

**(APPROVED: 07/09/08)**

**MOLOKAI PLANNING COMMISSION  
REGULAR MEETING  
APRIL 23, 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 Steve Chaikin, at approximately, 12:40 p.m., Wednesday, April 23, 2008 at the Mitchell Pauole Center, Meeting Hall, Kaunakakai, Molokai.

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

Mr. Steve Chaikin: . . . the ongoing continuous on the job training program, so whenever we get an opportunity, we should try to, you know, better understand the process. So what I thought we would do is have the members of the Planning Staff that are here today come up to the mike, and introduce themselves, and give us their title and just let us know what you guys do on a day-to-day basis just so we -- you know, just briefly describe that but, more importantly, how you interact with this Commission and what you can do to help us better fulfill our duties and responsibilities. So maybe we can start with Clayton. Can you come up to the mike?

Mr. Clayton Yoshida: Good after, Mr. Chair and members of the Molokai Planning Commission. My name is Clayton Yoshida. I'm the Administrator of the Current Planning Division for the Planning Department. Our division works more with permit applications that go to the Planning Commissions, such as change in zoning, community plan amendments, special management area permits, special use permits, and SMA assessments, and shoreline setback variances. Typically, I'm the department's liaison with the Commission. Basically, I come to your meetings representing the department and to assist your Molokai Planner, Nancy McPherson.

Mr. Chaikin: Thank you, Clayton. And we also have Suzie Esmeralda over here. I don't know if you wanna come up or if you wanna have -- okay, that's fine. Clayton, could you just speak on behalf of Suzie. Just let her know -- just let us know, you know, what is her title, what does she do, and how can she help us.

Mr. Yoshida: Suzie Esmeralda is the Secretary to Boards and Commissions II assigned to this Commission. Basically she collates your agenda packets and mails them out to you,

as well as other correspondence. She does the minutes of this Commission. She also works with the Maui County Cultural Resources Commission and the Hana Advisory Committee. And we also have Nina Kawano, who works here at the Molokai office, and Nina is a Clerk-Typist III. Probably Nina is the one that contacts you as to whether you'll be attending meetings or special meetings or special functions.

Mr. Chaikin: Okay, thank you, Clayton. How about Nancy? Can we get Nancy to come up and just give us a real short, you know, what do you do on a day-to-day basis so we can visualize this whole process a little bit better.

Ms. Nancy McPherson: Aloha kakou. I'm Nancy McPherson. I'm a Planner V in the Current Planning Division. I was hired to be the Staff Planner for Molokai and so I staff this Commission. I also review all of the permit applications for SMA, BC-T, and other various kinds of request for comments, environmental review documents, land use entitlements. There's a lot of different things that I review and process - some involve permits; some don't. Some come to you, most of them, if their permits come to you actually, some don't, but I'm also working with the community. I provide some technical assistance to community groups who are trying to learn more about the planning process and get more involved and participate, which I consider myself to be a community planner, so that's part of my job description. I also work with the Long Range Division on long-range planning activities, such as the Molokai Community Plan Update. I attended all the GPAC meetings that reviewed the Countywide Policy Plan. I'm also on the Molokai Water Working Group, which is looking at water data and recommendations to the Water Commission, and that's actually going to morph into another community advisory planning process. So my supervisor is Clayton Yoshida and we work very closely together. I report to him every Friday on Maui. So I'm here Monday through Thursday. Friday I go to Maui and try to stay out of trouble when I'm over there. And so it's just, you know, it's a privilege to staff this Commission and whatever you guys need, let me know. You know, we wanna improve communication with the department so Clayton and I wanna assist with that however we can.

Mr. Chaikin: Thank you, Nancy. Joe, can you come and just give a little blurb about what you do?

Mr. Joseph Alueta: Thank you for the opportunity. I'm Joe Alueta. I'm your Administrative Planning Officer. In the organization of the whole Planning Department, I fall under the Director and Deputy Director as far as the organizational chart. I basically do legislation as well as ordinance writing and the rules for all the commissions and boards, as well the County Code for Title 19, the Zoning Code. So, basically, I either write or rewrite the law, or at least given the first draft, and then the final approval is obviously the Council and the Mayor for signature, that includes your rules. So when you guys wanted to have more -- more review I should say of the SMA exemptions, I wrote -- I drafted and crafted the rule

amendments to your rules so that you would have that power to do that. And I work with whatever commission, if you have some ideas, I'll tell you -- I'll tell you, sometimes very bluntly, the pros and cons of doing such a thing, however, it's ultimately your decision and I work closely with Corporation Counsel to ensure that whatever we -- does come out of -- or is drafted starts off in a legal manner and sent forward. I work closely with all three divisions as far as the enforcement division, Zoning Administration, Current Division, as well as the Long Range Division to make sure changes to the ordinance doesn't impact any one of those so that -- and my background has been I was in Current Division for a long time so I know that, you know, you make a rule change here or change an ordinance there, sometimes you don't know, the people who are actually doing the grunt work, sometimes get impacted significantly and so you want -- I try to work with all three divisions to make sure that there isn't an impact that we haven't anticipated both through the County side but also to the public.

Mr. Chaikin: Thank you, Joe. We also have Ralph and I never could really also, like DeGray, could never figure out what your title was let alone what you do, so if you could just come and spend a minute here and clue us in on that.

Mr. Ralph Nagamine: Hello. My name is Ralph Nagamine. I'm the Administrator for the Development Services Administration. We're a division of the Department of Public Works. We're not with the Planning Department, however, we do work very closely with the Planning Department. A lot of our permits, which are construction related, they're building, electrical, plumbing, and grading permits, and subdivisions. And a lot of our permits are reviewed by the Planning Department and we also review a lot of the Planning Department's permits. I guess the big difference between some of the permits that we issue and the permits the Planning Department issues are that the Planning Department permits a lot of them are discretionary. They may or may not be issued. Whereas, our permits are more ministerial in that if they fulfill all the requirements for application, then the permit must be issued, and we have no choice. So I think that's the big difference. And in terms of what I do on a day-to-day basis, it seems like I do whatever is not in everybody else's job description, you know, anything from putting up shelving to attending Molokai Planning Commission meetings, that's basically what I do. And I would say that about 95 percent of the projects and subdivisions that go through my office, I don't even know about. I only know what the 5 percent that are problematic and have a problem.

Mr. Chaikin: Alright, thank you, Ralph.

Mr. Nagamine: Okay.

Mr. Chaikin: And also sitting at my immediate left we've got Michael Hopper and he's our -- the attorney that -- that represents us but what do you do the rest of the time when you're at a Molokai Planning Commission meeting?

Mr. Michael Hopper: I advise the County Council at the Planning Committee...(inaudible)... I also advised the Planning Department, which is...(inaudible)... because there's a lot of issues that come up as far as enforcement within the SMA, anywhere across the County, as well as any other zoning laws that need to be enforced. I draft rules for the department as well as various boards and commissions. I do legal research and draft legal opinions if there are questions that come up and a lot of my time is spent dealing with -- with zoning violations, things like that, entering into settlement agreements or sending off cases for contested case hearings and helping the department prepare to prosecute those cases against the zoning violators. I also spend a lot of time drafting any proposed land use ordinances. We've got to approve all the ordinances as to form and legality, and that takes a very long time, so I work with the commissions, with Council, and also advise this board and commission and, along with James Giroux, advise also the Maui Planning Commission, the Lanai Planning Commission, Hana Advisory Committee, and also deal with the General Plan Update, which the Council is looking at the General Plan, the Countywide Policy Plan right now, also the Maui Island Plan, and the community plans that will coming up. We will also be dealing with those, so I also advise those committees, which are the General Plan Advisory Committees and the Council, when it also reviews those. I also give legal advice to the administration, the Mayor, Managing Director, and I also formally advise the Parks Department at the same time, so occasionally I have work that I finish off for them.

Mr. Chaikin: Alright. Thank you, Michael. We have a pretty big agenda today so I think we should get going. Let me just go over the agenda a little bit. We're going to start off with some public hearings. The Planning Department's going to be asking us if we wanna make a recommendation up to Council on any of these bills. And after that, we're going to be asked to do a concurrence on a assessment, and after that, we're going to get into some Communications, and we got the Chairperson's Report after that, and Director's Report. But before we get into this, I always give the community an opportunity if there is any issues that, you know, you wanna bring up before this Commission, now would be a good time to do that, or if you wanna provide testimony on any agenda item and you've got other things that you need to do and you wanna get that over with now. So if there's anybody now that wants to come up and provide testimony on any planning issue, this would be a good time to do that.

Alright, seeing none, let's get directly into our public hearings. And let me just clarify this, we got three bills here that we're going to be looking at, so is this one public hearing or are these three independent public hearings, or can you clarify that for us?

Mr. Hopper: You have to have three separate public hearings. One on each bill. Each bill you have to have a hearing, public testimony, and then close the public hearing when the testimony is over for each separate one. So if someone in the audience wants to testify on each bill, and you set a minimum time of three minutes to testify, they have to be given

three minutes on each bill, if they're interested in each bill. So they're each separate bills you have to review.

Mr. Joseph Kalipi: Excuse me, Mr. Chair?

Mr. Chaikin: Yeah, go ahead.

Mr. Kalipi: Just to point out, I'm sorry to backtrack a little bit, but letter "B" states that: Approval of Minutes of the March 12, 2008 Meeting.

Mr. Chaikin: Thank you for pointing that out. Yeah, we do have some housekeeping things that we should be getting taken care of here so if anybody wants, I'll entertain a motion to approve those minutes.

## **B. APPROVAL OF MINUTES OF THE MARCH 12, 2008 MEETING**

Ms. Lori Buchanan: I move that we accept the minutes of the March 12 meeting.

Mr. Chaikin: Any second? Okay, Commissioner Williams seconded that. Any discussion?

Mr. Joseph Kalipi: I just have a minor correction for Mikiala Pescaia. I noted that in the minutes it recognizes her as "Ms." but I believe she's married, it's "Mrs." Could you correct it in the minutes? It's minor, small kind stuff, to acknowledge Mrs. Pescaia. Also, to take a note that there was a discussion in the minutes about amendment changing, and I think we have something on that, but it was pertaining the approval of -- on exemptions when the Planning Director have one exempt project that we have 30 days in the language of the prior meeting if we don't respond within 30 days or come with the conclusion for or against, it'll automatically be approved or whatnot. We'll have no action taken by the Planning Commission. So just noted to say that if it's something that we wanna look at in the near future about amending our rules of taking a position 30 days wasn't enough. But, you know again, reviewing your minutes about that topic. It was a really good topic what I wanted to point out.

Mr. Chaikin: Thank you. So I heard the one correction on Commissioner Pescaia's name. Was there -- was there anything that you read in that, Commissioner Kalipi, was anything that you read in the minutes that didn't seem correct?

Mr. Kalipi: No.

Mr. Chaikin: Okay, so just noting that one correction.

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

**It has been moved by Ms. Buchanan, seconded by Mr. Williams, then unanimously**

**VOTED: to accept the minutes of the March 12 meeting.**

Mr. Chaikin: Okay unanimous. It passes. Okay, we can move on now to the -- the public hearing that we have, and I'm going to turn this over to Joe, and you can kind of walk us through this. Thank you.

**C. PUBLIC HEARINGS (Action to be taken after each public hearing item.)**

- 1. MR. JEFFREY S. HUNT, Planning Director transmitting Council Resolution No. 08-05 containing A Draft Bill to Authorize Home Occupations in Various Zoning Districts to the Lanai, Maui, and Molokai Planning Commissions. (J. Alueta)**

Mr. Joseph Alueta: Thank you, Mr. Chair. Again, my name is Joe Alueta. I'm your Administrative Planning Officer. Again, I handle rule changes whether it's ordinances to Title 19, which the Planning Department administers. Bills can -- bills or ordinances or rules, amendments to the County Code can occur in two fashions. One is by resolution coming out of the County Council and at that point, the Planning Department basically does -- tries to do damage control. We try to get the bill and see how the bill impacts the rest of the code cause sometimes you can write a bill and it has a significant on other sections of the code. The other methodology is that it's initiated by the administration or by our department in which we're making recommendations to the code to improve the readability and to clarify and to make corrections in the code to either implement community plan language or to just implement the community wishes.

You have three bills on your agenda. And again, the first one is done by resolution and that's coming out of the County Council on their proposals. And then the other two are director initiated or from our department.

So I believe that on your agenda your first item is the resolution with regards to home occupation, okay. I passed out three staff reports or memo reports. These are short summaries; analysis. It should be dated April 15, 2008 and it should say to the -- the difference between all the others it'll say, "To the Hana Advisory Committee." It's basically a memo to the Hana Advisory Committee, the Maui, Molokai, and Lanai. And it'll say, on the subject matter, it should say, "Resolution 08-005." Okay.

Again, this is a resolution that came down back in February. The department sent it out for agency comments. And by Charter, no change to the Title 19 can occur by the County -- or can occur without at least having comments transmitted to and received -- transmitted

to each of the three commissions that were -- each of the commissions that have an impact. So in this case, because these are general zoning changes that impact all three islands, all three Planning Commissions are going to review it. With a Council resolution, cause it's kind of a fast-track coming out of the Council, there's a 120-day turnaround time from the time we received to the time it goes -- that the Department of Planning must return it to the County Council. If we do not meet that date, the 120 days, it doesn't mean that the zoning police will come and arrest us or anyone else like that. It's just that the Council has the ability to act without your comments, okay, so that's -- I just wanna make that clear, okay.

This home occupation bill basically just allows or states specifically within each zoning category that home occupations can be conducted. What's interesting is that we already have a definition of home occupation under 19.04, okay, and that's been in effect, I believe, since 2001, however, I guess it was -- it was very specific to where it could be in that it initially was that -- it was in these mixed-use districts in Maui Lani, however, I think that a lot of people thought the intent when they added home occupation, they added the standards that they made the assumption that as long as it's in a home, a legally permitted home, that home occupations would be allowed, okay, and that seems to make sense if you have a home, and you have a definition, and the restrictions of home occupation that it be allowed. Well, this ordinance -- and the department adopted its own policies with regards to that and have, for several years, had it's own policy which follow that definition and allowed people within the residential district and the rural districts to operate home occupations if they met the definition of home occupations.

As part of the Council's clean up, they felt that to provide clarity rather than rely on the department policy memo, which can change, they opted to make it very clear and list home occupations as an allowed use within the R-0, R-1, R-2, R-3 districts, as well as some of the apartment districts, I believe, and business districts. From the department's standpoint, the only change or recommendation that we would have is that we do support it. We think that the County Rural District should also be included because in the County Rural and in the State Rural District, single-family homes is the primary and principle use, okay, and so we feel that's an appropriate location to add. At the same time, the definition of the County home occupation, if you look at the definition, which is attached to the memo report, the existing definition, it talks about that no more than 25 percent of the floor area of the dwelling unit shall be used by the home occupation, okay. This is the existing. The department's policy memo truncated that or at least tried to add more specifics. Twenty-five percent, given the size of the mcmansions that have built both on Molokai, Maui, and Lanai, 25 percent can be over -- can be a thousand, could be even in the thousand -- 2,000 square feet because you are seeing a lot of homes that are 4,000, even 8,000, 10,000 square feet in size. So, to us, that size could be -- could be significant, even if it is a home occupation, it still could be a significant size. And again, this is supposed to be an accessory to and subordinate to the principle use, which is a single-family home. We're

not attempting to commercialize it, the single residential district. The residential district's principle use is for residents, not for commercial activity. The way -- and that's -- if you look at the definition of 19.04, Home Occupation, it clearly makes that -- that -- draws the line, meaning you can't have people come to the house. It's basically for those people who are selling stuff on ebay; you're an accountant, you don't have any clients come to your house, you have set up a home office; maybe you're an architect, you do your drawings and you sent it out, you mail it off, or you go and meet the clients somewhere else, but it's basically so you can legally set up an office in your house, conduct either mail order or internet business, without -- without having any concern that the zoning department or someone from the Planning Department will cite you for operating a commercial activity because you are -- you're doing a home occupation that's of such a small scale that you're not changing the principle use of the house.

But again, we are -- we feel that -- so the only two amendments, or I should say we are in support of the Council's resolution. We have two proposals, two amendments that we would encourage you to consider and that is including the rural district, as well as setting a cap of 250 square feet rather -- so it would be 25 percent or 250 square feet, whichever is least so -- so that's our --

Ms. Buchanan: Repeat that last one, Joe, the rural district and?

Mr. Alueta: And we would amend the definition to say that, on No. 2, that not more -- where it says, "not more than 25 percent, not to exceed 250 square feet." So we would include the line, and it's on the second page of the memo report, if you turn over to the second page of the memo report, our recommendation is there and it says -- we would just be adding "not to exceed 250 square feet." Okay? So, okay, so that's the -- that's the gist. Against, this is a Council resolution. We are -- the department is in support of it and we have only two recommendations to what we feel would provide more clarity.

Mr. Chaikin: Thank you, Joe. What I'd like -- I have questions, I'm sure some of these other Commissioners have questions and concerns, but I thought we would open it up to the public if they have any comments on this. I'd like to open the public hearing at this time and if anybody has any comments on this particular bill, now would be the time to come forward. We're going to have limit any testimony to three minutes cause we do have a full agenda today so -- but is there anybody that wanna testify on this particular bill? Yeah, Judy?

