

**(APPROVED: 04/09/08)**

**MOLOKAI PLANNING COMMISSION  
REGULAR MEETING  
FEBRUARY 27, 2008**

*\*\* All documents, including written testimony, that was submitted for or at this meeting are filed in the minutes file and are available for public viewing at the Maui County Department of Planning, 250 S. High St., Wailuku, Maui, and at the Planning Commission Office at the Mitchell Pauole Center, Kaunakakai, Molokai. \*\**

**A. CALL TO ORDER**

The regular meeting of the Molokai Planning Commission (Commission) was called to order by Chairperson DeGray Vanderbilt at approximately, 12:58 p.m., Wednesday, February 27, 2008 at the Mitchell Pauole Center, Meeting Hall, Kaunakakai, Molokai.

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

Chairperson DeGray Vanderbilt: Okay, everybody, I'd like to call the meeting of the Molokai Planning Commission, February 27, 2008 to order. Today we have with us Commissioner Sherman Napoleon. Next to him is Commissioner Bill Feeter, Commissioner Mikiala Pescaia, Vice-Chair Steve Chaikin, and my name is DeGray Vanderbilt. And we have some staff people from Maui. We have Clayton Yoshida from the Planning Department, Ralph Nagamine from Land Use and Codes I guess is the easiest way to put it, and Suzie Esmeralda from Planning Staff. And also here is Michael Hopper to my left who is the attorney for the Commission and our Molokai Staff Planner over here on the right is Nancy McPherson.

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

Mr. Vanderbilt: So with that, we'll move on to Item B which is if there's anybody here that would like to give public testimony at this time on any planning issue or anything on the agenda, if you have to get back to work, now is the time to do it. Seeing that there is nobody, we will move right into Item C.

**C. 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. **KUI LESTER submitting a Special Management Area Use Permit Assessment for minor rooftop construction and interior remodeling needed for conversion of office space use to restaurant take-out only use (“Maka’s Takeout Corner”) in a new building at the corner of Mohala and Alohi Streets, TMK: 5-3-002:088, Kaunakakai, Island of Molokai. (SMX 2007/0419) (SM5 2007/xxxx) (N. McPherson)**

**The applicant plans to construct a rooftop exhaust hood and interior only remodeling to an existing, vacant, previously approved commercial structure in the Country Town Business district.**

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

Mr. Vanderbilt: So with that, Nancy, could you give us a brief overview of the project?

Ms. Nancy McPherson: Yeah, thank you, Chair Vanderbilt. Good afternoon, Commissioners. Nancy McPherson, Staff Planner, reporting on Kui Lester. Basically, this building was previously approved by this Commission and the Urban Design Review Board as well for an SMA minor permit. It's at the corner of Mohala and Alohi Streets. And it was formally a -- kind of like a little warehouse. I don't know if it was an automotive or what was going on there, but you folks probably know better than I. And so I included the original pictures in Items 7 through 10 of your report. And basically, this was reviewed because there was a change in use requested from what was originally approved. The corner unit is going to be changed from, I believe, it was office to the Maka's Takeout Corner. And they're gonna have a range in there and they're gonna have a hood, and they need to have that vented out through the roof so they're going to be installing a vent, and that vent is shielded by the facade, by the roof facade. So I went ahead and took this to Stan Solamillo, and asked him, you know, do you think this is okay? And he looked at the photos, and everything, and the plans, and he said, yeah, that should be fine. So we're recommending exemption for this project. The valuation's less than \$125,000. So -- and we're finding that there's not going to be any impacts. So with that, if you don't have any questions for me, then perhaps Kui would like to -- Kui, did you wanna come up and talk about it at all or --

Mr. Vanderbilt: Excuse me, Nancy.

Ms. McPherson: Yes?

Mr. Vanderbilt: If -- the Commission, we can have Kui come up and give us a little presentation, then we get back and ask questions of either Kui or the staff. Would that be okay with everybody? Oh, you didn't wanna say anything? Okay. I guess it's -- if we have some questions of Nancy, then -- does anybody here have any questions of Nancy?

Ms. McPherson: Did everyone get a chance to go through the material and --

Mr. Vanderbilt: Yeah, I did, Nancy. And I'd just like to ask some questions. And it's just a -- a procedural situation. You say they're coming in for an assessment because of a change in use. This is a new building and a change in use from when it was originally approved. So when it was originally approved, was it originally approved with certain uses?

Ms. McPherson: Well, yes, but this is a use that's allowed within the zoning district so --

Mr. Vanderbilt: Well, then, what is the reason they have to come for an assessment if it's already allowed?

Ms. McPherson: Well, there are two -- under the SMA assessment form, under B, whether the proposed action is or is not a development, one aspect of the project is repair, maintenance, or interior alterations to existing structures, but you go to the second page, there are nonstructural improvements to existing commercial structures, but because it's -- so there's two bases for exemption, but at the same time, because it's in the B-CT, because it's -- there was already an SMA permit issued for the project, and because it does involve a change in use and some exterior alterations, I felt that it needed the full treatment, basically, to come to the Commission, provide you with the additional information, but still recommend that the action be exempted.

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

Mr. Steven Chaikin: Thank you, Nancy. This -- just for clarification, this was a building that went in for an SMA minor permit, originally. Is that correct? Have they got that?

