consider resigning from the Commission because she's continued to tell us that she'll attend and she'll attend, but her work is getting in the way over in Maui.

Mr. Dunbar: I agree with that. I think she's missed so much that to catch up now, I mean, she's just -- it's a loose cannon. So it's better to get somebody in there who's gonna wanna pay attention.

Mr. Vanderbilt: Thank you. Okay, and with that, if there's -- I would like to just remind for our next meeting for the minutes for that Doran pool to be included in our next mailout package, if possible. Thank you.

J. ADJOURNMENT

There being no further business to come before the Commission, the meeting adjourned at 4:30 p.m.

Respectfully submitted by,

SUZETTE L. ESMERALDA
Secretary to Boards and Commissions II

RECORD OF ATTENDANCE

Present

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

Excused

Sherman Napoleon, Jr.
Linda Kauhane
Michelle Pescaia
Lynn DeCoite

Others

Joseph Alueta, Planning Program Administrator
Julia Staley, Staff Planner
Thorne Abbott, Staff Planner
Nancy McPherson, Staff Planner
Michael Hopper, Deputy Corporation Counsel