Ms. Judy Caparida: I'd like to listen first because I was not here at the last meeting. I'd like to really understand what ...(inaudible)... you're really off course. So I would like to sit down and listen to what he has to say and then I would like to follow up on ...(inaudible)...



Mr. Chaikin: Alright. Alright. We can do that. Basically what the -- what the audience was saying out here is that, you know, they don't have enough information to really comment on so they'd like to move this a little bit further down in the process and maybe have an opportunity later to come up. So, Commissioners, do you have any questions or concerns for Joe?

Mr. Kalipi: Okay, just for clarification for those sitting in the audience too is just, cause I had to listen a little bit to kind of register some of things that are going on, before us is a motion or to put before us a resolution from the County Council that wants to put or change a bill for home businesses, and it's labeled "home occupation," and so Joe kinda clarified a couple of stuff that where this fits if somebody have one internet business or if you are an architect and you wanna have a small office in your home, if you're selling your things on the computer on ebay or so forth, so just informational clarity so there can be some participation with the audience on there.

The question I have for Joe is: Where did the 250 feet -- where does the number come from in a sense of -- I know it wasn't just pulled from sky so can you comment on that?

Mr. Alueta: Yes, it was. The definition of home occupation currently is limited to 25 percent of a single-family home, okay, so we felt there had to be a cap, and we came up with, you know, two rooms of a house would be approximately 250 square feet, okay, or if someone had the downstairs backside of their garage, you know, so we felt -- originally it was 240 and then 10 feet got added onto it just to round it up to two hundred and -- because normally a lot of rooms are 10 by 12, that's 120; two rooms was 240, so that's where the original number came and then during the discussions with staff and everybody, and the enforcement guys said just round it up to 250, and so that's where the number came from. And again, that is a -- that is not to exceed so if you had a thousand square-foot house, right, 25 percent of a thousand square feet is 250, okay. Now if you have a 2,000 square-foot house, 25 percent, right, would exceed that, would be 500, but the limit, the max would still be 250 the way that we have worded it. The way it's now worded is that it's just by percentage and, therefore, if you have a 2,000 square-foot house, you can do a 500 square-foot office or 500 square feet dedicated to a home occupation. If you had 4,000, that's a thousand square feet. So which is not -- so, again, the Planning Department felt, in our proposal, that there should be a cap and 250 was the number that we are proposing at this time. Again, it has to go through all three commissions as well as the Hana Advisory Committee. Maui discussed this later and they actually want to raise that number but they have not taken action on it.

Mr. Kalipi: Okay, so the reasoning would be that's more than sufficient space to actually have a home business in one area in a sense, you know, doing the work that we believe that home businesses do sitting next to a computer having enough space to run a file and etcetera, etcetera, would be more than sufficient?

Mr. Alueta: That's our idea at this point in time. We have heard from architects who say, no, I need to have more space because they have large plotters and stuff like that. And again, this is supposed to be the accessory and subordinate to your single-family home. We feel that if you're going to get that big, and you need that much space, then you should start looking at the commercial core rather than in your house. However, we don't want to preclude, you know, some people who start off as small businesses. Currently, people who try to do small home occupation business would have to go through, if it's not listed under that category as a County Special Use Permit, would have to get a conditional permit, okay. And we've had several, at least on Maui, we've had eggplant, you know, people pickling eggplant in their garage, kim chee, chocolate manufacturers, candle manufacturers, and we had a lot of those where they were limited to a certain square footage and once they've gotten to, you know, two or three years down the line, their business has grown, they decide it's time for me to move on, and we've had people come in and they try to expand it with a conditional permit and we've kinda said, look, are you really -- is this really the appropriate location? You've become -- grown big enough that I think maybe you should move on, and a lot of them take that advice and move on to the next -- to a commercial area and have succeeded so --

Mr. Kalipi: Thank you.

Mr. Chaikin: Any other Commissioners have any questions? Yeah? Commissioner Williams, go ahead.

Mr. Don Williams: It's true about supplies and inventory and stuff like that, does that normally include that or that would be the maximum square footage?

Mr. Alueta: That would be the maximum square footage.

Mr. Williams: If you had a internet business that was selling mugs or whatever you still -- I mean, you know, it would expand over to where you're storing everything down in the basement --

Mr. Alueta: That 250 would include your storage and you cannot use your garage. It has to be within a dwelling unit.

Mr. Williams: And another key question I have is what about enforcement? How does that -- what happens with enforcement? How are you going to be able to get them to not expand further then the 250 square foot?

Mr. Alueta: Well, I think it's going to be easy to -- it's just like enforcement now. If people complain, yeah, then we'd go in, and investigate, and it'd be easy to measure, and I think -- and, again, people are doing this now and we're just trying to get -- the reason it's -- it's

very restrictive because that's how the definition was meant to be. It was meant to be restrictive so that it's pretty clear cut that this is pretty accessory to a single-family home and not -- not a major commercial operation. I think once -- and the key difference, and if you read the definition, I'm not sure if the Chair wants me to read the existing code or the existing definition of a home operation, but some of the key points with it is like, obviously, no signs; no display; you can't have customers; and you can't have employees unless they're living -- you know, unless they're family members who are residing on the property. So for the most part, it's a very -- should not be noticeable to the outside people, okay. It's when you start having clients show up and big delivery trucks, then the neighbors start to call, and then we'd go over and we're going to say, "Well, no but you don't meet definition. Here's your violation." And so I think that that's the intent of this and that's how the Council intended it to be. They're not trying to catch -- they're not trying to accommodate everyone. They're trying to really make it simple to say, hey, if meet these criteria, you're a home occupation. If you -- they're not trying to get -- cover all the basis where -- because it could get bogged down and the 90 percent of the people who meet these criteria, are not going to be able to get legalized as opposed to the 10 percent who have a little massage and they have clients come, or have -- people who have a few clients who up. They don't meet this criteria. They're going to have to get a County Special Use Permit to do it.

Mr. Chaikin: Commissioner Buchanan, do you have some comments?

Ms. Buchanan: Joe, the reasoning leading up to what you say, is that written anywhere that was distributed to this Commission?

Mr. Alueta: The reasonings as in? Which one?

Ms. Buchanan: When you explained that -- that this been in a memo, in a form since 2001, and the emphasis for that was primarily for Maui Lani Development at the time, probably because somebody wanted to do a home occupation business or whatever, and it's been kind of on the books but not having a definition to the rules, right? Everything that you explained to us up in the get-go is that anywhere where I can read?

Mr. Alueta: In the committee report. If you look at the committee report, it says the home -- "Currently, the home occupation is permitted only in three zoning districts of the Wailuku-Kahului Planning Districts I, II, and III."

Ms. Buchanan: Okay, I realize that but I wanted to know, in 2001, what was the reason for coming up with a label called "home occupation," what the justification was for that. You gave the justification earlier. Usually, in your old staff reports you would have written up the background of what it was and the reasoning why things came about. I haven't seen that anywhere.

Mr. Alueta: Yeah, I can't recall as to the reasoning. One of the key things that came up for this, I do know that with the initial home occupation bill that came through during the discussions was broader, included more uses and stuff, and I think that it's what I call "Christmas tree hanging" where you start off with something very simple and everybody can agree upon and then all the special interest groups try to Christmas tree hang their little use for and what about me, you know, I sell Amway and I have Amway or Tupperware parties, and the intent wasn't to cover those. The intent was to cover just strictly by the home occupation ordinance a very low impact or no impact to the surrounding properties. But I do not, no, I do not have that rationale. I do know that it got bogged down in other iterations and this is what came out, so I can only work with what is the existing definition.

Ms. Buchanan: Okay, thank you. The reason why I ask that cause I usually like to wanna know the background of how things come up because if I just read this - and by the way, you handed us this today, along with other paraphernalia to read, that disturbs me because I don't like to read things while I'm sitting here to try to make decision on an important issue. I've always been concerned with Chapter 19. Any revisions made to Chapter 19 is really substantial.

So on the home occupation, there are several points that try to define what is home occupation, what does it mean, and what I did was I highlighted everything and I put my comments on the side, and my comment says, "Enforcement nightmare." That's what it says. This is an enforcement nightmare. And while you were explaining when Commissioner Williams asked the question how you're going to enforce this and you gave the department's answer, I looked out into the people sitting in this room and everybody was kind of laughing. There's a reason why they're laughing. Because on Molokai, we have no enforcement. I, personally, know that. I've called the department several times.

So in this, let me point out that the public needs to look at this. Under home occupation, there's several defining things what is a home occupation. Some stuff bother me like so only a family member, okay, residing on the premises shall be employed by the home occupation. Okay. It's not too bad. So now we have 250 feet that we can use. Okay, that's not too bad. Everything has to be stored within the dwelling unit. Okay. So now, clients, patrons -- "clients, patrons, and customers of the home occupation shall be prohibited on the premises except for educational services on a one-to-one pupil-teacher basis so long as such activity is limited to a total of eight persons per day." Okay, so I doing tutoring in my house. Okay, I going have eight people coming in and out of my house to service this. And then there's other things you can do: manufacture, process, alteration of goods, except baking, dress making, tailoring, and so on and so forth. I can almost anticipate a problem by having this definition as a permissible use in a rural district cause I can see my neighbor opening a little business, and it's all good, and people do it now, but now you're starting -- you're allowed to do it. They're giving you the ticket to do

it. It's okay. And although we might think it small scale, I think of places like Kahului. What is the zoning in Kahului right now? Residential? Residential?

Mr. Alueta: Residential.

Ms. Buchanan: I can see one subdivision where there can be real abuse by just everybody opening their own business tomorrow, on a small scale, whether I have eight clients coming in today, my neighbor has eight clients the next day, and my neighbor next to me has eight clients coming in next day. Where my clients parking? They parking in my son's parking stall when he pau school for come out and come home, okay, especially if you live in one subdivision with a dead end and a cul-de-sac. That kind of stuff just make me think about what is the total impact of changing a little home definition. Give somebody else chance for talk.

Mr. Chaikin: Any other Commissioners have any comments or questions?

Mr. Kalipi: Well I'm interested in, I thank Commissioner Buchanan for bring up that, is there some kind of input that you think would be more reasonable, for example, if it's not eight people per day, would it be like two people per day or maybe no people per day? I totally agree with her because it's a very good point that she points out and I could see the traffic in -- I could see the 8 people turning into 14 people really quick and -- and the lines of abuse and so forth, so I don't know why the definition was having allowable individuals to come over the house, per se, of education and I don't know why it fits the, in Joe Alueta's term, the Christmas hanging going on there, but I'm just trying to dialogue ...(inaudible)...

Mr. Alueta: If you look at Exhibit A of the -- Exhibit 1 of the staff -- of the memo report is the Council's resolution, the transmittal, and then within that, you're going to find an Exhibit A, called a "draft," and those are the actual changes to the sections.

Ms. Buchanan: Chair Chaikin? Since you brought that up, Joe, on the paperwork that we got to review before today's meeting, I noticed that home occupation was not bolded, the changes were not made on the document, which made it very difficult to -- you have to read everything in order to find out what was the rule change or whatever, and I was wondering, and maybe it's more Planning Staff to answer that, what was the reason for not having that changes on our document?

Mr. Alueta: Which -- from the reso or from the -- the reso, I mean I cannot modify the original document submitted by the Council down to me. They submitted down and they showed the changes on Exhibit A.

Ms. Buchanan: This is what we got. And although other things were bolded --

Mr. Alueta: That's for item --

Ms. Buchanan: Home occupation was not bolded. See? Look.

Mr. Alueta: That's because, again, home occupation is an existing definition. I'm not changing the definition of home occupation. That bolded and underlined sections are the ones that we are modifying. You're looking at a bill for item --

Ms. Buchanan: But that was the only place I could find home occupation definition other than the one that you gave us today. Right here.

Mr. Alueta: Correct. That home occupation is an existing definition. We are not modifying it. The Council is not proposing to amend that definition. So it's an existing code. We only show changes if we're making -- if the Council or the department is proposing any changes we'll do ramseyer versions. So, again, home occupation is not being changed. With regards to why the one-on-one teaching, I can't say specifically why the language was in. I can only surmise that from what's existing in the code that allows for permitted uses. If you look at Exhibit A of the Council's resolution and ordinance, and I'm reading this is what is existing in the code. That is allowed tomorrow if someone wants to come in to build something. Besides single-families, greenhouses, parks, schools are allowed, okay. So you could do a whole school, an elementary school, intermediate, high school, college, public or in your own private home. So that's probably why the one-on-one instructional teaching considered to be more education base is listed under the home occupation and limited to one-on-one. Again, day care nurseries, somewhat a commercial activity, but a much needed service on Maui, Molokai, and Lanai. I'm assuming day care services are needed for many of the hardworking people. So the Council and the community felt that there should be that type of exemption for allowing those types of residential uses. So that's probably why, under home occupation definition, some form of education, such as one-on-one instructions, were incorporated into the definition to include those types of uses.

Ms. Lynn DeCoite: Joe, I get one question. You know, you're looking at home occupation in that matter. I have a problem with the bed and breakfast also on the home occupation, though it is the owner that takes care of these people that come in, you're looking at the same type of affect that if it is a subdivision and a bed and breakfast is operated as a home occupation, you can be looking at another three extra vehicles in that area as well as now live-ins on the vacation part.

Mr. Alueta: Again, one of the reasons that the home occupation definition is narrowed, and again, we did have the attempt by the TVR association and the B&B's to try to Christmas tree hang their use on the home occupation and it is not a home occupation, it specifically says that it's not a -- and that's why B&B is not a home occupation; that's why B&B is

restricted as a permit. You need to get some type of discretionary permit. The definition of a home occupation is being listed as an outrightly permitted use. So just like Ralph explained about the discretionary and nondiscretionary permits, if you met the criteria of a home -- based on what is defined as a home occupation, you can do it. There is no permit requirement. It's just that it's like saying if you build your house six feet back on the first floor, you can build that house, you know, as long as you meet the setbacks. Same thing with this definition. If you meet this criteria, definition of what your business is or what your home occupation is, it's allowed. You can do a home occupation. If you don't meet this criteria, if you need to have clients, or if you need to have a larger area, then you don't meet it and need to either get a permit by a special use permit or State Special Use Permit or a conditional permit, and those are nondiscretionary permits -- I mean those are discretionary meaning they would have to come before this Commission or even the Council.

Mr. Chaikin: Thank you, Joe. Can we just get -- what we need to do is focus. We need to make sure we keep the train on the track. Can we get Corp. Counsel just to let us know specifically what areas are we looking to make recommendations on on this particular bill?

Mr. Hopper: Okay, what Council sent you, the only thing in their bill they sent you is a list of zoning districts and the phrase: "Home occupation is added in several of those districts." It's because council wants to allow home occupations in certain districts because I believe the impetus was they don't want people, you know, if someone is doing an internet business, they don't want the, you know, the zoning people to get a search warrant, come into their home, and cite them for a zoning violation for running an internet business. So the home occupation, there's two key things: One is where is you want to allow them, which is where Council is recommending allowing them by showing you the different districts, and number two is the definition - what is a home occupation and what is allowed. Council, currently, is not proposing any amendments to the current definition of home occupation. Like Joe said, there's a current definition of what a home occupation is. It's in the code. It's already there. It's only allowed in a few districts though. That's the problem. So the Council believes, right now, that it should be allowed in other districts, it should be expanded, but does not propose changing the definition of home occupation, which you were also given. That's why the home occupation definition is separate from the bill. It's because Council is not proposing a change in that but basically told Joe - and now remember Joe is not proposing this bill, this is coming from Council, he's acting as their service person basically - they told Joe also transmit with them the existing definition of what home occupation is so they can tell that what's going to be allowed by home occupations here. And so you've got your definition of home occupation, which, you know, because of that restriction on clients, patrons, or customers coming to the premises, no one's allowed to actually come to premises; that would mean a TVR and a B&B would not be included in this definition aside from the fact, in addition, they're separately prohibited in another section of the code, at least TVR's are. So in this case, what you're looking at

is: A) Whether or not you want to allow home occupations in different areas, and B) you know, what your feeling on the definition of home occupation. For example, if someone wanted to have a hula class in their home, that's prohibited. You could not have that. So that's a zoning violation and someone could be cited for that. So you need to think about what the different types of uses you would like to allow people to have in their homes as a home occupation and where you would like them to allow -- you know, where you think they should be allowed to have them right now.

Mr. Buchanan: I have a question for Corp. Counsel. Mike, could you quickly let everybody know where the home definition -- I mean home occupation, where it's allowed right now and what is the proposed areas where they wanna extend that definition to?

Mr. Hopper: I can tell you where they wanna propose it because that's listed in this bill. Where it's currently allowed is not part of the bill but I would image Joe probably knows that. It's being proposed in, and that's the substance of the bill you have, it's being proposed in residential districts, in the R-0 zero lot line residential district, in the A-1 and A-2 apartment districts, in the B-CT country town business district, which is interesting since that's a business district anyway, the B-1 business district as well. Yes, so those deal with the dwellings, I think, in the business districts, but those are the districts that I -- right now is where they're being -- where they currently are not allowed and where they're being proposed right now.

Mr. Alueta: And again, as I explained earlier, where they are currently allowed, according to the County Council, is that Wailuku-Kahului Project Districts I, II, and III is where it does apply. We did explain to the County Council that we do not believe that home occupation needs to be added to the business commercial core, either B-CT or the B-1 district, because again there's more uses allowed in those -- it's a commercial use and so we don't think that restricted -- restriction should apply. But they added it because if you look at the B-CT and the B-1 district, homes are not allowed except for existing single-family homes. So --

Mr. Chaikin: Joe, could you give us that definition of a residential district?