Ms. McPherson: Yes, SM6 2004/0003. Sherman recalls it. It also went -- it also got a CTB which is a permit for the business country town. And it was also reviewed by the Urban Design Review Board. So this was a renovation of an existing structure. There's been exterior -- as you can see in exhibit -- oh, it doesn't look like all the exhibits were included either. Okay, I think there are some exhibits missing. No? Oh, here they are. Okay, Exhibit 2, that's the rendering. And so there's landscaping proposed, additional parking, and the outside has been renovated. There's a solid awning there. And all of this has been approved, but in order to get the building permit for the change, the latest change proposed, there was an additional SMA assessment that was required.

Mr. Chaikin: Okay, I guess, you know, when I -- when I read this, I really don't have any problem with what they're trying to do. What I'm trying to do is understand the process a little bit better. One of the things was -- you know, when I -- when I looked at the original one, it came out to be less than \$125,000. And it was to be initiated in 2005, and completed in one year, which that didn't happen. Also, when you go over there and you look at the project, it's a fairly substantial project. I'm just wondering about this \$125,000. Does the applicant come in with that figure? Or is that something that's substantiated somehow?

Ms. McPherson: No, that's verified by DSA. So there's building department standards that are used. So we make that determination. The applicant or the architect can submit, you know, maybe their bid they've received or whatever, but we always verify. Our DSA verifies that number.

Mr. Chaikin: Cause when you look at the project, and how long it's been going on, and what goes on, that's a bargain. To be able to do what they've done with that building for less than \$125,000 is a pretty good deal. So I'm just questioning: What is the difference between a minor and a major that the applicant would have to go through? Like if they came in for something over \$125,000, how would that change the whole thing?

Ms. McPherson: Well, if it was deemed that it was a development under the definition of Chapter 205A and our Molokai SMA Rules, and it was over \$125,000 in valuation, it would need to get an SMA major permit which requires a public hearing. It would still come before the Planning Commission.

Mr. Chaikin: Okay, but no EIS or anything? Does that --

Ms. McPherson: If it was deemed to trigger Chapter 343, let's say there was something in the shoreline or impacts were -- cultural impacts were considered to be significant, it could also trigger a requirement for an EA.

Mr. Chaikin: Okay, so basically what you're saying is if it's a major, then they gotta come in for a public hearing?

Ms. McPherson: Yes.

Mr. Chaikin: But this is not a major and they're coming in for a public hearing. Is this --

Ms. McPherson: No, they're not coming in --

Mr. Chaikin: Oh, this is not a public hearing?

Ms. McPherson: No.

Mr. Chaikin: Oh, okay. Excuse me. So then the other thing was, you know, I was just wondering about the conditions. You know, they gotta be completed in one year, which maybe unrealistic. I mean, you know, reality. Things drag on. Things take a long time. You know, things get hung up. But just, you know, the process. I mean, is there somebody that actually looks at the conditions and whether or not it's being met on these particular permits?

Ms. McPherson: Well, I consulted with Robyn Loudermilk, who was the Planner on the original project and the original permitting, and a lot of the time lag that has happened, you know, was not necessarily due -- you know, the applicant's fault, basically. That, you know, that things come up, and we have to deal with parking requirements, and other things. And so, you know, I kind of agree with you that sometimes a year is not enough time when you haven't actually gotten all your building permits and, you know, everything -- you don't have every duck in a row. SMA actually occurs at the conceptual planning stage, a lot of times, so there may be additional things that need to happen after that. And again, you know, it's a project that I sort of inherited. So I had to get up to speed on it as well. So she actually submitted this last fall. And it's taken this long to kind of get to it, so --

Mr. Chaikin: So is that permit still in effect? The original one?

Ms. McPherson: It was -- yes, and it was -- well, it was holding up her -- this aspect of it was holding up the rest also. So you kind of get into those catch-22 situations sometimes. So, you know, we just -- we worked it out, and talked to Robyn, and, you know, talked to Kui, and talked to their consultant, and, you know, I think we got it worked out to the satisfaction of the department.

Mr. Chaikin: And I guess the other question that I had was that we do have this \$125,000 arbitrary cutoff where, you know, it falls in one category or the other. And I don't know what the original value was, or what they came in, or appraised the work to be at, but now they're coming back in for an additional amount of money, you know, for the same development, which may or may not push them over the limit. But how do we, you know, how do we deal with those types of segmentations, or add-ons because it's not unrealistic when somebody gets into a project that they find that they need to tweak something, or change something, or add something? I mean, that's probably a normal part of any construction process. But so how do we deal with that when, you know, they came in for \$110,000 and then they all of a sudden come in for an addition for \$25,000 onto the same project?

Ms. McPherson: Well, I might wanna ask Clayton to try to field that question. My understanding is that when they come in for the original SMA assessment, in this case, also

an SM6 that a minor permit that, you know, we evaluate the scope of the project as known at submittal. Now, in this case, after the SM6 was obtained, some aspects of the project were altered. Now, I'm gonna defer to Clayton as far as how the department normally handles this since I haven't been with the department very long, if I may?

Mr. Vanderbilt: Clayton, could -- okay, that'll be great.