Mr. Alueta: R-1, R-2, R-3, and R-0.

Mr. Chaikin: So, just as an example, would ag --

Mr. Alueta: No.

Mr. Chaikin: Homes not be allowed to have --

Mr. Alueta: It does not apply.



Mr. Chaikin: They're not in here?

Mr. Alueta: No.

Ms. Buchanan: Chair Chaikin, a question for Joe. I remember reading that the -- the square footage of the total lot line for the residential would be 6,000 square feet?

Mr. Alueta: Could you repeat that question?

Ms. Buchanan: The -- I trying to get one visual picture of the residences that this home occupation would be allowed in and I remember reading 6,000 square-foot lot. So your home -- if you purchased a 6,000 square-foot home lot and you built a 750 square-foot home, used 250 of that for home occupation, now why not?

Mr. Alueta: Again, 25 percent.

Ms. Buchanan: But you still could -- but why is the 6,000 square-foot inside there then? I mean that's a small lot. That's what I trying to get at is that all the residential lots are really small where you could -- this could be a permitted use.

Mr. Alueta: Right. Minimum lot size for the R-0 lot line, for R-0, is 3,000 square feet. It's also allowed R-1 is 6,000, 7500 for R-2, and 10,000 for R-3 zoning districts, and 21,000 or half-acre in the rural district. Again, I did not make that proposal to include the R-0. That is what the Council is proposing.

Ms. Buchanan: Okay, so as -- so I have a 3,000 square-foot lot. I can use 25 percent of my dwelling on that 3,000 square-foot lot for home occupation. Is that correct?

Mr. Alueta: If you met the definition of home occupation, yes.

Mr. Kalipi: And it is my understanding that the Planning Department recommendation is to amend the 25 percent to 250 feet?

Mr. Alueta: No. To add the maximum of 250. Not to exceed 250 square feet. So again, if you had a 750 square-foot house on a R-0 3,000 square-foot lot, okay, you could be able to do about 200. One-eighty? What did you get? I think -- 220 square feet, something like that. That's my math. Sorry.

Mr. Kalipi: Okay. Okay.

Mr. Chaikin: Commissioner Pescaia, did you have something?

Ms. Mikiala Pescaia: Okay, so how would this particularly affect Molokai? What areas are we talking about where this would open this home occupation up to? What areas on Molokai?

Mr. Alueta: Wherever you're zoned, for our proposal, because we are proposing to include the rural district, so anywhere that you have half-acre rural or one-acre rural, so RU-.5 areas, wherever you have zoned R -- residential, R-1, R-2, and R-3 districts.

Ms. Pescaia: Okay, anybody can answer that cause I've been asking for maps for one year so I need a picture just so I can kinda share like this would affect Kaunakakai or Manila Camp or this is East End or --

Mr. Alueta: Okay, we'll grab you a map.

Ms. Pescaia: Thank you.

Ms. Pescaia: Because isn't a chunk of us interim?

Ms. Buchanan: Just for discussion purposes, Chair Chaikin, what concerns me is the -- what we're going to hear later on about the interim, comprehensive interim zoning because a lot of Molokai is interim, okay, and that's the problem. And anytime you hear about comprehensive zoning, that means somebody's going to come up with a plan and they can comprehensively zone everything, whatever they want if -- without -- I mean, you know, really - looking at you smiling - it's very concerning so I was kind of wondering how this would tie into that if we get to the point where they're already talking about comprehensive zoning and why do we even need an interim ordinance if that's the case.

Mr. Chaikin: Alright, so the way I understand it, there's basically two categories of stuff. One, we've got a definition of home occupations, which things are allowed and some things are not allowed, and we have to decide whether or not we concur with all of that, or we wanna add stuff, or we wanna delete it. And then we also have to determine whether or not all the new areas that they wanna allow this in that we agree with that, or we don't agree with it, or we wanna add more. Is that correct? Is that your synopsis of where this thing's at?

Mr. Alueta: The Council is asking for your recommendation on their proposal. If your proposal include -- if your recommendation to them includes suggested amendments to the definition of home occupation, I can't really stop you. It's their resolution. But it was not part of the original proposal. What's happening is that you're being asked to comment on the districts that they're adding it to, which includes all of the residential and a couple of business, but if you wanna -- and again, but we are asking you to make a suggestion with

regards to the size, the definition, so it's in your ball court. I mean you can comment on whatever you want as long as it pertains to home occupation.

Mr. Chaikin: Right. Is it normal in these bills for there to be any protection to the public? Like for instance, if somebody has a home occupation and, all of a sudden, noxious odors are coming from that, is it typical that you would have something in the bill or, you know, to kinda protect, you know, the -- you know, the communities from, you know, some kind of a operation that would be a nuisance or a hazard to the rest of the community or is that taken care of on some other ordinance not included in this?

Mr. Alueta: It would be included in your normal hazardous hazmat material but I think it's also included, if you look under the definition of a home occupation, that, you know, that you shall receive approval of appropriate government agencies. So if you're storing hazardous noxious materials, you're going to be regulated by either the Department of Health or some other government agencies. This -- this issue came up because we had a lot of home -- there was a lot of permits coming in for home occupations from gun dealers who were -- that's -- and you have to be registered with the Federal Firearms with -- so that's where they kinda -- one of the, in my early days as a planner, those are the kind of permits or questions I used to take and so that was added for that. Again, prohibited -- besides clients, patrons, you know coming on site unless they're being there for educational purposes, is that -- that the repair, manufacturing, processing or alteration of goods, materials, or objects is also prohibited.

Mr. Chaikin: But isn't that the definition of home -- read the definition.

Mr. Alueta: That's what I -- that is the definition, "except for baking, dress making, tailoring, and manufacturing of arts and crafts." So as far as noxious materials, most likely, I mean I think that the rationale in doing that is that you're going to have -- if it's going to be a noxious or dangerous material, it's probably going to be registered by another agency, such as DOH --

Mr. Chaikin: Yeah. Yeah.

Mr. Alueta: Or it's going to be used in the manufacturing, processing, or alteration, which is prohibited. So if you are doing that, we're going to bust you as being a non -- as being not meeting the criteria for a home occupation.

Mr. Chaikin: But doesn't the definition, when you read the definition of home occupation, it clearly says that it means an enterprise or activity conducted by the occupant of the dwelling unit wherein the enterprise or activity takes place and which involves either growing, processing, or manufacturing of product. Then when you go down to the prohibited things, it says, "The following occupation shall not be construed to be home

occupations and, therefore, shall not be permitted,” and it goes on to say, “the repair, manufacture, processing, or alteration of goods.” Is that a conflict?

Mr. Alueta: No, but you can add -- if you wanna add in “shall not be considered noxious to,” you know. I mean this is the existing law that I have to work with, okay, and the ordinance that came down is only dealing with where they wanna add it. This definition has already been on the books. So if you feel that --

Mr. Chaikin: Okay, so I guess what I’m getting at is it’s not typical that you would have in the ordinance some protection for the community whereas if this thing turns out to be something that’s really interfering with the community, the community has any kinds of rights or --

Mr. Alueta: Yes. You would then complain to the Planning Department or the Fire Department or the Department of Health and we would check to see whether or not they did indeed meet the -- the definition. Now if they were creating noxious materials or some kind of a nuisance or dangerous condition, they obviously probably wouldn’t meet the criteria under manufacturing -- I mean under the alteration of goods.

Mr. Chaikin: Alright, let’s just -- let’s just skip a little bit and ask the public out here if you guys have any input or do you wanna provide testimony on this -- this issue? We have Judy.

**a. Public Hearing**

Ms. Judy Caparida: I understand what he saying now. He trying to confuse us. Hello? We’ve been coming to almost all the damn meeting. You know we don’t need things that Molokai don’t need. We have to tell you guys all the time. This is Molokai. We’re unique. We don’t have to take everything the Council say that we have to. We don’t have to. You know, our community is what stands for what we can afford, what we can live with without getting us into damn bind later on. This thing is a mess. They no can even take control of what’s happening now. There’s nobody over there to check up. Poor thing our planner. She’s only one lady trying to cover up all the areas where these guys making plans for us that we no can handle. They no can handle themselves. Their making problems for us. We already got enough problems. And I feel that, you know what, as a community person and as a family and those that in this community, I come and talk on their behalf. If we have to put up permits or put up some petition to go against this plan, hey, Council or no Council, we make the Council. We make them because we vote for them. And I feel that, you know what, our people sitting here volunteering their services to try to meet the needs of our people here on Molokai. Every time I come over here, when he comes, he bring a new plan. Fancy word. Change the wording. You know how many time we’ve been at the meeting, our Planning meeting? Sit there for hours to 11:30, 12:00 go home. I live way up

East End. But you know what? Because I love Molokai. Everything we have we're blessed. If you like junk stuff, go get on Maui. They get plenty. Honolulu get plenty. But home here, we only can afford what we can afford, and that's why it's so hard to live here when they're trying to make new plans for us. Don't change Molokai. Let Molokai change you. You got to love what you have here if you move here. If not, you're not going to be happy. And on top of that, you ain't going make us happy cause we miserable to all the things they think that we need. We have so many -- no talk about education. We have so much resources on the island that's why we can live. They cannot live that's why they had to leave. Gone. Go home. Bye. But education every year they cut back. I know cause we're in the school. We know everything. You like deal with school? Eh, they ain't got the money for it. If you like, you go put up the money, you can have all the schools you want. But you know what? No more BS'ing. We gotta come over here and tell the truth because this is our life. We live here. We cannot change. Hard for us to change because we no need what they had to offer. So thank you.

Mr. Chaikin: Thank you. Commissioners, any questions for Judy? Yeah. Okay. No, we're good, Judy. Yeah, anybody else wanna provide testimony?

Ms. Mahealani Davis: Hi. Mahealani Davis. I think I'm following the discussion. I like the idea of allowing for people to work at home. I think what I'd like you folks to look at is making sure that it's not something that is obnoxious, something that doesn't increase traffic or any kind of annoyance to neighbors, and obnoxious would include noise, smells, things like that. As a community member, I can say that none of us wanna be enforcers and so often that becomes the role we have to play to pick up the phone and make a complaint. So I'd like the Commissioners to take a good hard look at this and try to keep that in mind that, basically, as a private citizen, those are things I would be concerned with that it wasn't on a scale that was too big for a residential community, but I like the idea of women being able to work at home while they're watching their children. I don't know why baking is on the -- the bad list but -- oh, it's on the good list? Okay. No problem then. We're trying to encourage people to garden more and if they want to take those products and do value added in their kitchens, maybe there should be language that describes the size or scale of equipment that can be allowed in a residential setting or somehow make it clear that what we're talking about is keeping things small and if they get bigger, then they should be relocated to a -- a more appropriate zone. Thank you.

Ms. Buchanan: I have a question for Mahea, Chair Chaikin. Mahea, what is your idea of a home business?

Ms. Davis: When someone says home business to me I think about it being operated by a single person with help from family members. It's something that they -- it's like a specialty of that person, that individual in the realm of kind of home economics, cooking, sewing, value added products that are coming out of the home garden. Did you want

examples? Like I -- I know people that do small products that they're going to sell that, again, the emphasis being on small and things that can be managed within a small budget with few labor people on a family level.

Ms. Buchanan: Okay, the reason why I'm asking is that while the idea of home occupation, which they should say home-based business, on one of these they say that the clients, patrons, and customers shall be prohibited on the premises, and I can see why they're trying to, you know, the flow of traffic. How do you feel about educational services on a one-to-one pupil-teach basis so long as you no exceed eight people in one day?

Ms. Davis: I think that sounds okay because I'm thinking of childcare and the overlap to education. There should be regulations in some other area of the ordinances that speak to that kind of thing. I don't necessarily see that as a home-based business. That's kind of a in a special category of childcare or education. I think it's a need in the community. People have to put their children somewhere and I would prefer that they be in small clusters with neighbors or relatives rather than the big preschool or, you know, childcare setting, which is kind of weird, and not what our families are doing on Molokai. But if this is where they're going to fit it, as a home occupation, and, yeah, why not just say "home-based businesses." I thought you guys were talking about occupancy for tax purposes when I first came in. I want the definition to make sense for what this community does and prefers to do, which is small settings, personal attention, personalized products. When it starts to get to the level of things becoming a commodity, then I think it ought to be in the business zone.

Ms. Buchanan: Okay, I guess the point -- maybe one caveat to that would be one amendment about traffic. I just thinking if you living up Ranch Camp, at the end of that cul-de-sac, and five of your neighbors are doing daycare as well as tutoring, that might have a impact. So at some point, you know, cause if you call in and complain, they going say, well, it's okay. It's an allowable use.

Ms. Davis: Yeah. And I thought there was something in the ordinance that spoke to you had to have a yard of a certain size if you were going to bring in children for daycare and fenced in -- it had to be fenced in and so big so -- which would make sense. You gotta let the kids run around, yeah? Which is why I'm not sure if it belongs in this -- oh it's already in there?

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

Ms. Davis: Oh, okay.

Ms. Buchanan: Okay, thank you, Mahea.

Ms. Davis: You're welcome. I'm so glad to see you two on the Commission.

Mr. Chaikin: Do we have any other members of the public that would like to provide testimony at this time? Okay, we got Aunty Ruth.

Ms. Ruth Manu: Good afternoon. I'm Ruth Manu. I don't know how many time I gotta come. That's besides the point. I appreciate what Mahea is saying. I remember before, when we came over here, when we had this Ork about making gallery down there, okay. I would say no. Well I talking about commercial, okay. Fine. They went over there by Stanley's. They move out from over there because over there was going to be -- we had a health center. We have a back-up fire station and that would be crowded if he built his gallery over there. Traffic. Heavy traffic. Okay. All these guys who talking about doing business at home, you gotta specify what kind of business you doing. You gotta narrow down. You have to have the leg for it, you know. Not be like over there Maui and get them all over the goddamn street. No, I no think so. Lining up all in the rows. This is Molokai. We have the freedom. What other council? You are our council. We come to you talking to you and sharing our mana`o with you that you get your heads up on this and your heart to know between right and wrong. Not everybody making decision for us. We are standing because we say we want our own planning commission on Molokai that we have the right to vote to voice our opinion. They have a lot of things. That's why they're saying, when commercial or anything came up, they gotta go up there in the industrial area. It was already being told. All guys who do big business up there. If you wanna make a small business or what, or whatever they call it ...(inaudible)... you just asking for one other -- one other problem. Please, whatever the decision is, we gotta think first. Okay, get guys like make -- plenty guys been babysitting long time already. It's nothing new. Talking about all the new businesses that's trying to come in, you know. Think first because it affects the whole community. We have too many issues on the island already that every time we try to plug down one, nail down one - boom. Two coming up the other side. You plug down there two - boom. The other two coming up the other side. We have to be maka`ala, you know. I come in here and share with you guys and say you know what? Try to make decisions that fit our needs, our people, our family. Now you heard about the Ranch and all that. Eh, I was working for Kaluakoi. At least they took care of us. Three hundred something people was working. The Japanese took care of us. They gave us benefits. They gave us everything. The Ranch, well, pray for them. We need to pray for all them. They still our family. They're dying to work up there. But the part is is that we can survive. Sustainability is here. It's how we use it. What we do with it. Right? We teaching our kids to learn and us guys parents over there - oh, yeah, I give in. Oh yeah right. You gotta think. You really have to think. You having all these cables. You having all these wind farms and blah - whatevers. You know what? I told my sister we'll do more praying. Will be better when we praying then go into the meetings. Sometimes we go cause we felt like we're led to go and talk. You know what? Molokai is Molokai. Let Molokai change you.

If it benefits us and the community, fine. If it isn't, then you use the brains that God had given to you and the heart to say, yes, I love Molokai. Aloha. Any questions?

Mr. Chaikin: Thank you, Aunty Ruth. Is there anybody else from public who wants to provide testimony? Alright, seeing none at this time. I'll keep the public hearing open if somebody else decides they wanna come up, that's fine. Nancy, if you could just expand a little bit about what Commissioner Pescaia was asking for and how does this really affect Molokai? What areas are we talking about this ordinance moving into?

Ms. McPherson: Thank you, Chair. We looked at the three maps for the West End, Central Molokai, and East End, and there's a little bit of residential zoning on the East End, it's not yet subdivided, and it's zoned -- it's in the R category by Puahala, mauka, mauka side. There's a little bit in Kaunakakai. There's the B-CT but those are mostly commercial buildings. And then on the West End, there's some R zoning kind of mauka of Kaluakoi or north of Kaluakoi there, and that's not subdivided either. There's no structures. So I mean it would potentially have an affect down the line if those areas were subdivided and houses were built on them. But, currently, there -- it wouldn't really affect us very much, if at all, I might venture to say.

Mr. Chaikin: Thank you, Nancy. I mean, you know, I really appreciate that clarification. Thank you, Commissioner Pescaia, for bringing that up cause, you know, we only have limited amount of time, energy, and effort and, you know, we should really be focusing on things that we can really have an impact on this community and it sounds like this ordinance, although it's important, it doesn't have big huge impact on this community, it could down the line potentially, but right now it doesn't. So, anyway, but, Commissioner Pescaia, you have a --

Ms. Pescaia: Sorry, just a part two to that. So according to the maps, this change would not affect any existing residential areas, but given the interim zoning, there are some areas that if that changes, then all of this and along with a zillion other ordinances would kick in, right, and so maybe highlighting homestead but -- I mean we basically have two kinds -- there's like a whole bunch of ag and a whole bunch of homestead lots, and homestead and ag wouldn't even be affected by this, so it leaves a very small percentage of area on this island that would be affected by a change like this, right? And in part two to that, I just wanted to mention that we're the Molokai Planning Commission and so we -- Maui has their commission to worry about what kinds of affect this would have on their communities and so I just gotta focus on what it would do to Molokai.

Mr. Yoshida: Yes, Mr. Chairman, Commissioner Pescaia, I believe that if this definition were extended to the apartment district, then you have, you know, some uses up in Kaluakoi, say Ke Nani Kai, you also have the Home Pumehana building across the field here that's zoned apartment, and the Wavecrest complex out on the East End is zoned



apartment, so it would affect those properties as well as if it were extended into the country town business district. There are properties here in town that are zoned country town business district. There are properties in Maunaloa that are zoned country town business district. There are properties down in Kualapuu that are zoned country town business district. However, the home occupation would have to occur within a lawfully existing single-family dwelling.

Mr. Chaikin: Clayton, thank you for that clarification. Does any Commissioners have other comments or concerns?

Mr. Kalipi: I have a comment to make for the Commissioners. I believe you should entertain a motion or defer this if Commissioners don't feel that they can make a or come to a conclusion today. There's also other bills that we're going to have to look at so, you know, for myself, I'm very comfortable in all the information I heard to make a decision but, again, it's accordance to the board.

Mr. Chaikin: Thank you, Commissioner Kalipi. I have one more question. I noticed on some of the bills the administration, when they go to implement this particular bill or whatever bill it is, they have what's called "rule-making authority," and I guess that's where they kind of can figure out on the fly if they wanna stick anymore provisions in or to make it function a little bit better. Is this -- do they have rule-making authority as this thing is currently proposed?

Mr. Alueta: The department has rule-making ability, yes.

Mr. Chaikin: Okay, we'll get a clarification on that.

Mr. Hopper: Not on everything though. There's only certain sections that gives the department rule-making authority. In this case, they'd have rule-making authority under enforcement. Under enforcement, 19, I think, 530-030 is the code section that deals with administrative penalties and criminal penalties for zoning violations, they have rules under that, and that could govern, you know, specific fines for violations of the home occupation, you know, if you did a home -- if you did something that was not permitted by zoning, which, in fact, is any home-based business right now, you know, if you don't pass this, any home-based business is illegal and could be subject to a violation. So they could -- they could adopt rules to clarify how their enforcement procedures would go and how much they'd be fined for a violation of this. So that aspect of it they could. Otherwise, I can't think of any other things they would want to implement but, right now, they would not have rule-making authority for anything aside from enforcement of this law right now.

Mr. Chaikin: Is that something you have to specifically give them authority to have rule-making authority or is that something that they automatically -- cause I notice on some of

the other bills, it actually, you know, expressly provides that authority? Is that something that has to be in the bill?

Mr. Hopper: Well, my opinion is that there be an amendment to zoning that just gives the Planning Department the authority to adopt rules under any of the zoning sections. The Parks Department has that authority under its sections, and the Public Works Department, I believe, has that authority under -- under its sections, I'm not sure about that. Planning has it under certain sections. Ag, it does. Enforcement, it does. Here, I'm not sure how you'd put it in here because you're not really adopting a specific section, you're adopting a bunch of different sections so the appropriate thing to do would be to adopt rule-making authority for each specific section for the department; however, given that this is a bill just to add one definition to -- one extra use to each of these districts, that would be difficult to do under the -- sort of the purpose of the bill. What I would recommend is that there be sort of a look, in general, of the Planning Department's authority to adopt rules under -- under Title 19 in general but, you know, that would honestly have to be revisited under a separate proposal just because this one currently doesn't include that.

Mr. Chaikin: Commissioner Williams, we're going to take a break here really quick so let us have a couple final comments here.

Mr. Williams: Joe, I just have one more question, it's in relation to the quantity of the permits. Is there any limitations? In other words, in the R-0 zone, you could have 100 percent of the people operating home occupations? And shouldn't we be looking at --

Mr. Alueta: There's no limitations on schools. There's no limitations on any of the permitted uses. There's no limitation ...(inaudible)...

Mr. Williams: That could be a little bit scary and out of control and certainly, based on what Lori was saying, when you got a lot of more traffic to deal with and --

Mr. Alueta: That is true if you're -- again, the -- I guess if you take the -- well, the definition, you know again, doesn't allow for clients to come. The only exception would be one-on-one training. So do you feel that every person, every house is going to do a home occupation that would be having a one-on-one client or education? I see it, realistically, that I think everybody, if you have a GE license, you do your paperwork at your house, that's a home occupation. That's a business. And that's who this is intended to help.

Mr. Williams: The reality is that --

Mr. Kalipi: I guess I would like to comment and add to that but I'm going to back it up a little bit because Hopper said something that I want to bring to attention of all of us is that, currently, everything in home business is illegal and even though that everything is

happening, I believe what we're trying to do here is the laws are trying to catch up to the actualities, meaning that there's things that are occurring, simultaneously, but the laws are not matching the home businesses, those who are on the internet selling this and that, those who are doing their work, so forth and so on, and so not necessarily a single person, it could be a realtor, it extends to many different businesses, and so we're trying to catch up with it by these laws. And know that Mr. Williams brought up a point of, well, what if it gets pretty much under control and there's quite a few home businesses on the same street, blah, blah, blah, and we gotta understand that laws are created and times changes. And so when the things change and there is abuse and there's a need, there's a process that there'll be new laws, depending on -- it could be from the Mayor, it could be from different legislation and the process is, if there's an abuse, you can be pretty sure that, in the mix of things, there's going to be laws to try to straighten things out. So I don't think we should be based on too much of what if because what if we're not here tomorrow? What if, you know? And so it's not by fear and it's not by different things but we're going to have take things one step at a time. And so I just wanted to comment to bring some clarity of making a decision today as to catching up with some of the things that is already occurring. I know quite a few people right now that are doing home businesses. I'm sure the numbers in Maui is quadruple. And so again, the laws is trying to catch up with the actualities.

Mr. Chaikin: Thank you, Commissioner Kalipi. And, you know, my feelings on this, as Commissioner Buchanan brought up, we just got the staff report on this today and it doesn't seem like we're in -- under the gun to make a decision right now, so I think it would be good if all of the Commissioners, you know, we have all the materials, we've heard the stuff, you know, during the next couple weeks, we can just think about it and see if there's any recommendations that we wanna come up with, and revisit this at our next meeting. So I would like to do that and we can even keep the public hearing open, I think, can't we? And then if anybody from the public wants to have any additional comments, they can?

Mr. Hopper: Yeah, to clarify, public testimony has to be allowed at all future meetings. The public hearing is a separate issue. That's with the notice and everything. For some applications that are director transmitted, the date that you need to transmit your recommendations by does depend on when the public hearing is closed. This one, sent by Council, doesn't matter when you close the public hearing. You have 120 days from today to make your recommendation. But in every meeting you've gotta allow the public to testify on the item whether the public hearing is open or closed.

Mr. Chaikin: Okay, thank you. Commissioner Buchanan, do you have a comment before we take a break?

Ms. Buchanan: Yeah, if you're going table this or you're going to call for a motion after the break?

Mr. Chaikin: Well, I thought we would defer this item and let everybody kinda digest it cause remember, as you said, we just got the materials today handed down to us and I haven't even had an opportunity to read that report fully, so that was, you know, what I was going to suggest is that, you know, we just think about it over the next couple weeks and come back here with our recommendations in two weeks from now.

Ms. Buchanan: Okay, because I was willing to take a stab at it but it can be a consideration for fellow Commissioners to consider. You wanna hear it?

Mr. Chaikin: Okay, yeah, go ahead.

Ms. Buchanan: Okay, I would have entertained a motion to adopt the Resolution 08-5 with amendments and conditions, and the amendments would be to No. 8, about the clients, patrons, and customers, and blah, blah, blah, and the educational services and limited to eight persons per day, and at the end of that, just add "and does not impact street curbside parking," etcetera. Sometimes you gotta put 'em in there, you know. They just -- you cannot guess. The other amendment would be to Item 9a, under the repair, manufacturing, processing, alteration of material, objects, blah, blah, blah, dress making, and on Mahealani's suggestion, after "of arts and craft items," adding "gardening produce," "produce from gardening." And then also to Item 9c, "automobile and/or body fender repairing," and that's what, Joe, would that include paint booths or do we need to spell that out? I mean any kind of spraying? Is that really a general thing that the enforcement officer would have to determine? Discretionary?

Mr. Alueta: You can add it if you wanna say "automobile and/or body fender repairing including painting."

Ms. Buchanan: Okay, that would be the other amendment.

Mr. Alueta: Or include it in there.

Ms. Buchanan: Yeah.

Mr. Alueta: Okay.

Ms. Buchanan: And then the really out there out of the box condition to adopting this resolution for the zoning districts that they're asking for was for Molokai that we would implement the resolution upon sufficient or reasonable enforcement present itself for Molokai Island. So, yeah, we'll go ahead and we'll take your rules, but give us some enforcement and zoning to address issues related to this. That's my suggestion.

***(Commissioner Pescaia was excused from the meeting at 2:13 p.m.)***

Mr. Chaikin: Okay, well, I'll tell you what. Why don't we take a five-minute break and then we, as a Commission, will come back here and see if we wanna tackle this thing right now and, you know, vote on it and get this thing behind us, or if we wanna think about it and come back since we do have 120 days. Alright, we'll take a five-minute break.

***(A recess was called at 2:15 p.m., and the meeting was reconvened at 2:26 p.m. - Commissioner DeCoite was not present the meeting reconvened.)***

Mr. Chaikin: So, Commissioners, we have a decision to make whether or not we wanna defer this and, you know, take another two weeks and revisit this, or we wanna just tackle it right now and get it -- get it off of our desk. Is there any feelings with the rest of the Commissioners on that?

Mr. Kalipi: Yeah, we should actually tackle this. I kinda like where Lori is going. If defer this, there's other things that is going to be added and I --

Mr. Chaikin: Alright, thank you. Yeah, I'll concur with that. Anyone object to us tackling this right now? Alright, well let's do it. I know that -- does -- I know Commissioner Buchanan was making a list of things that she thought was important to add to the list, and I gave her one of my suggestions, does anybody else have any concerns that they would like to add into the recommendations as we pass it on to Council?

Mr. Kalipi: Just, I didn't hear this, but I, you know, I wanted to be clear that the 250 feet would be in agreement with the amendment that the Planning Department is proposing would be added to what Lori had said earlier.

Mr. Alueta: Did you guys also have an objection to with the rural district, adding your County Rural, RU-.5, RU-1?

Mr. Chaikin: Are you asking us if we're okay with having the rural district added to the list? It's already -- it's being proposed to be in there.

Mr. Alueta: Yeah, our proposal includes both the 250 as well as adding rural districts.

Mr. Chaikin: Yeah. Anybody got any comments on that?

Mr. Kalipi: No objection.

Mr. Alueta: Okay.

Ms. Buchanan: Joe, what is the 250?

Mr. Alueta: To add to the definition of home occupation that not exceed 250 square feet. So it's either -- it's 25 percent not to exceed, so it caps it. So, okay, from what I've heard at the last -- before you took your break was that you wanted to have, under 8, under the Definition, under Home Occupation, besides amending the size to include "not to exceed 250 square feet," and that would be under Section 2 of the definition of home occupation. Under Section 8 of the home occupation, you would add: "does not impact on-street parking." Okay? And then you wanted to add under 9a: manufacturing of crafts -- "arts and crafts and produce grown on the property." And under c, prohibited uses, you had -- there's "Automobile and body fending repair including painting." You wanted to include "painting" in there as --

Ms. Buchanan: You can make that little bit more broad, "and/or other related --" I mean just, you know, make sure it encompasses anything to do with automobile body and repair.

Mr. Alueta: Okay.

Ms. Buchanan: Including spray painting and whatever.

Mr. Alueta: To include but not limited to grinding, cutting, sanding, and painting. Okay? To include but not be limited to, okay? And then in discussion with the Commissioners, you had your concern about trying to get enforcement but as an alternative, we were discussing that with Commissioner Buchanan was that you would add, under where it says, "Home Occupation," under each category, you would include the statement, "provided there will be no detrimental or nuisance affect upon the neighbors." So, in essence, you're just repeating what the intent of this is and you're saying that home occupations are allowed, based on this criteria and definition, in addition, you know, you're saying that provided that there will be no detrimental or nuisance affect upon the neighbors.

Mr. Chaikin: Alright, Joe, can you -- I didn't really understand what we were talking about adding or deleting growing of products, or what were we talking about there?

Mr. Alueta: Ms. Buchanan had mentioned in her proposal was that to include produce grown on the property to include one of the testifier's comments that it would be okay if someone had a small garden and was, you know, processing, canning or jamming some type of produce that they had grown in their garden.

Mr. Chaikin: So we're going to add that on the list cause it's not on the list. Is that what we're doing?

Mr. Alueta: Yes, I think that she wanted to make it clear that that was allowed.

Mr. Chaikin: Alright. Good. Okay. So we just heard a list of the stuff that this Commission is considering adding to the bill. You had your own list that the director's putting forth that they want us to consider adding as well. Can you just repeat those one more time?

Mr. Alueta: They were: one, to include rural districts, the rural districts under -- to list home occupations as a permitted use under the rural districts, and you can add that provision provided that, you know, that they're not a nuisance or have an adverse affect on neighbors. Secondly, we felt that, under No. 2 of the definition section, where that no more than 25 percent, we wish to have "not to exceed 250 square feet," and that way it sets a cap.

Mr. Chaikin: Okay, so you had items that you -- you feel important to that? Okay, let me give one last opportunity in case the public wants to have any input in this before I close the public hearing. Is there anybody that wants to make any last minute comments here? Seeing none, we're going to close the public hearing at this time. And if there's no further discussion, we can get to the point where I would entertain a motion on this matter.

**b. Action**

Ms. Buchanan: Okay, Corp. Counsel, you have something to say? No? Oh, he was wondering where our Commissioners are.

Mr. Chaikin: We have quorum so go ahead.

Ms. Buchanan: Okay. So it would only be reiterating what Joe had already stated but I'd like to make a motion to -- for us to adopt Resolution 08-5, home occupation, with the definitions, after every time you say, "home occupations provided that there will be no detrimental or nuisance effects on the neighbors."

Also to that would be amendments to Item No. 8, to include at the end of that sentence, "does not impact street curbside parking," and that's for traffic.

And Items 9a, adding: "gardening and produce," as stated by Joe. And also Item 9c, under "Automobile and/or body fender repairing and other related automobile repair issues including spray painting."

And just to clarify that this is in addition to already stated and with the 25 percent of floor area not to exceed 250 feet as a cap for the size of the area.

Mr. Alueta: Did you wish to include the rural district? Did you say that already?

Ms. Buchanan: No, I didn't say rural district.

Mr. Alueta: Okay. But if not, I just needed clarification.

Ms. Buchanan: I don't know. That wasn't discussed, the rural district, if you wanted to add. It's -- right now it's proposed in the R-1, R-2, R-3, business country town and whatever, but Joe wants to throw in rural district.

Mr. Kalipi: I don't have a problem with that.

Ms. Buchanan: That is not in my motion at this time.

Mr. Chaikin: Okay, so we do have a motion on the floor. Is there any second to this motion? We have a second by Commissioner Napoleon. Any discussion?

Mr. Kalipi: I would like to add the rural district in there. I don't believe it's a threat or looking at the contents of what we're trying to protect or what we're trying to do that it would come against the purpose and the language of the law, or just because you're in a rural area, zoned a rural area, versus a residential area, I know that if some of the zoning would change even now some of us would be under rural and it's already happening now also. So to capture that, I have no problem with the rural.

Mr. Chaikin: Any other Commissioners have any thought on -- on a potential amendment to the motion? I don't have any particular problem myself with adding rural. It's even -- rural is even more far out than, you know, a tightknit neighborhood so it seems, you know, if we're going to allow this in a subdivision or something, that we would also allow it in a rural area where there's more space. So I don't have any particular problem but we do have five people here and we really need to have everybody onboard or this -- or it won't fly. Any other comments on the rural potential amendment to the motion? Commissioner Buchanan?

Ms. Buchanan: I would like to see what Commissioner Napoleon and Commissioner Williams whether they oppose or support the -- and if they support, I will make an amendment.

Mr. Williams: I still have one small question and it's, as I understand it, you don't have -- if you feel that you're conforming to this status or whatever this -- if you feel you're in conformance, you don't have to have a permit?

Mr. Alueta: Can you speak into mike, Commissioner?

Mr. Williams: Oh, I'm sorry. Am I correct in saying that you don't have to have a permit if you feel like you complied?



Mr. Alueta: That is correct.