Mr. Clayton Yoshida: Mr. Chairman, members of the Commission, Clayton Yoshida of the Planning Department. I guess as part of the processing of the application, typically the Planner would look at the permitting history, and maybe see if, you know, there were several minor permits that were issued in the recent past. And, you know, maybe there are, let's say three SMA minor -- well, let's say two previous SMA minors for \$60,000 each, and then this one is for \$60,000. I think at that point, they would probably say that, you know, there may be -- I guess you'd have to look at the cumulative cost of the improvements. And for this particular \$60,000 improvement, for example, it would kick it over the \$125,000 threshold. So it probably would need a major permit for that because it kinda kicks it over the threshold. In this particular case, I believe they were looking at interior modifications which are -- could be exempt from being considered to be a development under the State CZM Law. So the cost doesn't really matter provided that the proposed action is consistent with the community plan and zoning, would not have any significant adverse environmental or ecological effect, and is consistent with the objectives and policies of the State Coastal Zone Management Law. It's like if you have a house. It's a two million-dollar house and single-family residences not part of a larger development could be considered to be not a development under the State CZM Law. As long as it meets those criteria, you know, an exemption could be issued for a two million-dollar house. The cost does not necessarily matter, the \$125,000, as Nancy explained unless the determination is made that the proposed action is a development. At that point, the \$125,000 threshold does kick in.

Mr. Chaikin: Well, just like the original on -- I'm just trying to understand the process better. I mean, I'm not trying to bring up things to, you know, put a monkey wrench in this whole thing. I just think we, as a Commission, need to understand the process and how the whole thing works. Was the original one -- did it -- was it considered to be a development? Is that why it had to get an SMA minor permit?

Mr. Yoshida: Yes, that's correct. And at that point in time -- well, since the formulation of this Commission, SMA minor permits have had to go to the Commission, minor permits, for approval.

Mr. Chaikin: Okay. And what is the exact name of that permit? That minor permit? Cause I get a little confused. I mean, I read these things, and there's so many different --

Mr. Yoshida: Well, there's a -- it's a special management area minor permit for Molokai. We would code it as an SM6 2000 - whatever the year was for.

Mr. Chaikin: Okay, cause what they're currently going for is what's called a special management area use permit assessment. Does that sound right?

Mr. Yoshida: Correct.

Mr. Chaikin: Okay, that's different than a -- a special use permit, right?

Mr. Yoshida: Correct.

Mr. Chaikin: Yes, a special use permit. Now, there's a special management area use permit and they're two different things, right?

Mr. Yoshida: That's correct.

Mr. Chaikin: Okay. I was trying to understand that a little bit better. Alright, well, Clayton, you -- you know, you clarified, you know, the situation to my satisfaction. Thank you.

Mr. Vanderbilt: Any other questions? Yeah, I had a question: Is the information that DSA does regarding the evaluation of the value of the permit, is that kept in the Planning Department files on this project?

Ms. McPherson: No, normally the building permit valuation information stays with DSA unless we request a copy of that.

Mr. Vanderbilt: Well, I think on all of these, we ought to get the information in there just for some of the reasons Steve brought up. We need to have a file here that we have all the information for projects on Molokai, and not have it scattered around Maui.

Ms. McPherson: Well, actually, a lot of the information is here on Molokai. Ralph can speak better to that question than I can.

Mr. Vanderbilt: Well, all I said, do we get a copy of all this -- alright, the applicant submits their estimate of value, it's checked out by DSA, and there's some decision made by DSA on some kind of form checkoff or whatever. The copy of all that should be in our file. That's all I'm saying.

Ms. McPherson: Well, we can work on adding that procedure, if you'd like to request it.

Mr. Vanderbilt: Thank you. And let me get one other thing straight. If I'm building a building in a commercial area, you said earlier that the use changed. If I'm coming in for a building, I'm not gonna -- I'm gonna just say I have a building. I don't know what the uses are gonna be but they'll meet the country town business. I should still be able to get an SMA permit without designating what uses those gonna be. Can I if I'm just building a shell with the idea of filling it up with whoever I can market the space to?

Ms. McPherson: Well, what we'd like is as complete a description of the proposed actions at hand.

Mr. Vanderbilt: I know what we'd like, Nancy, but do I have to divulge the use? Because we brought up that the use changed and I don't know if that --

Mr. Yoshida: I don't believe you necessarily have to divulge the use, but circumstances may occur later if you have more intensive-type uses than the regular retail because for parking purposes -- cause for the regular retail, it's -- the requirement is one stall per 500 square feet.

Mr. Vanderbilt: Is that for office too?

Mr. Yoshida: Correct.

Mr. Vanderbilt: Okay. One for 500. What's --

Mr. Yoshida: Well, let's say if you had a dental office, it may be -- or a doctor's office, the requirement would be like one stall per 300 square feet. Or if you had a restaurant, the requirement would be one stall per 100 square feet of dining area.

Mr. Vanderbilt: Well, how about this -- the difference in use of a mini mart versus an office? What is a mini mart -- like a Minit Stop? What would the parking be required for that versus an office?

Mr. Yoshida: Provided that you didn't have any dining area, would be -- I believe it's one stall per 500 square feet.

Mr. Vanderbilt: So it would be the same. And this is not planned to have any dining area in it?

Mr. Yoshida: I guess we could check the code specifically or maybe --



Mr. Vanderbilt: Well, Nancy brought up parking. She just mentioned parking might've been -- there might've been something holding it up at one time on parking. Is the parking okay on this project based on the proposed uses?

Ms. McPherson: Well, I -- maybe I'll let the applicant answer that question.

Mr. Vanderbilt: Okay. That'll fine.

Ms. McPherson: I went ahead and put in a call to Avelina today, but I --

Mr. Vanderbilt: Who?

Ms. McPherson: Avelina works for Zoning and Enforcement Division. They handle the parking requirements. So I believe they're gonna -- they're gonna have to submit a revised parking plan but, Kui, do you wanna respond to the questions about parking or can you?

Ms. Kui Lester: Do I have to go there?