Mr. Williams: What my concern is is there's no way to tell the amount of activity that's going on nor do you have a way to police it, so to speak. I'm kinda leaning towards to think that if we had a permit, at least you'd know what kind of activity is going on there, and it might help in enforcement cause you're going to get a lot of B.S. calls, if you will, that the people are going to be going: My neighbor is doing is this. My neighbor is doing that. They're not conforming. I was thinking if we permit it, we know what the activity is that we could help in enforcing and policing the thing in the future. Plus, I think it could be done right off real easily right here with our planner. You just come in there and they apply for their permit and that kinda makes everybody aware. There's some comfort in that to me thinking that we could -- I don't think it's a big deal for them to come in and pull a permit. One of the things they should do is show that they have a GE licence, for example, that they are paying their taxes; that they could come in here and -- I don't think would be an extra burden on our Planning Department to say come fill this of paper out and if we feel you've complied, we'll just approve it right on the spot. We don't have to come to Clayton or even further. I just think that, down the road, we're leaving ourselves wide open to -- especially in the enforcement division. I see this thing just getting way out there with complaints and people unnecessarily wasting the Planning Commission -- the planner's time, on and on and on. I mean --

Mr. Chaikin: Okay, Commissioner Williams, basically what we were doing is we're considering an amendment to the motion that was whether or not we should add rural into the motion.

Mr. Williams: Oh, I'm sorry.

Mr. Chaikin: And so --

Mr. Williams: Excuse me.

Mr. Chaikin: Yeah. No, no, no problem. No problem. So anyway, you know, if, Commissioner Kalipi, if you feel like, you know, rural should be added, you should make a motion to amend the motion. Is that how you do that, Corp. Counsel?

Mr. Kalipi: No, no. We just was seeking discussion right now and even, Commissioner Williams, I somewhat agree with you, however, we're kind of not tackling that. Yeah, no, no, we're not tackling that. That's not the discussion at hand and I somewhat agree with you. To reiterate, the discussion is about extending or agreeing with the Planning Department that rural would be extended in these laws or these amended proposal of the resolution. And so I just wanted to get both your comments, Commissioner Napoleon.

Mr. Napoleon: Yeah, I don't have any problems with adding it on. I think it's, you know, if you're way out there, you're doing something, you're probably doing it, but I think, at this point, adding it on is not going to be a problem for me, at this point.

Mr. Chaikin: Thank you, Commissioner Napoleon.

Mr. Alueta: At this point, Mr. Chair, if I can, it would be just be more like if there's a -- Commissioner Kalipi would find out if Commissioner Buchanan would be open to a friendly amendment to have that added to her original amendment. And to address the Commissioner's regarding moving this -- having some type of registration, that is an issue that the department is willing to look at in the future and we will be coming back to you with some other amendments, and that's attached as exhibit -- Exhibit 4 of our memo report, and, at that time, when we come back with that ordinance change, you may wanna look at shifting, if you have concern or home occupation, to shift it in that area.

Mr. Chaikin: Commissioner Buchanan?

Ms. Buchanan: Well, since we're still in discussion. I appreciate what Don had to say and I wanna encourage that, okay, because the discussion part is whether you -- you're for or against, and it is discussion, and it is pertinent, and it does apply, so at no time will I would want any of my fellow Commissioners to be hampered in and feel that any discussion that they might have is not pertinent to the situation. But in that case, Commissioner -- I mean Chair Chaikin, I would like to amend my motion to include rural districts.

Mr. Napoleon: I would second.

Mr. Chaikin: Okay, thank you. So we do have a motion on the floor and if there's no further discussion, we're going to go to a vote. Anybody got any last minute discussions on this?

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

**It has been moved by Ms. Buchanan, seconded by Mr. Napoleon, then**

**VOTED: to adopt Resolution 08-5, home occupation, with the definitions, after every time you say, "home occupations provided that there will be no detrimental or nuisance effects on the neighbors."**

**Also to that would be amendments to Item No. 8, to include at the end of that sentence, "does not impact street curbside parking," and that's for traffic.**

**And Items 9a, adding: “gardening and produce,” as stated by Joe. And also Item 9c, under “Automobile and/or body fender repairing and other related automobile repair issues including spray painting.”**

**And just to clarify that this is in addition to what’s already stated and with the 25 percent of floor area not to exceed 250 feet as a cap for the size of the area, and to include rural districts.**

**(Assenting: L. Buchanan; D. Williams; J. Kalipi; S. Napoleon; S. Chaikin)**

**(Excused: B. Feeter; M. Pescaia; L. DeCoite)**

Mr. Chaikin: Motion passes unanimously. Thank you, Commissioners.

Mr. Alueta: Thank you.

Mr. Chaikin: What was that? No, she made a friendly amendment to her motion so she added that to the motion that she originally made. So thank you. So we can quickly move into the next -- the bill that we’re taking a look at, Joe.

**\_\_\_\_\_2.\_\_\_\_\_ MR. JEFFREY S. HUNT, Planning Director transmitting A Bill for an Ordinance Repealing Chapter 19.02 of the Maui County Code and adding Chapter 19.02A regarding Interim Zoning Districts.**

Mr. Alueta: The next matter, with regards to amendments, this is a department initiated amendment to 19.02 to the interim district. This is your staff report or memo report, dated April 15, and it’s only to -- it’s a memo to only the three commissioners, and it says, A Bill to amend Chapter 19.02, Maui County Code, Establishing Standards for the Interim District.”

Again, many of you are aware of and some of you have voiced frustration over why the interim district, which was established in August 1, 1958, is still around, and this is -- I can go over numerous reasons but just to say that we have made changes; we have adopted or eliminated interim zoning in a number of areas within the Maui County; we will continue to do comprehensive zoning as the community allows for in rezoning places from County Interim to a zoning category that is appropriate and identified on their community plans. However, there is still much work to be done with regards to this comprehensive zoning. As you all know, Molokai, but we also have it in East Maui as well as Paia, Haiku, and numerous areas around the County.

Interim started out as -- as basically a catchall. Everything was zoned interim until the County adopted zoning maps. The County never adopted zoning maps for the entire island. They only adopted for the major urban cores and for areas that came in specifically or actually physically zoned. So those that got -- that were not zoned at that time or had not been subsequently zoned, fell within the interim category and, therefore, that's why you have this -- this hodgepodge of uses within the interim zoning category as far as what's allowed, and that's on your Exhibit 1.

What's causing the department or initiated the department to come in is that the housing code, similar to what happened with the rural district, as we talked about when I came before you on the -- the rural district, the housing code is -- is currently being eliminated and, therefore, in these certain zoning categories where there was no standards, such as setback, all of you are familiar with, you know, your side yard, front yard setbacks, the interim district as well as the County Rural District didn't have any standards. They didn't have a setback standard or height standards either. Therefore, the only controlling factor wasn't Title 19, it wasn't the zoning category because it wasn't in there, the development standards wasn't there, so what they were regulatig -- all this time we've been regulating building height as well setbacks with what we call "the housing code." In jurisdictions around the country as well as other communities, the housing code is administered by the Department of Health. It deals with light and ventilation, and that's where your setbacks came from dealing with how big your room can be, how big your windows can be. So a lot of that is being -- Public Works no longer wants to administer that or feels it's antiquated and they are eliminating that. However, we still use, like I say, the setbacks so there's a rush by us to come in and establish development standards for a variety -- for these zonings that never had them, and interim district is one of them. You dealt with the rural district earlier, late last year, and again this is just a continuation of that with -- and this will be the last district. This is the only other district that doesn't have development standards.

Since I had to come in and work on the interim district as far as making changes to it, the department wanted to also simplify it by including tables to try to allow for simpler reading. So the -- and so all of the stuff you see on Exhibit 2, right - Exhibit 1 is the existing code, Exhibit 2 is the department's proposal - all of those things that are in writing, such as setbacks and the permitted uses and stuff like that, instead of being a math word problem, I've now put it into a table format to make a little easier to read and understand. The only -- and the other change, and the other significant change that you should be aware of is that we added bed and breakfast, subject to 19.64. Now, again, this was in response to Molokai, testimony from Molokai as well as some of the Commissioners stated because there's so much interim district, the proposed bed and breakfast amendments that would allow for B&B's in other districts or simplify it wouldn't impact Molokai. Now, I'm just going to leave it up to you guys, if you don't like that, if you wanna continue to have B&B's not be allowed in the interim district, then it would be up to you to strike -- I'll leave it to you but

that was in response to some of the concerns raised by the Molokai Planning Commission as well as testifiers that you had at those hearings.

Other things that occurred that we changed to the interim district, because it is an old code, we also added a change from Public Works to Planning Department. Wherever it was saying, "Public Works." There's also some old references to the -- the predecessor to the BVA, I forget what the name of that board was, but it no longer exists, it's now the Board of Variances and Appeals, so that was changed.

Also, if you look at one of the uses allowed, commercial ag is allowed within the interim district because a lot of the lands that County Interim is actually State Ag, so that's the restriction on it. The definition that they had for commercial ag or at least the limitation was 1500. And if you recall, during the discussions of the transient vacation rental and bed and breakfast, we had initially proposed a \$3500 -- \$35,000 farm income test in which to qualify for a bed and breakfast. That has been chopped down from 35,000 to 2500 at the Maui Planning Commission and also at the Council proposal that's there before. So I'm just -- so we're -- from our department proposal, we tried to be consistent with what -- where things are headed but, again, we're seeking your comments to this. The most important thing is that we're trying to move over some of the established, I should say, established standards that never existed before to the interim district, to add that into the interim code so that when they do repeal the housing code, it won't have an adverse impact on those who live in the interim district. You have any questions at this time?

Mr. Chaikin: Commissioners? Commissioner Buchanan, go ahead.

Ms. Buchanan: Joe, you wanna repeat that thing about bed and breakfast and 19.64 and how that would apply to that?

Mr. Alueta: Well, all we're doing is that we're adding B&B as a list -- as a use within the interim district subject to 19.64. So if 19.64 has -- it sets up the restrictions. And, again, the reason that we're allowing B&B's within the interim district is the same reason we allowed them -- the department was supportive of allowing B&B's in the rural district was because single-family residences are considered a permitted use. If you look at the first use allowed in the interim district, single-family residences, and so we consider B&B's to be a secondary entitlement to a residential use.

Ms. Buchanan: Okay, Joe, so from the housing code to the development standards you have now, what is the big -- what is like the biggest changes only that you made?

Mr. Alueta: Nothing, basically, because the housing code requires a six-foot setback and we're doing the same thing, requiring a six-foot setback for the first floor and a ten-foot setback for the second floor. And one of the things that we're defining or putting into this

proposal is that, if you look under -- if you look at Page 2 of Exhibit 1, okay -- oh, I'm sorry, Exhibit 2. Exhibit 2 has the department's proposal, okay, and that's entitled "Ordinance for 19.02," and it's basically repealing 19.02 and we're relabeling it as 19.02A, okay, so it says 19.02A. It has a definitions section and all that. Now, if you look at Page 2 of that, you have a table and that shows you your development standards for -- and it says for single-family you need to have 6,000 square feet, minimum lot of 60 feet, maximum height of 30 feet, and that's all within the -- that's how you -- if you were in the R-1 district, that's what it would require. Now, if you look at yard setback, we're doing the same thing. Minimum yard setback is 15, side and rear, okay, and then -- but if you go -- if your building is more than 15 feet in height or what we call "two-stories," it would be 15 feet for the front, 10 and 10; 10 feet side, 10 feet rear. So -- and in this case, this was to sort of close a loophole that's currently in the code and that is what if someone built a 30-foot one-story house? They only have a six-foot setback. And what we're saying is it's not so much the stories because no one defines what a story is as far as height wise, so we feel that if you do a one-store 30-foot house, that -- anything above 15 feet needs to be set back to a 10-foot line to wedding cake it. And so this -- this is our attempt also to try to close that loophole because we don't have a height for story and most people are using 15-feet so we decided to say 15 feet instead.

***(Commissioner DeCoite returned to the meeting at 2:53 p.m.)***

Ms. Buchanan: So you're taking out the whole story thing; one, two, three stories out of that, the original?

Mr. Alueta: Yeah, basically. We're using feet.

Ms. Buchanan: So how is that basement and that other thing --

Mr. Alueta: That -- we'll discuss that during the definitions. The definition section. It will come in -- it comes into play with regards to the measurement of height. In this section, you only deal with the 30 feet in height.

Ms. Buchanan: So the 30 feet in height, where the finish grade and natural grade come into this, pertaining to this?

Mr. Alueta: It's the same as the definition. Height is measured by the definition, which is by -- to the finish or natural grade, whichever is lower, that's still the definition and our proposal does not change that.

Mr. Chaikin: Any other Commissioners got any questions for Joe?

Mr. Kalipi: Joe, referring back to the bed and breakfast, subject to 19.64, so we're saying that if they were established from 1964, they would be in --

Mr. Alueta: No, no, no. The bed and breakfast ordinance is 19.64.

Mr. Kalipi: Oh, okay, referring that, okay, it was the kind --

Mr. Alueta: Yes, late last year or early this year, I forget, it all blurs together for me.

Mr. Kalipi: Okay, and then the other thing is that how does that actually work? I mean, thinking of Molokai, I know that there is certain bed and breakfasts in the interim zoning or had bed and breakfast in interim zoning, yet it doesn't align with the -- the community plan. How would that work? I mean how does that fit?

Mr. Alueta: It all depends -- well, their zoning is -- is interim, right, so if they are in the ag or rural district, they would have a problem because they would have to meet -- if they were in the ag district, they would need to get a bed and breakfast permit because they're in the interim district if you add it to this section, so they would get a B&B permit from the County, but they would still need to get a State Special Use Permit from this body for their bed and breakfast operation, okay, because on Molokai, you have a unique situation where you have stuff -- land that is zoned County Interim but is in the State Rural or in the State Agricultural District. Okay?

Mr. Kalipi: Okay. That kinda messed things up even more but I was just thinking in general terms, you know, not County Interim or State interim thingy. I was thinking in general terms as if, okay, East End, Manae, there's a couple B&B's out there, they're on interim, however, our community plan or Molokai plan said, well, our interim we want our B&B's or our tourism on the west side but if we agree, in some sense, to this B&B, does that allow that to happen in the -- how does that work in that?

Mr. Alueta: No. We would then review the application and deny the application based on the community plan language. And again, you had instances, again, where the department did recommend denial but it came to this Commission and you did approve it. Is that correct? That's my understanding. So we will hold -- we will hold to our recommendations, however, if the authority is in line with you and they need a secondary permit that falls within your kuleana, then it would be up to you to find or not find consistency with the community plan.

Mr. Kalipi: Okay, I think I got that one.

Mr. Chaikin: Joe, can you just clarify for us, I know that when it gets to the B&B's there is a B&B bill that is currently pending before the Council. Now, in that particular bill, if that

passes, I believe that B&B's are administrative in nature and they don't even come to this -- this Planning Commission. Is that correct?

Mr. Alueta: Yes and no. Yes, it starts off as being an administrative review, however, if the B&B permit, right, someone comes in and it's inconsistent with the community plan, the director wouldn't approve that B&B. He would most likely then kick it up to a public review. If you recall, there was certain criteria that would, under the department's proposal, certain criteria under the department's proposal for bed and breakfasts that require a public hearing. One was you didn't -- there was another bed and breakfast within 500 feet. Two, you were -- the person appealed, appealed the director's decision, okay. Or, three, you had 30 percent of the neighbors complained because you still have to do notice. So in the case of the East End, right, the director would most likely deny the application for a bed and breakfast for the East End because it was inconsistent with the community plan. The applicant would then appeal that director's decision and ask for a public hearing at the Commission. And that -- so in the sense that, for B&B's in the interim district and on the East End, they would have to both get their B&B permit and, depending on their State zoning, would have to get the State Special Use Permit.

Mr. Chaikin: Yeah, well we did, in our recommendations, put forth that this Commission wanted to review all B&B applications so if we got our way, we would have the opportunity. I don't concur that just because the community plan says something adverse to the applicant that he automatically denies it. I have seen community plans interpreted in a variety of different ways and I think that different people interpret it different ways so that's not a conclusive strategy to prevent them from doing that. But is this something like if we felt strongly that we didn't want B&B's to spring up in all of our interim areas unless we had an opportunity to review them, is that something that we could put in this ordinance as a recommendation?

Mr. Alueta: Then I would strike the B&B's from the interim district.

Mr. Chaikin: Okay.

Mr. Alueta: Yeah. Or I mean --

Mr. Chaikin: But if we don't have a problem what their in but they need to come to us to get a permit so what would be the best strategy?

Mr. Hopper: Yeah, I would have recommend that this be part of the bed and breakfast ordinance. I'm not sure why the interim district wasn't but I mean that it appears to be, you know, this -- I thought the main purpose of this was to deal with the housing code issue and the bed and breakfast issue was the issue for that ordinance and, frankly, the B&B issue may end stalling this bill a lot longer than it, you know, may be need to, you know. So I'm



not sure how much they can go beyond just dealing with the interim district if they wanted to regulate how the B&B would work. I mean so, you know, I'm not sure how much they can do right now particularly based on the agenda and the way that it's stated, as far as regulating the B&B's in -- in the interim district cause all I have is "A bill for an ordinance repealing Chapter 19.02 of the code and adding Chapter 19.02A regarding interim zoning districts." That's all it says. So I mean that's, aside from either saying, okay, we'd like to allow B&B's in here or not, I'm not sure how much else you can do as far as as it being agendaed so I guess -- I guess, Joe, I would agree with you that if -- if they felt strongly about having the Commission approve or deny B&B's, that they should recommend that the B&B's not be allowed in interim here so -- but --

Mr. Alueta: Yeah, and that's why I'm -- again, I don't want to -- thank you, Mike. I just don't want to muddy the water too much based on the agenda and I would say, you know, you strike it. The reason that we stuck it in here and added it to our proposed amendments was because we had the testimony here on Molokai.