Ms. McPherson: Yeah. And I will say that I was told that they have room to provide the required parking for the change in use, so --

Ms. Lester: Okay, I have a lot of parking. Some of it, they're not counted because it's grandfathered in so -- but for the ones that are not grandfathered in, I have enough for the Maka's Corner. And then for all the rest, it's grandfathered in and we get to keep that parking. And that was all approved already. And I think we have -- I think I have excess, but I can't give you the exact --

Mr. Vanderbilt: Can you -- can you -- can you repeat that, please? I'm sorry. I was asking the attorney.

Ms. Lester: Which part?

Mr. Vanderbilt: I'm really rude. I'm sorry.

Ms. Lester: We have enough parking in excess for that. And then -- and that's not even counting all the ones that's grandfathered in on the Mohala Street side because we have parking in the back.

Mr. Vanderbilt: So you've gotten an okay from whoever these people Nancy's talking about that the parking is fine?

Ms. Lester: It's all fine.

Mr. Vanderbilt: And again, it would be nice if this Commission would get the same so we don't have questions. It's not your fault. It's not your fault. It's not your fault, believe me. Thank you, Kui. Thank you very much. Okay, Commissioners, the other thing, while I was in Maui, I was stopped by a Liquor Commissioner who said that they were coming to Molokai on March 13<sup>th</sup> for a liquor license to allow beer and liquor to be sold from six to eleven and I -- and he said it was on Mohala Street. Is this the same one?

Ms. McPherson: There's two units. There's Maka's Takeout Corner which is on the corner of the building.

Mr. Vanderbilt: Okay.

Ms. McPherson: And then there is I believe the unit that's going to be the mini mart is up -- is up Alohi? No, Mohala, up Mohala, towards Ala Malama. And that's a separate unit.

Mr. Vanderbilt: But it's in the same building?

Ms. McPherson: Yes, it's in the same building, but the entire building is not under review at this -- for this application. That's already been approved.

Mr. Vanderbilt: The building's been approved. I know that. I'm just trying to get a handle on this because according to the Liquor Department, the advertisement for the hearings was not advertised in any Molokai papers, only in *The Maui News*. And, you know, so it's hard for people to know what's going on if this guys -- whoever the guy is that's doing it doesn't advertise in the Molokai paper. So we got the papers here so maybe they can let people know. I'm sure the applicant had to send out notices to people within 400 or 500 feet of them but -- but anyway. Okay, Commissioners, any other comments? Do I hear a motion to approve the recommendation for exemption?

Mr. Bill Feeter: Chair?

Mr. Vanderbilt: Yeah, Commissioner Feeter?

Mr Feeter: Yeah, I'll move that the Molokai Planning Commission concur with the Director -- the Director's determination that the SMA exemption be issued.

Mr. Vanderbilt: Moved by Commissioner Feeter. Is there a second?

Mr. Chaikin: Second.

Mr. Vanderbilt: Second by Commissioner Chaikin? Any further discussion?

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

It was moved by Mr. Feeter, seconded by Mr. Chaikin, then unanimously

**VOTED: To concur with the Director's determination that the SMA exemption be issued.**

Mr. Vanderbilt: Motion approved. Thank you, Kui. Sorry, it's a learning process for us all. Thank you, Nancy.

Ms. McPherson: Yeah, and I believe I also have to issue a letter when these exemptions are concurred with so that the building permit can be issued. So I believe I have to do a followup letter post Commission approval/concurrence.

Mr. Vanderbilt: Okay.

Ms. McPherson: Yeah. Thank you, Commissioners.

Mr. Vanderbilt: Okay, Commissioners, moving on to Item 2.

**2. MR. JEFFREY HUNT, Planning Director, transmitting a memo regarding the short Special Management Area exemption form. (N. McPherson)**

Mr. Yoshida: Good afternoon, Mr. Chair, members of the Commission. I guess the memo that we have formulated didn't make it into the packet, so we'd ask that perhaps this be deferred to the next meeting so that we can distribute it, the Commissioners could have a chance to --

Mr. Vanderbilt: Any objections, Commissioners? Okay, we'll defer this item to the next meeting. Well, we're supposed to be looking at a memo regarding the short special management area exemption form, but they don't have it. So we'll just put it on the next meeting.

**D. CHAIRPERSON'S REPORT**

Mr. Vanderbilt: Okay, As far as the Chairperson's report, I have a couple of things. Number one, I attended, along with Nancy, the Cultural Resources Commission meeting on -- it was held -- I think it was February 21<sup>st</sup> on Maui. The only thing on the agenda was the comments for the Laau Point Draft EIS. Nancy had been asked by the Ranch if maybe it would be good to bring somebody from the Enterprise Community along, and the Ranch's Mr. Orodenker said that would probably be a good idea because at a previous meeting, the

CRC had a lot of questions about the Land Trust, the EC. As it turned out, nobody from the EC or Molokai Ranch turned up at the meeting much to the dismay of the Cultural Resources Commission, but Nancy did a good job, along with Planner Stan Solamillo. I put together a video of all the cultural testimony that was given at the LUC meeting, Land Use Commission meeting, November 15<sup>th</sup> and 16<sup>th</sup> 'cause as you recall, all of our verbatim testimony from the public was stricken from the official record by the Land Use Commission so -- but we did have the video from AKAKU and that proved helpful to the Commission. And they were able to get quite a few comments together and sent in by the February 22<sup>nd</sup> date. And we should be getting a copy. Nancy was able to get in all of our comments. And I think the Planning Department got comments in too. So that's that.