Mr. Hopper: But wouldn't that have come in the context of the recommendations from the Commission as far as why don't we add that to the bed and breakfast ordinance at the time they were reviewing the bed and breakfast ordinance along with rural and ag?

Mr. Alueta: Because there was no interim bill at that time.

Mr. Hopper: They could have recommended that they add that to interim -- interim as well, right?

Mr. Alueta: At the time, they did not and so --

Mr. Hopper: Right.

Mr. Alueta: And then we told them -- I don't recall the exact discussion but it could have been that because we knew that we were coming back with the interim district, just like we had the rural bill, that we were going to add it to that interim district and I --

Mr. Hopper: Okay, I just wanted to get that clarified cause it seems odd to have a B&B portion of a bill be in the context of this bill, which is really, other than that, is a relatively mundane bill to sort of fix -- fix housing, you know, code issues.

Mr. Chaikin: Thank you. I just want to clarify that we have B&B's on our agenda, under a different agenda item. Okay, is there any other questions or concerns from the Commissioners?

Ms. Buchanan: To be honest and to considerate of time, I probably am not going to vote on this issue today, personally. That's just -- that's my -- at least not without hearing the next item, which is the basement, and the height, and definition of that because, to me, that's kind of like putting the cart before the horse and I would like to know that before I start deciding stuff on development standards in the interim zone.

Mr. Chaikin: Yeah, I might just add that I also have a problem voting on things when we get handed staff reports here at the meeting and really don't have an adequate opportunity to review them in depth and give them some considerable thought. So seeing as though we don't have -- we don't have any, you know, strict time frame and we're not under the gun to make a decision right away on this, I would advocate that we, you know, keep this on our agenda and -- and revisit this at another time when we did have an opportunity to really read the staff report and digest all of this.

**a. Public Hearing**

But I would like to, you know, we do have the public hearing on our agenda so I'd like to open the public hearing at this time, and if there's anybody that feels like they wanna comment on this particular issue, this would be a good time to do that. Seeing none, right now I'm going to leave the public hearing open. Is there any other -- do you guys -- how do you feel about, you know, moving on? We've got a big agenda today. We still have a -- quite a bit of things and I know that people -- oh, we do have a testifier. Good. Ruth. But let me just say, we do have a big agenda today, we have people that have come down specifically to present certain things and we should like try to move along so we can give them the opportunity to do that.

Ms. Manu: This one going be really fast.

Mr. Chaikin: Go ahead.

Ms. Manu: Either we table it or delete it. That's it. Table or delete. That's it.

Mr. Chaikin: Thank you, Aunty Ruth. Okay, so is there any objections from this Commission to defer this and defer the public hearing to our next meeting?

**b. Action**

Ms. Buchanan: I make a motion to defer.

Mr. Chaikin: Okay, any second on that?

Mr. Kalipi: I second.

Mr. Chaikin: Okay, it was seconded by Commissioner Kalipi.

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

**It has been moved by Ms. Buchanan, seconded by Mr. Kalipi, then**

**VOTED: to defer the item and defer the public hearing to the next meeting.**

**(Assenting: L. Buchanan; D. Williams; S. Napoleon; L. DeCoite;  
J. Kalipi)**

**(Excused: B. Feeter; M. Pescaia)**

Mr. Chaikin: Alright, so we'll move on to the next. We do have one more bill that we have to cover so --

Mr. Alueta: I just wanna get -- did you close the public hearing and we're just going to have a public meeting?

Mr. Chaikin: No, negative. It is still open so they're going to have an opportunity to do that. Is that a problem?

Mr. Alueta: Oh, I don't know.

Mr. Chaikin: I specifically kept this public hearing open.

Mr. Alueta: I'm just making sure there's no work for us to do as far as public notification.

Mr. Chaikin: Okay. Go ahead, the floor's yours.

Mr. Kalipi: Commissioner Chair, before he goes onto the third deal, and I don't know if this is appropriate or not, it's about 3:10 and moving on, I know that there's other issues on the proposed agenda, and specifically the West Molokai Resort Condos reroof, is it appropriate to say can we hear from them and get back to the bill? I mean I just -- I don't know what the time frame and all that.

Mr. Alueta: The only difference is that I'm leaving first. They're going to stay. That's why it's agendaed that way. I got a 4:40 flight, so I need to leave by 3:45, and then they have a five something flight so they're leaving a little later.

Mr. Kalipi: So maybe we just can hear and if we can't come to something and then we can --

Mr. Alueta: Yeah, if -- I'd like to hold the public hearing on this item while I'm here and make a presentation so you have something to digest and then --

Mr. Kalipi: Okay.

Mr. Chaikin: Yeah, I concur with Joe. Let's at least hear the bill and then we can open the public hearing, if there's anything, and then we can make a decision whether or not we wanna move on this today or we want to defer. Go ahead, Joe.

**3. MR. JEFFREY S. HUNT, Planning Director transmitting A Bill for an Ordinance to modify and add definitions found in Chapter 19.04 of the Maui County Code. Definitions to be modified are: "basement," "building," "court," "apartment court," and "height." Definitions to be added are: "areaway" and "habitable room." (J. Alueta)**

Mr. Alueta: Okay. This bill deals specifically with 19.04, which is you definition section. And again, similar to some of the other amendments that we've had, including the rural as well as the interim, the housing code is being eliminated. There's some -- there's some definitions that the department is adding and amending. So we are adding "areaway" and "habitable room" over from the housing code, so those are being added. The definition of basement, courtyard, height are being updated as well as a basement garage is being added as well as including graphics to the Maui County Code.

So if you look at Exhibit 1, that's our -- that's the amendments that we're looking at. Exhibit 1 of the 19.04 report, and that report is dated April 22, entitled "19.04." Okay, so if you look at Exhibit 1, and you go to Page 2, Line 42, Page 2, Line 42, you'll see "areaway" and that's the definition that's being carried over from the housing code, okay.

With regards to basement, there's an existing definition of basement, and this definition has been -- sometimes have been abused and misunderstood, okay. Now, therefore, I wanted to make sure it was very clear. I don't know how many basements you've been in and -- but all I can say is all of the -- at least all the housing basements that I've been in you've always entered them -- you go in the house and you walk downstairs and it's covered on all four sides, okay. However, we've had a certain number of occasions where it hasn't been that way where, in particular, such as in Napili we had a condo development where to get around the height issue, they called it a "basement," and they pushed dirt on three sides but, in reality, the first floor was a garage and then you had two stories above it. So, again, I'm trying to make it clear of what can be allowed as well as close some of the

loopholes that are out there. And so, again, we're doing the definition which means a portion of the building between the floor and the ceiling, which is located below grade on all sides greater than 80 percent in which access is from the floor above, okay. And I have an illustration there, drawing that indicates what we consider to be a basement. Is there any questions on that before I move on to the next definition? Okay.

Moving on to Page 8, we have what you call "basement garage." It means a commercial, and remember that, commercial parking area meeting the definition of a basement with the exception for vehicle access located on one side. And again, there's a drawing of what we mean by that. So it's subterranean with a ramp that shows it going down into the basement so, again, this is for commercial so a residence couldn't build this. This only for commercial.

If there's no questions, moving to Page 9, habitable room. This is a room, this is, again, a definition from the housing code that's being moved over to Title 19. And then on Page 9, Line 12, that's where we -- you know, the famous height definition, okay. This is where the vertical distance measured from a point on top of a structure to a corresponding point below on the natural or finish grade, whichever is lower. That's how you measure height, okay. And what we're saying is, and we're drawing a picture showing you, height of a building with a basement shall be measured from the lowest exterior natural or finish grade. The height of the building with basement garage shall be measured from the lowest exterior natural or finish grade excluding the areaway for vehicle access. And again, we have five drawings that show how we're going to measure your height with regards to whether you fill or not fill, whether you cut, and again, this is, again, if you have -- if you fill, right, to build up your lot, we're going to measure it from the natural grade so it's going to be lower. You're going to reduce the height of your building. If you cut, you know, to table it out, to make a flat area, we're going to measure it from the finish grade, whichever is -- whichever is lower, okay. So nothing changes under the existing code. All we're doing here is, one, accommodating for basements on how you measure it, and as well as providing graphics to explain what we mean by the natural or finish grade. That's why you have -- so -- and it shows the areaways also.

So there is going to be one more drawing that was recommended by the Maui Planning Commission that the department is agreeable to and that'll show, basically, the first point -- paragraph of that to show if you had a building on a slope, how would you measure it down, and, basically, all you would do is take that, if you looked at either one of these, the second diagram, you would then tilt the measuring line at an angle cause that's how you would measure it. In this illustration, we're just showing the highest point but, in reality, you could have a step down building because we take it from each point of the roof, as it says, corresponding above, down to the natural or finish grade, whichever is lower. So if you had a sloping topography, you could build a house that's stepped down with the topography and that's how we measure it, and all I would do is add one more drawing that would illustrate

that. And that's -- so that's the -- that's the definition. We're just adding graphics to try to make it clearer to the lay people what we mean by height. Is there any questions on that before I move on? Okay.

Ms. Buchanan: I had one -- one observation. Joe, I cannot see nothing on top here. I'm sorry but your graphics going have to be bigger, okay. We went through this a long time ago about the height and the natural grade, and the finish, and all that kind stuff. See? You can see that?

Mr. Alueta: Yeah.

Ms. Buchanan: Well, then you must -- your eyes way better than mine. I get glasses too. But in the future when you're doing drawings like this, please have it on a eight by ten, at least big where we can see 'em. Okay. And at least have them before that. And my concern is, again, I sorry but you need to go over that basement and areaway one more time for me, real quick, because I not understanding the digging down. Does that only pertain to commercial you said?

Mr. Alueta: No, for basements, right, we have a definition of what a basement is meaning you're buried, basically, on all four sides and you have access from above. So if a single-family residence wanted to dig a basement, right, below natural grade, they would -- we would measure it from the natural grade on the outside and they wouldn't penalized for the basement, okay. But that basement you would have to access from the room above or the floor above. And so it doesn't change -- so there's no bonus, for doing a basement, there's no bonus for getting the height. You can't increase it. It doesn't change the view plains or the height that you're allowed to build. You're still allowed -- limited to 30 feet, okay.

With regards to the commercial garages, you have commercial garages where they have -- gotta have vehicle access and the vehicle access is often either by a ramp located within the parking structure or from nearby, and you have that in the sense of I think Kaahumanu Center might have part of their basement on the backside on the -- it used the old Liberty House side, where they have the ramps. There's an area that's subterranean on the backside. So that's an example of what that is. And so we do have a lot of -- a few commercial properties because parking becomes tight in some of the urban cores where they want to take advantage of doing excavate down without -- so that way they excavate down, add parking, without increasing the height of the building, okay?

The other minor changes was -- oh, I might have missed it, was courtyard. This was more of a - let's see. On Page 4, Line 17, I'm eliminating "chattel." That's an old term normally referred to slaves and so we felt that it's kind of an archaic -- it means personal property but it's mostly referring to slaves so we felt -- it was taken out. We didn't think it was appropriate.

Ms. Buchanan: Then you better take 'em out of the resolution we just passed cause it's in there as well.

Mr. Alueta: Yeah, I saw that. I informed Council on that. We'll make a -- also on Page 5, Line 12 and Line 15, I guess this is more semantics and a preference issue, but it talks about a court and being bounded by, and I've always felt that if you're bounded you gotta be at least bounded on two sides, whereas the current definition is bounded on one side. I didn't -- it was just the way I view things and felt that if you're going to be calling it a court, it should be bounded on two sides.

Ms. Buchanan: Can you define "bounding?" "Bounded?"

Mr. Alueta: Contained. So you're containing something. It's hard to contain something on one side.

Ms. Buchanan: Structurally? You mean like a wall or something like that?

Mr. Alueta: No, no -- yeah, it would be a wall or building, like -- like this is a -- okay. Again, that's a real minor amendment there. And that -- that's pretty much it. All the -- I don't see any other amendments. So, basically, you have two definitions being moved over from the housing code, some minor amendments, which is the deletion of "chattel," and adding "bounding," and then the most significant changes with regards to is adding "basement" and "commercial basements," as well as defining what a basement is and using graphics to help illustrate what we mean by these definitions. This is kind of the start of this Title 19 revision that we are trying to initiate and we are -- throughout Title 19, we're going to include tables and more graphics to help people along because -- and reorganize the structure of it without changing a lot of the meanings but we wanna just provide more clarity and make it easier to read.

Mr. Chaikin: Okay, Commissioners, do you have any questions for Joe? Go ahead, Commissioner Buchanan.

Ms. Buchanan: I have a question for Joe.

Mr. Chaikin: Yeah.

Ms. Buchanan: So, Joe, in the revision of Title 19, the whole one-story, two-story deal going be out?

Mr. Alueta: Potentially.

Ms. Buchanan: Potentially?

Mr. Alueta: If there is --

Ms. Buchanan: They not just trying to change the stuff by calling it a "areaway" and "habitable way" or whatever you calling that area?

Mr. Alueta: No, those are -- those are, like I say, existing definitions in the housing code that needs to be moved over. The things that you probably wanna watch for and that is currently a discussion item, and you're going to see it when we come back to you with our standards for 19.08, I gave you a draft copy that was attached to one of my bills and that will be coming to you in the next maybe month-and-a-half, two months, is that height or stories, okay, some members, you know, the discussion is to eliminate the term "story" in the sense that height is the defining factor. So if you're limited to a 30-foot building, right, we don't care if you do one story or four stories within that 30 feet height. It's whatever you do. As long as you can get your limiting factor that most people are concerned with is height and so that -- it's a new concept or new idea of looking at it but, you know, it raise the concern over -- it raises a number of other concerns that I feel needs to be addressed within the residential district and that is floor area ratio, FAR's, or floor area ratios, or lot coverage, which are in the commercial district but -- I mean I'm just giving you food for thought, that's the kind of stuff that I'm dealing with and will potentially bring before you and we'll have a pretty good discussion on it.

Mr. Chaikin: Thank you, Joe. Any other questions from the Commissioners? Okay, seeing none. At this time, I'd like to open the public hearing if there's anybody that would like to provide public testimony on this issue. We have somebody here.

**a. Public Hearing**

Ms. Judy Caparida: I know we had this before. I'm Judy Caparida. I'm sorry I didn't say that the first time. And thank you so much you guys. Anyway, we had this before and I remember there were times, even I had about three friends that I met that had come from the Mainland, and they were contractors but they were retired, and they dug up a hole. I mean we talk about basement. Basement is when you go underground. That's what I know about basement. But this they dug up a hole, okay, they wanted to make two stories. They dug up the hole, they built on top there, and then they built one more, and told to her, I said, "You know what? We don't this on Molokai. I don't think this is legal." You know? But that's the way they do things, okay. Then we had another one, and I think was Puhi found this one, it was -- I mean it was flat, they built it inwards, and then they built on top of that, made two stories. Now that, to me, is three stories. You got a cute place down there where you park your cute car, you got a place on the top, and then you got another one. That's three stories. Now he's not really making it clear to me. But you know what? Coming to these meetings really educates me. You can know that is three stories already and on Molokai, there is a limit because everybody comes here who want to build Waikiki.



They wanna build Waikiki here. And then you cannot see the ocean. You no can even see the sky. Just straight up. I said we don't need that. So I'm just here to let you know that this is not a new thing to us. I've been here a long time and each time they're trying to make new words, make new plans, but it's the same old thing. The same old thing that we already said that our island is special, it's unique, and we want to see open space. I can see the sky from here. I look over there, I can see the sky. I go Waikiki, I no can see no sky. So this is what I'm saying, if I'm looking level, you know, you wanna see the ocean. So I'm just saying that in my own heart, this is the way I've known things to be done and the wording is very clear. You make an underneath basement, that's one story. You make an on top, it's the second story. You build another one, that's the third story. It's only as high as the coconut tree. Thank you.

Mr. Chaikin: Thank you. Any questions for Judy? Alright, hearing none. Does anybody else out there that wanna testify? Okay.

Mr. Nat Bacon: I'm Nat Bacon. I just had a question and that is: Does this height go to -- does it apply differently to a flat roof as opposed to a peaked roof?

Mr. Alueta: Okay, no, flat roof? Doesn't matter. It applies to whatever roof you have. It doesn't make a difference.

Mr. Chaikin: Just taking the highest point.

Mr. Alueta: You just take the highest point from above that -- wherever that point on the roof is to the point corresponding point below. That's why I'm saying that's why we're going to do another illustration with a sloping -- that shows a sloping topography.

Mr. Chaikin: Yeah, to when you got multiply layers on the roof.

Mr. Alueta: Right. And then you measure from each point going directly down.

**b. Action**

Mr. Chaikin: Alright. Any other testimony today? Okay, at this time, I'm going to close the public hearing. Is there anymore discussion? Commissioners, what's your pleasure? I mean are there things in here that you would like to see changed or do you feel like you've had enough time to review this? You wanna move on this today or do you want to defer it? Is there any comments from anybody about that?