Now as far as the USGS, I got a call from Gordon Tribble. And they did get their comments in. They've sent a copy to Nancy. I don't know if she's received it yet, but -- so our request to them was honored, and they got their comments in on the draft EIS. And I don't have anything else at this point. Clayton, do you wanna --

## **E. DIRECTOR'S REPORT**

### **1. Feb. 1 Transmittal to Council on the proposed Transient Vacation Rental and Bed and Breakfast Bills**

Mr. Yoshida: Thank you, Mr. Chairman, members of the Commission. We wish to note that on February -- letter dated February 1<sup>st</sup>, the recommendations of the Planning Commissions were transmitted to the Council on the proposed transient vacation rental and bed and breakfast bills which the Commission worked on during -- I guess from October of last year. And I believe it was on Friday's Full Council agenda, and it was deferred to the Council Planning Committee, Chaired by Councilmember Gladys Baisa.

Mr. Vanderbilt: I think at the last meeting or meeting before, sometime, I had asked that we get a copy of what was sent up to the Commission. Can we get that by the next meeting? I think, you know, we go through all the work to do something. I think our Commissioners should get a copy of --

Mr. Yoshida: I believe the transmittal letter was sent to the Commission.

Mr. Vanderbilt: But not -- see, we left here with a lot of things that were -- Joe was gonna get back, or he was gonna go back and interpret everything that we said. I'd like to get a copy of what our recommendations were that got into the bill and how they were worded.

Mr. Yoshida: Yeah, I'll talk to Joe.

Mr. Vanderbilt: Can we get that at the next meeting, please? Thank you.

**2. Office of Planning's January Memo to the Molokai Planning Commission on Chapter 205A, HRS, the Coastal Zone Management Law. This memo was previously circulated to the Molokai Planning Commission.**

Mr. Yoshida: Also, I guess we didn't have time to talk about this matter previously because of the focus on the Laau Point draft EIS comments but the Office of Planning did transmit a memo in January to the Commission on -- regarding the presentation that they had planned to make at the January 9<sup>th</sup> meeting, and that has been circulated to the Commission.

Mr. Vanderbilt: Now, are they up for coming back?

Mr. Yoshida: We have to get back with them. I know they're fairly busy right now because of the legislative session of the legislature. And they're following various bills, plus funding bills through the legislature.

Mr. Vanderbilt: Okay, thank you. And anyway, it would be best if they came back after the new Commissioners came on.

Mr. Yoshida: We could mention that to the Office of Planning.

**3. Council Transmittal of Council Resolution No. 08-5 containing A Bill for an Ordinance Regarding the Permitting of Home Occupations in Various Zoning Districts. (This is for information purposes and a public hearing will be scheduled in the next few months. The Commission may provide its input on the starting time of the public hearing.)**

Mr. Yoshida: We did circulate the Council transmittal regarding Council Resolution No. 08-5 containing a bill for an ordinance regarding the permitting of home occupations in various zoning districts. This was received in early February, and probably will be scheduled for public hearing in April, probably the second meeting in April. And we just wanted some input from the Commission that they felt that the starting time for the public hearing should be in the evening or can we do it during the afternoon session?

Mr. Vanderbilt: Commissioners, any thoughts on that? I don't know why we couldn't do it during the afternoon, but I'm not gonna be on the Commission in April so --

Mr. Feeter: Chair?

Mr. Vanderbilt: Commissioner Feeter?

Mr. Feeter: Is it appropriate that we -- I have several questions. Is it appropriate at this time that we discuss those?

Mr. Vanderbilt: On this item?

Mr. Feeter: On the -- yes, sir, on the home occupation.

Mr. Vanderbilt: Yeah, go ahead, Bill.

Mr. Feeter: Well, okay, if we discuss these, is it gonna make a difference?

Mr. Vanderbilt: No, it's on the agenda.

Mr. Yoshida: Yes. I think somewhat the intent was we just needed to get an indication from the Commission if they felt, you know, because they're very close to the community, if this is something that should be considered at an evening meeting or can we handle it at the 12:30 meeting?

Mr. Feeter: Well, okay, let me -- if I may, Chair? If I may proceed with a few questions? First of all, I support home occupations. And number two, I have some questions. In the first -- under permitted uses, there's a sentence that says "Within residential districts, the following uses may be permitted." In this case, what is a residential district? Fully realizing that there is ag, rural, urban and conservation zoning, what is a residential district in terms of this bill?

Mr. Yoshida: I believe you're talking about the specific residential district chapter of the code, Chapter 19.08, where properties are zoned R-1, R-2, or R-3.

Mr. Chaikin: County zoning.

Mr. Yoshida: Depending on the minimum lot size, 6,000 square feet for R-1, 7,500 for R-2, and 10,000 square feet for R-3.

Mr. Feeter: So in residential districts, then, that's already coded?

Mr. Yoshida: Yes. If you look in the Maui County Code under Chapter 19.08, they're talking about properties that are zoned R-1, R-2, or R-3.

Mr. Feeter: Okay. Then -- okay, if I may proceed? Going on to -- there's A and there's B. Under B, it's greenhouses, flower and truck gardens, and nurseries. Then it goes on to say

“provided that there shall be no retailing or transacting of business on the premises.” I find that ambiguous. If you’re gonna have a business, how can you not transact business on -- on a given premise if -- so I would like to see that sentence read just “greenhouses, flowers and truck gardens, and nurseries,” period. Just delete “provided that there shall be no retailing or transacting of business on the premises.” I find that just incomprehensible.