Ms. Buchanan: No, I just have one comment, and that's only because I sat in on a variance hearing, and that variance hearing was for a home on the West End at Papohaku Beach Lots, and that person was asking for a variance because they were building a three-

story home, which is not a permissible use on Molokai, but they were making a determination that the bottom floor was kind of like what Aunt Judy said, you know, it was everything but a habitable area, and the real reason was because they had purchased the lot, in which was kind of in one hole, and they couldn't see the ocean, that's my own feeling now, and they needed to build this house up so they could have a view. And what stopped that variance from happening was the testimony by the public because they were in violation and it was exceeding the three-stories and they didn't determine that that ground floor, you know, it did determine it was a story. So that's how come I get kinda concern and I still, to this day, cannot understand that whole grade, finish grade, because they get so much problem on Maui with -- if I wanted to grade down and then the level -- you telling me that no matter how high I build that house, from the point of the footing of that house to the tip of that roof can only be 30 feet? So I can either build up that lot and you have standards for that?

Mr. Alueta: No, you can't -- that's what I'm saying is natural grade or finish grade, whichever is lower. So if you fill, if you have a -- okay, using a flat lot, easy, okay, and put in five feet of fill, okay, the highest you can build your house is 25 feet, okay. So like my house is 28-and-a-half feet tall. I needed to -- I was very careful cause I could only -- I was like -- I had to cut down because I could get -- otherwise I'd be in trouble so I had to make sure I could only build a foot-and-a-half, so I ended up having to cut it in the back end of my house. So same thing. Some people will bring in fill, right, but that subtracts from the height of your building. If you cut, it doesn't because it's -- you're going to get the maximum 30 feet. But again, that doesn't impact neighborhood view plains or the other areas because you're not -- you're still not raising what would be naturally made or the natural height. Thirty feet is still your -- your magic number.

Mr. Chaikin: Joe, can you just -- Commissioner Buchanan was talking about stories as opposed to height. I mean we have a top height limit. Can you, you know, clarify the bit of how many stories? You were saying that, you know, three stories is not permitted. Could you clarify what --

Mr. Alueta: Okay, in general, or want that particular situation?

Mr. Chaikin: Well, no, I just want generally. Is there a limitation here on Molokai of how many stories you can build or is it just predicated on height?

Mr. Alueta: I believe it's both. I believe it's two stories and 30 feet.

Mr. Chaikin: Okay.

Mr. Alueta: And so what I'm saying to you is that right now I'm not proposing to get rid of anything like that, okay?

Mr. Chaikin: Right.

Mr. Alueta: I'm saying, in the next go around, that's going to be a discussion item of do you wanna keep the reference to story or just leave it 30 feet. There are people from the enforcement side that say we don't want the story, just make it the 30 feet because it's easy to measure. If the guy wants to put -- you know maybe they're a bunch of, you know, trolls or midgets or, you know, and they all -- and they got stories cause they only need a six-foot ceiling, I mean that's -- you never know. I mean I'm pretty short too so it doesn't matter.

Ms. McPherson: I beg Commissioner Buchanan's pardon. I was also at that Board of Variances and Appeals hearing. I also worked on the SMA for that house. The problem with that house was that it was -- has a I think it's an 18-foot base flood elevation in that area. It's an area of Papohaku that had the sand mined out of it. So they needed to raise the house above the base flood elevation. We also didn't want them to put fill because it's a flood zone. So the solution was to have an area under the house that wasn't habitable but that would provide them that elevation. Now, they also wanted to have two stories of habitable area. It didn't exceed the height limit but it did not comply with the stories requirement. So that's where they ran into problems. You know, they did the best they could with the constraints on the site while still wanting to build a two-story habitable area home.

Mr. Chaikin: Thank you, Nancy. Well, I think the whole story issue is a subject for another day. But is there any other concerns that any of the Commissioners have with what's set forth by the Planning Department that they're asking us to make recommendations on or -- I mean they came up with one recommendation that was made by the Maui County Planning Commission, that was to add in another drawing for the multilevel roofs, just to clarify that a little bit, but other than that, is there anything else that -- that we were thinking that we wanted to be adding in here? Alright, go ahead one more time.

Mr. Bacon: I'm sorry. I don't know if I'm out of order. Nat Bacon again. The reason I brought up the thing with the flat roof is because I know a lot of people used to go for the view and, which was mentioned you know after the fact here, but -- and what happens is with flat roofs people usually will build -- people will build decks on the roof because they have a flat roof and they can use that as a living space, and when we're talking about getting the view and going up higher than the dunes, that was one of the reasons I asked that was because that's a typical thing that people do with flat roofs and it's, you know, it's a concern so --

Mr. Chaikin: Alright, well, thank you for bringing that to our attention cause that's something we should keep an eye out for.

Ms. Buchanan: Actually, that's a good question. Can Joe answer that? Cause there's one right -- right up the first height, exactly what he talking about, the finish roof and then on top they have a living space area open. So can you answer that?

Mr. Alueta: I would question whether or not that was really a livable -- living space, okay. I mean you can -- I can stand on my roof. I can put a lawn chair, cut two legs off, and it would be a little sloped, but anyone can stand on their roof or have a deck on their roof but you can't have -- but where you measure their structure is going to be from the peak. So if they have a flat roof but they have to do a railing, they're going to measure from the railing, okay. So I doubt if they would actually have on their roof and then build some kind of enclosure cause then that's going to eliminate the height, that that would be illegal cause they would then remeasure it from the top of that new structure and their height would be -- have to be verified again. So I get -- we get that a lot on Maui. A lot of times there's design restrictions in certain subdivisions and we've been able to deny the rooftop deck because it wasn't in their design guidelines for a master plan project.

Mr. Chaikin: Thank you. Anybody -- any other Commissioners have anything that they feel like they wanna add on to these recommendations? So far, I've just heard that one addition of the -- what you guys are already planning to do, right? If not, I'll entertain a motion to accept the Planning Department's -- what they're recommending.

Mr. Williams: I'll entertain a motion to go as the Planning Director's recommended. Basically, I think we're only looking at the definitions and defining it. We're not changing any codes or nothing. So based on that, I would recommend that we go with this recommendation of the director.

Mr. Chaikin: Okay, is there a second that? Okay, we have a second, Commissioner Napoleon. And so we have a motion on the floor right now to accept the recommendations as set forth by the Planning Department. Is there any discussion on this? Commissioner Kalipi?

Mr. Kalipi: Just one minor clarity or understanding about the motion. Amending the language that Lori said about referring to slaves that was on that language.

Mr. Alueta: Oh, we are eliminating "chattel." That's being eliminated.

Mr. Kalipi: That was the -- so that's part of the amendment?

Mr. Alueta: It's the other -- it's the proposed resolution that came in from the Council on the interim and we'll make that note later when we make our presentation to the Council.

Mr. Kalipi: Okay.

Mr. Alueta: It was another bill.

Mr. Chaikin: Any further discussion? So I'll call for the vote.

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

**It has been moved by Mr. Williams, seconded by Mr. Napoleon, then**

**VOTED: To accept the recommendations as set forth by the Planning Department.**

*(Assenting: L. Buchanan; D. Williams; S. Napoleon; L. DeCoite; J. Kalipi)*

*(Excused: B. Feeter; M. Pescaia)*

Mr. Chaikin: Five in favor. It's unanimous.

Mr. Alueta: Thank you very much, Commissioners.

Mr. Chaikin: Thank you, Joe.

Mr. Alueta: And I do apologize for the lateness of the staff reports. We did get you the amendments at your last meeting. It's just that getting together the staff report due to some other time constraints. Again, we will get you the staff reports in a more timely manner. Maui was the -- in the same boat. I had to pass it out that day just to get -- meet my notification requirements so, again, I apologize and I'll try not to let it happen again. Thank you.

Mr. Chaikin: Alright, thank you, Joe. Okay, we're going to move right on with our agenda right now. The next item on our agenda is D, Communications, and I believe the Planning Director is asking us to concur with an assessment they made to exempt from a SMA permit. So, Nancy, are you going to make a little presentation on this?

#### **D. 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:**

**WEST MOLOKAI RESORT CONDOMINIUMS AOA requesting a Special Management Assessment for the reroofing project in replacing wood shingle roofs with Metro shake shingles for 21 structures at 255 Kepuhi Place, TMK: 5-1-003: 006-0001 to 0148, Kaluakoi, Island of Molokai. (SMX 2008/0164)  
(N. McPherson)**

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

Ms. McPherson: Yes, this is one of our simple short-form type items. The West Molokai Resort Condo Homeowners Association has contracted to reroof all of the buildings out there at Kaluakoi and this is for an SMA exemption for that activity. In my description, I think I included the kind of the breakdown of what's being done. I think most people are familiar with the buildings out there. It doesn't have anything to do with the Kaluakoi Resort itself. It's a separate TMK. And they're doing all of the buildings inside of that TMK. And so it's deemed to be repair, maintenance, or interior alterations to existing structures that do not increase intensity of use or expand square footage area of structure, which is the wording that this Commission added onto the form when you approved the form. So -- and it is also my understanding that there is a new material that's being used, which will reduce the fire hazard out there. And the folks are here. If you don't have any questions for me, then they can maybe talk about or answer any questions that you might have also. The contractor and treasurer of the homeowners association are present today.

Mr. Chaikin: Thank you, Nancy. And just for clarification, this is -- we're asked to -- to concur with the Planning Department on this exemption and the way it's been working is that Nancy has been doing an extraordinary amount of work for very simple things. So what we've done is made this really short form where she can just do a couple checkoffs so she doesn't have to, you know, go through all that when there are issues that meet the criteria that are on the sheet. So there is just a short form or the long form. Is that correct, at this point, or what?

Ms. McPherson: Well, no. The way we're doing it is that I still do the full assessment, per Chapter 205A. I still -- I made a site visit. I took photographs. I discussed the project with the contractor and the homeowners association representative. So I'm still doing all the research for it. What I'm not doing is writing another letter and providing exhibits and copying all of this stuff for you guys. Now if you have any serious questions, you can go ahead and request additional information. We will provide that to you. But the assessment has been done for this and it has been deemed to not have -- not to be impacting the coastal zone and, therefore, it is deemed to be exempt so we're recommending that and requesting your concurrence.

Mr. Chaikin: Thank you, Nancy. We have the applicant here and I know you've been very patient all day sitting here waiting for us to do what we needed to do, but I see that you do have samples and stuff and you did bring those so, you know, why don't you just -- would it be okay just go to the mike and just kind of, just real briefly, tell us a little about what you're planning to do.

Ms. Buchanan: Chair Chaikin, I was just was wondering what metro shake shingle was and what it was made of.

Mr. John Pierce: I'll explain that now. My name is John Pierce, contractor out of North Shore on Oahu. What's on the roof now is this cedar shake shingle, out on these roofs too. What happens with this is, after about 10, 15 years, it gets algae, it gets brittle, it actually starts to decompose, turn to dirt, and so it's also only stapled on with these staples that are actually already rusting. And so what we're doing is going through and removing this off of the roof, down to the decking, the wood underneath that you see from inside, and we're replacing it with this. This is what's the metro shake shingle. It's a galvalume material with 12 different coatings of rust proofing and then a granule coating, and then another coat of rust proofing over it. It is warranted up to 150 miles an hour or a category five hurricane. It gets nailed about six to eight inches with a stainless steel nail into a batten that is anchored to the trusses. So it's a lot stronger. It's a lot lighter. Per square foot, it's actually half the weight of the -- or per square, sorry, half the weight of the wood shingles, so it's lot less weight down on the building itself, and then it also is fire proof, basically. I mean I'm sure if it was stuck in a fire long enough, it would melt like metal does, but fire works can land on it and it won't -- it won't do a fire. In fact, Polynesian Cultural Center, on Oahu, we have done this on about 90 of their roofs and it saved them over a million dollars a year in fire insurance because they were able to eliminate the fire sprinklers from the buildings that this was on. It's not called for anymore.

Mr. Chaikin: Any other questions for the applicant? So that thing that you're holding, is that one shingle or something, or is that one big giant piece?

Mr. Pierce: Actually, this is about a third of one shingle.

Mr. Chaikin: I see.

Mr. Pierce: A shingle is actually almost -- almost five feet long. This is just a scrap that has been cut.

Mr. Chaikin: And I just have one comment, since you're there, you know, in moving forward over the next 30 or 40 years, we're going to have to be moving to solar or something along those lines, which are going to be set on these roofs at some point, does that this -- is it going to be okay when they start screwing solar panels and whatnot on top of that?

Mr. Pierce: Oh yeah, as long as they put a waterproofing around it, it'll be fine.

Mr. Chaikin: Alright, thank you.

Mr. Pierce: And as long as they use the right material. Like if you put copper right on this, they kind of start to fight with each other, I guess, and they'll eventually rot each other out so that's why we use stainless steel to anchor it.

Mr. Chaikin: Okay, thank you. Any other questions from the Commissioners?

Mr. Kalipi: Can you pass that down? I wanna take a few of that.

Ms. DeCoite: Mr. Chair? Nancy, you said this wasn't the Kaluakoi Villas, this is just different houses down at -- I didn't hear you.

Ms. McPherson: No, and Betsy might be able to answer that, it's Kaluakoi Villas and, you know, I still don't know what everything's called down there, I'm sorry, but --

Ms. Betsy Tompson: Hello. I'm Betsy Tompson. There was the Kaluakoi Resort included the old Kaluakoi Hotel and Golf Club and a group of condominiums, and it used to be called "Kaluakoi Villas." Currently, the Kaluakoi Villas is the rental portion that's in the rental pool. They're all privately owned units. There's 21 buildings, 148 homeowners. We are separate from the hotel and so when you go down there, when this roof gets put on, it's going to be pretty obvious, which is the private condominiums and which is the old hotel, and that's a different story right now. But, currently, this is simply for us. We had leaky roofs. We needed a -- it's a routine maintenance just we needed to get this done. Myself, I've been enduring drip, drip, drip for about three years so I can't tell you how ecstatic I will be when this is on all the buildings ...(inaudible)... that's concerned, we are currently changing our name to "Kapui Beach Resort at Kaluakoi" so that will further distinguish us from the old Kaluakoi Hotel.

Mr. Chaikin: Thank you, Betsy. Commissioners, do you have anymore questions? If not, I'm going to ask -- oh, go ahead.

Ms. DeCoite: So that, sorry, I just went kind of like brush off, I'm sorry, John, that wasn't like metal then underneath, yeah?

Mr. Pierce: What's that? Metal?

Ms. DeCoite: Is that metal? So what about --

Mr. Pierce: It's actually it's called "galvalume" and --



Ms. DeCoite: What about like the salt air and stuff?

Mr. Pierce: Salt air, it's got a 50-year manufacturer warranty.

Ms. DeCoite: Fifty-year, wow.

Mr. Pierce: Which after 50 years, there's actually a coating you can put on it that they'll extend their warranty an additional 25 years.

Ms. DeCoite: So, average, I mean I probably could get one calculator and do this, so what you guys looking at one -- how much is one roofing? What's the average cost on --

Mr. Pierce: For most -- like residential?

Ms. DeCoite: Yeah.

Mr. Pierce: Well --

Ms. DeCoite: I never bring my calculator, sorry.

Mr. Pierce: To be completely honest, it's almost out of residential affordability. It's \$10.00 a shingle. On average, material wise, for one house, you're probably looking anywhere from 10 to 20,000 just for the material. Very expensive.

Ms. DeCoite: Yeah, but you get the warranty, you have fireproof ...(inaudible)...

Mr. Pierce: It will outlast, you know, two generations so --

Ms. DeCoite: Thank you.

Mr. Chaikin: Any other Commissioners? If not, I'll ask for public testimony. Does anybody from the public wanna testify on this?

Ms. Caparida: I think that's ...(inaudible)...

Mr. Chaikin: Alright.

Ms. Caparida: Fire proof ...(inaudible)...

Mr. Chaikin: Alright, it's kupuna approved then. Any other -- Commissioners, do you have anything else to add before we move for a vote on this?

Ms. DeCoite: You think like maybe they get one fireproof mattress? No, no, no. I just playing. Yeah, I'd like to make a motion to accept the SMA.

Mr. Chaikin: Exemption.

Ms. DeCoite: Exemption. Sorry.

Mr. Chaikin: Okay, we have a motion on the floor and it's been seconded by --

Mr. Williams: I'll second it.

Mr. Chaikin: Commissioner Williams. Any discussion on this item? Seeing none, I'll call for the vote.

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

**It has been moved by Ms. DeCoite, seconded by Mr. Williams, then unanimously**

**VOTED: To accept the SMA exemption.**

Mr. Chaikin: We got five for so it passes unanimous. Thank you, people, for your patience and sorry to keep you here all day. Alright, we're going to keep going through our agenda right now, and the next item that we have on our agenda is Malama Pono O Ka Aina. They're requesting that we write a letter of support for wetland assessment, and I think that maybe Nancy can give us an update or is Linda or whoever wants to give us an update on what's happening on that particular item.

**2. MALAMA PONO O KA AINA (MPOKA) requesting that the Molokai Planning Commission write a letter of support for Wetland Assessment. (N. McPherson)**

**The MPOKA group wishes to make a presentation to the Commission on impacts to fishponds, wetlands, and shoreline areas in Manae, in order to illustrate the need for a comprehensive Wetlands and Shoreline Assessment Study to be conducted by the US Army Corps of Engineers which will provide data for better planning and enforcement of federal, state, and county laws regarding these resources. A request from a government agency and matching funds will be needed for the Army Corps to initiate such a study.**

Ms. Buchanan: Chair Chaikin, I think we can move quickly on that item, but what was lacking was -- was an attachment of a draft letter itself. I was kinda hoping to see that whenever Nancy not busy.

Mr. Chaikin: Okay. Yeah, Nancy, we just wanted an update on the wetland assessment letter. Where we're at on that.