Mr. Vanderbilt: Bill, I think these are kinda things -- when we have the public hearing, we’re going take in public testimony. Then we’re gonna make recommendations from our Commission on the bill. And one of those recommendations may be that we recommend that they change the code to do what you say, but I think that’s something that we’re gonna have to get into as a Commission after we have public testimony and take our official position and then we can get into some extensive discussions on that because those are all good points. But I don’t think today is the time where it’ll carry as much as weight because I think if we bring these up when it comes up at the public hearing, and then we have our meeting to make our recommendations that that’s the time that we can really get into that and make our recommendations official.

Mr. Feeter: Well, okay ...(inaudible)...

Mr. Vanderbilt: Well, I mean, it’s just that this was -- this was put on the agenda just to -- I don’t think any of us have really gotten into discussing the recommendations because we wanna hear from the public, and we wanna at that point not only include maybe some good suggestions that come from the public, but also your suggestions or Steve’s or Mikiala’s or Sherman’s. And so there’ll probably be a fairly lengthy discussion at that time on these various items. And, you know, I would prefer that we get into those kinds of discussions at that time so it’ll all be within one record that moves on up to the Council because I don’t think they’ll get the -- the Council won’t get the copies of these minutes sent up to them. So I’d prefer, if you would, Bill, is to just to wait and put all this good stuff on the record that goes up along with the bill to the County Council.

Mr. Feeter: That seems reasonable. There are some -- just to further augment the comments, there are some things here that I -- it’s very important in this community that the home industries be continued and given plenty of amplitude, I think, because it’s very unique to this community. And there are some things that -- but, yeah, I’ll concur with that, Chair.

Mr. Vanderbilt: Thank you, Bill.

Mr. Feeter: The only thing, other thing, lastly is that possibly, I think, Clayton, you said it was gonna be on the April agenda?

Mr. Yoshida: Yeah, tentatively, the second meeting in April.

Mr. Feeter: Okay, that's a couple of months so even if -- the only last comment would be if we could move it up, but I'll leave that to your discretion. Thank you.

Mr. Vanderbilt: Thank you. Okay, Commissioners, any thought on the day or an evening meeting? I mean, I don't know what you have scheduled coming up on other items in April. Are the agendas such that we could do it as a day meeting?

Mr. Yoshida: Yes, I believe we could. I mean, we have several -- if you look at our open Molokai applications, there are a bunch of SMA assessments. And the other main one that we have out there is the Parks Department application for the maintenance building at the Duke Maliau Park SMA.

Mr. Vanderbilt: Okay, Commissioners, any problem with just having it with our regular day meeting? Okay, we'll have it with the day meeting then.

Mr. Yoshida: I guess we have --

Mr. Vanderbilt: Commissioner Chaikin?

Mr. Chaikin: I just had one question concerning this. You know when we -- I haven't read that bill yet, but when I do read it, it's important to kind of understand, you know, who is pushing this bill. Is this coming from the Planning Department? Or is this something that the County Council has come up with? Or who is the originator of putting this together?

Mr. Yoshida: This is something that came out of the Council, first reviewed at the Council Planning Committee, and they voted it pass it out to the Planning Commissions, or to pass it out to the Full Council, to pass it out to the Planning Commissions for their comments, their review and comments.

Mr. Chaikin: Okay, so --

Mr. Yoshida: It's the same process like with the Superstore Bill that the Commission dealt with recently. The Planning Committee met and discussed it. And they said, oh, well, we'd like to hear the comments from the Planning Commissions or the Hana Advisory Committee, etc. And they said, well, we should pass it out through resolution, or the Council should pass it out through resolution to the Planning Commissions and the Hana Advisory Committee. So that's what the Council did in this case.

Mr. Chaikin: Right. Okay. So, Joe is gonna come forward with his complete explanation of what it all means, and his interpretation anyway? Is that what he normally does? And then put together a staff report with a recommendation to this Commission on what he feels we should do with this request?



Mr. Yoshida: Yes.

Mr. Chaikin: Okay. Thank you.

Mr. Vanderbilt: Okay. Clayton, you wanna go on?

**4. Planning Department's Follow-up on matters raised by the Molokai Planning Commission at the February 13, 2008 meeting.**

Mr. Yoshida: I don't know if we had any items to follow up from the February 13<sup>th</sup> meeting.

Mr. Vanderbilt: I guess this is -- this is -- the minutes -- we don't have any minutes to approve this time. I don't know where we are on the minutes. What was the last minutes that we got approved? Does anybody know the date? I mean --

Mr. Yoshida: I thought it was for the December meeting.

Mr. Vanderbilt: December.

Mr. Yoshida: I believe it's the December 12<sup>th</sup> meeting.

Mr. Vanderbilt: December 12<sup>th</sup>. Now, we're supposed to have our minutes out in 30 days. Well, what's -- what's -- what's the holdup, Clayton?

Mr. Yoshida: I believe we just have had a lot of special meetings, you know, both this Commission and the Cultural Resources Commission.

Mr. Vanderbilt: Well, the Cultural Resources Commission had a court reporter doing their minutes last time.

Mr. Yoshida: Yes, yeah, that's true.

Mr. Vanderbilt: But, I mean, the minutes are important. And again, I'm gonna try to see if we can't get a master minutes that has a summary sheet with who testified, who attended, with an agenda attached, and the documents all attached because it's just too much valuable information, historical information, institutional knowledge for future staff people or Commission members. So hopefully, we can work on that, but I know that at one of our meetings, which was the February 13 -- anyway, there was -- it was where MPL denied the request for an extension. Now, I wanted to get a copy of an excerpt of that minutes. Is there any reason why we couldn't get an excerpt of a copy because it's pretty important at this point with a lot of things flying around and accusations to find out exactly what was said by MPL or by our Commission? And --

Mr. Yoshida: I believe the Commission did have the written letter from MPL stating that they were denying the Commission's request for an extension.

Mr. Vanderbilt: Alright. So if -- what is the -- what is the procedure if the Chair asks for -- like the Council, a Councilman can ask for say, on something that's deferred, I wanna see the ten pages of minutes that dealt with this issue since it's being deferred or it's important, and they usually get it. What's the procedure if the Chair of this Commission wants a portion of some minutes? Do they go through you?

Mr. Yoshida: Yes.

Mr. Vanderbilt: Okay. Is there a procedures manual for that? Is there any procedures manual at all on how you guys deal with us and we deal with you other than the rules?

Mr. Yoshida: I don't think we have any other written manual.

Mr. Vanderbilt: Would you guys be up for maybe creating one so that all Commissions or, you know, all future Commissions and -- like if you're not here, or Nancy's not here, I'm not here, we're all operating in the same procedures? Would that be something that you guys might be interested in?

Mr. Yoshida: We could work with the Commission.

Mr. Vanderbilt: Terrific. That sounds good. Okay, thank you, Clayton.

- 5. Open Molokai Applications List**
- 6. Closed Molokai Applications List**

Mr. Yoshida: We did circulate our open and closed Molokai applications lists. Any questions on the lists?

## **7. Agenda items for the March 12 meeting**

Mr. Vanderbilt: We have agenda for the next meeting. I would like to put on -- well, Commissioners, does anybody have anything they wanna put on the next agenda, offhand? I have one item that I'd like a report, a written report, from the Planning Department saying exactly where we are with regard to the policy plan and our island plan. We're getting totally mixed signals. We go to the Council to follow up on our resolutions. The Council says they -- they're not gonna take them up until well after budget because they get word from Planning, the Molokai Island Plan review isn't on the radar. Chris Hart says he's ready to start in a month or two. There's something in the draft EIS that says the island plan won't be done until 2009, according to John Summers. And there's so much happening

in this community with Laau Point and everything else. We gotta -- we gotta have a handle on where this thing is going. So could we get some kind of update like was given for the Maui Island Plan, just where everything stands?

Mr. Yoshida: You wanna a written report as to --

Mr. Vanderbilt: Yeah, just some timelines so we know because, you know, there's GPAC members that have lives and businesses, and they gotta plan for this onslaught that's gonna come on when it starts in six months. And there's a lot of things like, for instance, we've requested for a year and a half now that we get a list of all the undeveloped legal TMKs on this island, and based on the existing zoning, how many dwelling units could be built because we think there may be 3,000 to 5,000 homes that could be built without any review. But those are the kinds of things that we don't know who's working on what, who's in charge, the relationship between Jeff Hunt and John Summers. And I just think -- we get asked questions a lot of the time, and it'd be nice for us to understand just what's happening because it's very important--this upcoming community plan review. So if somebody could put something together. I mean, they even had timeline charts for the Maui guys. That could we get something similar that we could understand as Commissioners and share with our community? I think that'll be great. Is there any chance of trying to do that?

Mr. Yoshida: We'll relay your request to the Long Range Division.

Mr. Vanderbilt: Oh, to Long Range, okay. And then if we could just start trying to catch up on some of these -- these minutes. You know, again, I keep going back to the thing--if you guys are so busy over there, we have staff people here. We have Nina Kawano who took minutes for 13 years, and now she doesn't take minutes.

Mr. Yoshida: Well, she was here for the special meeting on the -- was it the 9<sup>th</sup>? February 19<sup>th</sup>?

Mr. Vanderbilt: 19<sup>th</sup>.

Mr. Yoshida: The Commission was trying to wrap up those comments on the Laau Point Draft EIS.

Mr. Vanderbilt: Oh, yeah, right. That's good because, you know, we have the staff here to help you guys out. I mean, we can appreciate all the pressure you guys are under there, but we just don't wanna -- we don't want to be ineffective because of Maui's problems especially, when we have some very professional people here that can help out if you just give them a chance.

Mr. Yoshida: We have used Nina in the past when we've had special meetings to catch up on the Countywide Policy Plan.

Mr. Vanderbilt: Okay, thank you. Are there any announcements by the Commissioners? Commissioner -- Commissioner Chaikin?

Mr. Chaikin: Yeah, thank you. You know at the end of the Director's Report each time, we have a section in there "Open Molokai Applications" and "Closed Molokai Applications," and we really haven't been getting around to that, you know, in previous meetings. And looking at the list that we get, I was just noticing that D&J Ocean Farms that were on there for quite a few different permits -- did they drop off or -- you know what happened to that specific --

Mr. Yoshida: I don't believe that file has been closed.

Mr. Vanderbilt: Has been closed?

Mr. Yoshida: No, I don't believe it has been closed.

Mr. Chaikin: Is it still in the open category? Well, maybe you could give us an update, you know, at the next meeting on what's happening on there because I didn't see it on there. And the only other thing that I wanted to bring up before we wrap this up is that I did read that, Nancy, you deviated from some of your core responsibilities in Planning. It's just -- kind of checking on various potential enforcement things. And I was wondering, is there -- is there something that you can bring us up to date on what you might've seen on -- on that trip that you went on?

Mr. Vanderbilt: I think --

Ms. McPherson: Can I bring that to the Commission at the next meeting? I can present a short report.

Mr. Chaikin: Alright --

Mr. Vanderbilt: Well, maybe you can answer me a question on this open. Molokai Properties keep saying that the hotel is ready to go. And they filed their applications and they give the intention that they're just waiting around for the County. What is the status of that? Why can't they come before us for a -- can you give us an update? Because right now, it seems -- they just throw out this blanket statement that it seems like it's the Planning Commission that's holding everything up.

Ms. McPherson: They -- they were found to be Chapter 343 triggers for various aspects of the hotel renovations.

Mr. Vanderbilt: Do they have to do an EA?

Ms. McPherson: So they're preparing an environmental assessment, and that has not yet been submitted to the department.

Mr. Vanderbilt: When did they start submitting that? When did they -- when were they told they needed to do an EA, approximately?

Ms. McPherson: I would say about a year ago maybe.

Mr. Vanderbilt: Now, have they -- is there anything that you've done or Planning staff on Maui has done to hold up that EA being processed?

Ms. McPherson: I've responded to every request for information that they have sent me. They usually send me e-mails, and I've tried to respond as quickly and accurately as I can.

Mr. Vanderbilt: Well, they just did a 3,000-page environmental impact statement on Laau Point. What type of questions are they asking you that they wouldn't know? I mean, it's pretty clear what you do on an EA. What type of questions are they asking you?

Ms. McPherson: Well, their questions are more related to the SMA shoreline issues. It gets a little complicated down by the shoreline.

Mr. Vanderbilt: So it's -- it's -- it's the County's fault?

Ms. McPherson: No, we've been -- we did a site visit. I think it was in September of 2006 and --

Mr. Vanderbilt: September of 2006 or 2007?

Ms. McPherson: 2006 with -- and shortly after I was hired, I went over with Thorne Abbott, and we did a site visit with Ralph Edward? Was it Edwards?

Mr. Vanderbilt: Harold Edwards.

Ms. McPherson: Harold, Harold Edwards, and a couple of other people from the Ranch, and a couple of people from the DLNR Office of Conservation Coastal Lands to discuss the cabana that was falling into the ocean there and some other things.

Mr. Vanderbilt: Alright. So when was the last time you had correspondence with them on this EA?

Ms. McPherson: Oh, it was probably a couple of weeks ago. The consultant told me he was gonna go on vacation, and that when he came back, the EA was gonna get submitted.

Mr. Vanderbilt: Okay, so as far as you know, the EA is ready to go?

Ms. McPherson: It's on its way, yeah.

Mr. Vanderbilt: Alright, when that's submitted, it goes to OEQC?

Ms. McPherson: It has to be submitted to OEQC, and then it has -- I think they're thinking of publishing in the environmental notice in April, maybe early April?

Mr. Vanderbilt: Okay. And the consultant is who? The same one --

Ms. McPherson: Mike Arashiro.

Mr. Vanderbilt: Mike who?

Ms. McPherson: Arashiro.

Mr. Vanderbilt: Where's he from?

Ms. McPherson: I don't know if he works for Molokai Properties Limited. I think he's from Oahu, originally.

Mr. Vanderbilt: But he's the consultant? He's not an employee?

Ms. McPherson: Yes.

Mr. Vanderbilt: Okay. Alright. So then when it's published -- alright, now, the other thing I'd like to know is we have all these applications and Molokai Ranch is saying we've applied for all of our things for Laau Point, and I see them all listed here. These are still open. When do they -- do they have to wait 'til the environmental impact statement is accepted and -- before it's considered a completed application?

Ms. McPherson: Yes. And there could even be additional information that we may request in support of those applications. I mean --

Mr. Vanderbilt: So what does Molokai -- does Molokai Ranch understand that they may be getting a request for additional information? Or that -- that's an option the County has?

Ms. McPherson: I believe so.

Mr. Vanderbilt: Okay. Alright. Thank you. Commissioner Chaikin?

Mr. Chaikin: Yeah, I don't know, maybe you said that, but who's the accepting authority on the EA?

Ms. McPherson: The Molokai Planning Commission.

Mr. Chaikin: Okay.

#### **F. ANNOUNCEMENTS**

Mr. Vanderbilt: Okay, Commissioners, any other announcements? There's a Molokai Water Working Group meeting tonight at Kulana O Iwi in the DHHL conference room starting at 6:00 and then they go about 9. Any other announcements anybody?

#### **G. NEXT MEETING DATE: MARCH 12, 2008**

Mr. Vanderbilt: Alright, hearing date, the next meeting date is March 12<sup>th</sup>. And if there's no other business, this meeting is adjourned.

#### **H. ADJOURNMENT**

There being no further business brought before the Commission, the meeting was adjourned at 1:57 p.m.

Submitted by,

SUZETTE L. ESMERALDA  
Secretary to Boards and Commissions

#### **RECORD OF ATTENDANCE**

##### **Present**

DeGray Vanderbilt, Chairperson  
Steve Chaikin, Vice-Chairperson  
Bill Feeter  
Sherman Napoleon, Jr.  
Mikiala Pescaia

**Excused**

Lynn DeCoite  
Kip Dunbar  
Joseph Kalipi  
Linda Kauhane

**Others**

Clayton Yoshida, Planning Program Administrator  
Nancy McPherson, Staff Planner, Molokai  
Michael Hopper, Deputy Corporation Counsel  
Ralph Nagamine, Administrator, Development Services Administration, DPW