Ms. Buchanan: Is there a draft letter for this Commission to approve?

Ms. McPherson: No, Malama Pono O Ka Aina wanted to make the request in writing and then, you know, you would need to discuss and ask questions, I was thinking, and, no, I haven't drafted a letter yet. I'm sorry.

Mr. Chaikin: Well, we did get a letter from Linda, and I have it here, and what she was doing is basically explaining to us what it is that -- that they're attempting to do and I think that there some questions on here that we might wanna ask about that process. So let me call Nancy. I mean what's -- I understand we don't have the letter yet but we do have the explanation of what we are trying to attempt to do here with this letter.

Ms. McPherson: Well, you have the request --

Mr. Chaikin: Right.

Ms. McPherson: For your support --

Mr. Chaikin: Correct.

Ms. McPherson: That this study should be done, and I actually have a couple of handouts I wanna give you because there has been some initial discussion with the USGS and the County Department of Water Supply, Ellen Kraftsow of the Department of Water Supply, because USGS is actually partnering with the County and the Army Corps to do the water model for Molokai, and they are studying some of those coastal resources, so if you would allow me to just pass this additional info out. And then I guess what -- what we need to discuss -- the group needs to discuss with you perhaps is what's the best strategy to accomplish the goal and, you know, what I recommended was that the Commission request that the County pursue this, perhaps using the environmental coordinator as a point person, to identify funding sources and figure out what the partnership's going to look like in order to do this, and I believe it requires a memorandum of understanding or something probably for the County. So let me go ahead and get these handed out.

Mr. Chaikin: Thank you, Nancy. Did you wanna make a clarification on this?

Mr. Hopper: I could say it later, but just as a -- as an info, if there's something that's -- that's considered in, as Nancy was saying, an intra-governmental agreement or inter-governmental agreement, an agreement between the State and the Federal Government, or between the County and the State and the Federal Government, that does have to be approved by the County Council if it involves any financial obligation, which would also include any sort of -- any sort of agreement to dedicate personnel to something. And, of course, if there's a -- if there's money to be spent by the County on, you know, for the project, that would have to be approved by the Council as well, and that's usually construed as the -- that approval that's necessary for the intra-governmental agreement. So just to let you know that there's -- there could be some County laws involved in such a project that you should probably be aware of.

Mr. Chaikin: Thank you, Mike.

Ms. Buchanan: Chair Chaikin, I have a question for Corp. Counsel.

Mr. Chaikin: Okay, go ahead.

Ms. Buchanan: Corp. Counsel, what about in a form of a resolution from this body in support?

Mr. Hopper: Well, I'd like to get more details on exactly what's required. I read somewhere in letters that the -- it appears that a County agency has to make this request before something can happen and I'd just like more -- I have the three letters here, but I think it would be helpful for everybody to know what all the laws involved are; what a letter of support or a resolution in support, one of those things, what affect that would have, essentially, if they would have some sort of legal affect; why that's needed; why the Planning Department, for example, on its own couldn't make that request versus the Planning Commission. Just some things that I wasn't completely sure about. You know, I'm sure you could do a resolution but I'd recommend that you are aware of exactly what affect that would have and what the plan is.

Ms. Buchanan: So, Corp. Counsel, when would you make us aware of that?

Mr. Hopper: I'm not aware of that. I'm waiting for the people that are proposing the project to make that aware to you, as the Commission. I'm advising you as your attorney that, you know, to get that information and I -- the information, apparently, was conveyed by the Federal Government to this particular group in their meetings, which I mean I wasn't there, and I would, you know, I would suggest that you find out from them what exactly they want from you and what affect that would have as far as making the project go forward, exactly why that's needed, which, you know, I assume they're going to explain to you today. But the only info I know is just from what's in these three letters and, you know, that's the info

you know as far as what's been transmitted so far. So I would just suggest that you consider those issues before voting on a resolution, which if you're okay with, you could certainly vote on it, but I think it's important that you know exactly what's going to happen.

Mr. Chaikin: Thank you. And I don't know, Linda, did you wanna make a presentation on this today?

Ms. Linda Place: ...(inaudible)...

Mr. Chaikin: Okay. Did you wanna come, Nat ? Maybe you can clarify some of these issues.

Mr. Bacon: Nat Bacon again. Basically, we were told by the Army Corps of Engineers that for us to be able to get them to do this study, which would basically identify the wetlands, which would also tie in with the other mapping project that we're doing now, that a -- a government, a non-Federal Government agency would have to make the request. We, as private citizens, can't do that. A government agency would have to do that, which would be in this case we're asking your support so that we can ask the County to go ahead and do that for us, and it would require that the agency, which in this case would be the County, would have to pay for half the study that's being done but that doesn't have to come out of the County's pocket. That can come out of things like work-in-kind where if we did all the legwork, that could be credited towards the 50 percent. We could also get private funds involved in that and -- but they would have to be funneled through the County, apparently, is the way that -- that is set up so that the County is the agent or the go-between. And -- but we'd like to just get the ball moving because in the end, what this is going to allow us to do is protect our wetlands, which are really important now because we're all very conscious of the fact that, you know, eventually here food is going to be a problem, you know, and if everybody's coming in and building on the lo'i and the wetlands properties down there, that's our food source. That means that the pollution from those houses is going out into the ponds, it's going out onto the reef, and everything else, so we wanna protect all that. And, you know, the basis of all this is like the wetlands and ponds. We have to protect those. As we all know, the wetlands protect the runoff, they're supposed to anyway, is, you know, take care of some of the runoff, they act as a filtration system so that most of the stuff that comes down, runoff from the mountains, gets filtered out before it goes out onto the reef. And if you look at Mana'e, you can see that even though we do have problems with flooding, flash flooding and stuff, we don't have as much of a problem as Kawela does in terms of the reefs being covered with all the siltation because we do have -- we still have some wetlands available that are filtering that, and we wanna protect that. We wanna protect the lo'i that people are filling in to build their beachfront or waterfront homes, and protect those because those are going to be our food sources down the road here when things get a little bit tighter. When the barge stops, we wanna be able

to feed ourselves and the reefs, the fishponds, and the wetlands are going to do a major part of that, so we're trying to protect that.

In the end, this mapping project that we're trying to do and that the Army Corps of Engineers will do for us is this will give all of us, you know, you guys, ourselves, any new homeowners that come in here, they'll give us a good idea of which lands really do need to be protected. I mean there's some places, you know, there's a fishpond here and a fishpond here, in between -- in between there may not be any wetlands, there may be, but there may not be, so we wanna be sure that at least we're protecting the wetland parcels. And that's what this program's for and that's why we're -- rather than just a voice by ourselves asking the County to do that, we would like, you know, your support also in terms of that and writing the letter. I don't know that has to be a -- a resolution, but, you know, I -- whatever kind of letter of support you can -- you can forward on to the County to help this effort would be great. That's what we're looking for.

Mr. Chaikin: Okay, thank you, Nat. I understand what you guys are looking for. Just a couple of questions. I mean it seems like the major roadblock is money, that 50 percent that has to come from somewhere. Have you -- do you guys have any ideas of where that money might come from?

Mr. Bacon: We've talked about getting some private investment in it, and we've talked about -- a lot about doing, you know, in-kind work, which they're very much in favor of because they are also strapped as far as their staff goes, but we can do a lot of the leg work, which would -- which would help on that. But we also don't know exactly what this program entails. We know that we have to do GPS locations of all the different places. We also know that we have to have whatever legwork we do, we need to have some training in terms of, you know, really identifying what the wetlands are. The other thing that we'll also do is define what the wetlands are cause there are different definitions: County, State, and Federal definitions for this. So this will be, and everybody agrees, that the Army Corps of Engineers does have sort of the final say in that. And if they define it and we do everything according to their definition, it should work across the board. I mean we're told it would work across the board.

Mr. Chaikin: Okay, thank you. Just to clarify the whole concept here, you know there's things that are clearly not wetlands, and then there are things that are clearly are wetlands, and then there's this kinda gray are in between where it's kind of hard to tell. How are we dealing with that right now, Nancy? If somebody comes in and wants to build a house, how do you figure out whether or not -- I mean how are we doing it now?

Ms. McPherson: Well, unfortunately, what's happening now is that people are going ahead and filling without pulling the proper permits. And so what's happening is the fill is occurring, the wetlands have not been delineated on the property, and then various things

happen. Some people have been cited for violations. In some cases, the State gets involved. The Army Corps can get involved. But what we're not really seeing is a lot of proactive identification of wetlands as part of the development review process, at least I haven't seen that yet in my tenure here, and so I think the concern is that it's kind of business as usual. It's been going on for years. People go and clear, bring in the rocks and the dirt, maybe they do it at night, you know, and they go for it and they just figure nobody's going to find out and that'll make the wetland go away. Now, the thing that happens when we do get proper -- a lot of these areas are in the SMA as well, so if we get proper applications in, even if they don't need a grading permit, they will still need SMA review, they will still need -- we will look at wetlands, we will look at all of that stuff. If we need -- if the applicant needs to get that delineated, then they will be asked to do that and I believe they have to pay for that, the private property owner has to pay to have those wetlands delineated. We also have historic preservation review so the State Historic Preservation will look at that parcel and see if there were lo'i there originally or how it relates to the fishpond. But, you know, again that just -- that hasn't been working so well. So I think the idea is if we have more information, we can do better planning. And if we have that information in a GIS format, we can really go to town, basically, and -- and perhaps, you know, I'm not sure what the next steps are. At this stage the focus is on getting better data on that region, and they will not be doing wetland delineations because that's extremely expensive and time intensive. They don't have the staff to do that. We don't have the money for them to do that. But what they would be doing would be an inventory. And I had a long conversation with someone from the Army Corps and they said that what they do is first they do aerial and satellite photo history and analysis, so they look at -- from above; then they also do - and probably Commissioner Buchanan knows a lot about this sort of thing, she's a great resource for you - that they shoot down from the satellite or whatever and they can kind of figure out where -- at least they can see through the kiawe to where it's wet, and then have software that will extrapolate that out and figure out where the extent of that are, and then where they're unsure, they will go ahead and bring their guys over with Trimble's on their backs and they're going to do ground truthing, and they're going to go out in the fishponds. And one side benefit of this is that they're also talking about doing shoreline analysis and GPS'ing the shoreline, which, as we know, has changed over time quite a bit. Some places have accreted; other places have eroded. So that would give -- that would really help me and the County as far as -- and the property owners as far as knowing where that shoreline is and being able to site development properly. If we know where the wetlands and shoreline is, it makes everybody's life easier.

Mr. Chaikin: I understand. Commissioners, do you have any comments on this?

Mr. Kalipi: I have a question and comments, not necessarily for Nancy, but maybe Nat. My understanding is, as their seeking support of a letter for the Planning Commission, I guess my question and comment, before you answer, have you also seeked my understand of what you said you have to seek a non-Federal agency or so forth and there's

other agency or nonprofit organizations on Molokai, MCSC, there's other organizations that probably could also support the cause of wetlands, and the reason why I say that is not that as Commissioners we do not wanna, you know, I think most of us wanna support the program or wanna support the process; however, if it stickys up or if it slows down because it doesn't look clear about the money part, I rather you proceed it by getting somebody else to write a letter to proceed it forward other than us. However, you know, speaking out loud, if it us, you know, that's great because I truly believe, you know I can't speak for anybody on the board but myself, we're very supportive of the things to collect the data and so forth, but if it's going to slow the process through us, I think it might be easier to look for other alternatives, and I don't know if you guys did or not, and so that's kind of a question/comment for you.

Ms. McPherson: I think as Commissioner Buchanan knows, is we need a government agency to make a request of the Army Corps of Engineers and provide the matching funding. The matching funding can come from other sources but it has to be an agency to agency request. It has to be a government agency. That's why, you know, the group thought that it would be better to ask the Commission instead of the Commission directly asking the Corps to do this, that the Commission needs to ask the County to ask the Corps. Now maybe the Commission wants to also ask the State to ask the Corps, you know, to do this. But it needs to be a government agency. The group has met with DLNR folks and they're supportive of better management of the wetlands. So I'm not sure how it will all work out. We're all on a learning curve here. So, you know, any resources that would be advisable, you know, would be great suggestions, but it has to be agency to agency request or nothing happens. That's why when they requested in 2005, and the request went to the County and wasn't acted on, nothing happened because that formal request wasn't made to the Corps.

Mr. Chaikin: Commissioner Buchanan, go ahead.

Ms. Buchanan: I guess I have a question for Clayton Yoshida. Clayton, you remember the Papohaku Dune restoration project that was -- got the seed funding from OHA and then went through the students, and Nancy knows that, did -- did this Commission have anything to do with -- with getting that? Did we write letters of support at that time to get that project ongoing, to your memory? And I think besides all of that, I am really supportive and in favor of -- of this Commission doing something to move the project along because it best serves the County of Maui cause it's in the SMA. But, Clayton?

Mr. Yoshida: I believe with the Papohaku Dune study, there was a presentation made, copies were supplied by OHA for members of the Commission, there was presentation made, I believe, by OHA and Sam Lemmo from OCC of Department of Land and Natural Resources, and I believe at a subsequent meeting, the Commission took action to support some of the implementation strategies that were part of the plan, if I'm not mistaken.



Ms. McPherson: I was a graduate student that was part of that study and, to my knowledge, the Planning Department of County of Maui was involved as far as providing some technical assistance and data for the project, but there was no funding provided by the County. It was OHA and -- OHA funded it but DLNR was sponsoring it, and then, you know, the project was brought by the professor heading the Practicum to the Commission, several times actually, and the students presented, and I was one of those students, and -- but I don't believe the County was involved initially in the planning of the project and implementation of the project. But I wasn't -- I wasn't with the County then so I don't know that for sure.

Ms. Buchanan: I think, Chair Chaikin, I was just trying to get to the point where if we are supporting or we're going to try and push our County Council to support this, how would that look like cause I really don't have any concerns or ramifications that Corp. Counsel pointed out earlier to support this project at this time with what I have in front of me from USGS.

Mr. Chaikin: Well, I concur. I mean I think that we should do what we can, I think that's our position as a Planning Commission to assist and facilitate anybody that wants to move forward on these kinds of projects, and anything that we can do to be helpful, I think we should. The real question is, Nancy, how do you see this proceeding? Do you see that you would write a letter, and then you would distribute it to us, and then at our next meeting, if we liked the way that the -- that the wording in the letter was, we can approve it at that time?

Ms. McPherson: Yeah, if the Commission so request, I can do that. There is also some information that was presented to the folks that met on March 19, I think that's referred to in the letter, the people who met on Maui, there was information presented there, and it's conceivable that that could be presented to the Commission as well at the next meeting, if you would like that, to provide a little additional information on why the Malama Pono group is proceeding in this direction. So that's -- if that's what you will, I'd be happy to draft a letter on -- I'd probably do it with -- with the group and, you know, or with the group's advice but on behalf of the Commission.

Mr. Hopper: Yeah, I was just wondering, the letter would go to whom? To the Planning Department?

Ms. McPherson: Well, I think that's what the Commission needs to decide. Would you like to have this letter go to the Mayor? Would you like it to go to the County Council or the Planning Department or --

Mr. Hopper: What do you think? Would it go the department? The department would wanna put it in its budget or have a budget amendment for this study or something like that and the present that to the Council and how would that work?

Ms. McPherson: Yeah, I think the -- well, maybe Clayton can help me out there, but my understanding is that a request was already made on Molokai, although not in writing, when the Council was over here. Yeah, Malalma Pono is always asking for money to do additional work on, you know, research for Manae, but perhaps Clayton can advise us on what would be the best way to proceed, whether it would be better to go, you know, ask the Mayor or -- I mean the last time around, the Planning Director was -- was asked but I guess the department didn't really respond so --

Ms. Buchanan: How much money we need? Cause I know the Corps is going to up with half so the total projected budget for this project is what?

Ms. McPherson: Well it - it went between -- well it went from 175 to 250 and -- over three conversations so, again, that's why I had conversations with Gordon Tribble of the USGS and, you know, asked, "What are you guys doing now and is there any way that we can piggyback or --" I mean they pretty much got their proposal ready to go and just about signed, so I don't know if they can necessarily amend it at this point. They're mainly looking at water supply and not necessarily wetlands. You know, that's when we get into our jurisdictional areas and we get into, you know, is it fresh water coming from the land; is it saltwater coming from ocean; are they mixing together and, you know, how can we study this? Now, the Army Corps looks at, you know, relationships to navigable waters including the ocean so, you know, and so they'd be looking at a reasonably broad area but I'd like to see it matched by the activities that the USGS is doing with the Department of Water Supply to look at fresh water resources out there because they have Ualapue has a well and, you know, we don't know how pulling more water out of Ualapue is going to affect the near shore resources that depend on freshwater seepage. You know, so I think it's a really good idea for these guys to get together and figure out what they're doing and however that works out, I mean they've actually been really helpful and cooperative, but, you know, half of -- I'm averaging it out to 200 grand at this point, so I'm hoping we can get it down, but we haven't seen anything in writing from them. Anyway, yeah, they seem like to have a round number that they use or something. But I mean it does involve a lot of computer time and staff time, and they have to come over to Molokai and so but --

Mr. Chaikin: Okay, sorry, Nancy. Clayton, with your knowledge of the process, what would you recommend? That we go to the Mayor directly or we go to the County Council?

Mr. Yoshida: Well, I guess maybe the best strategy would be to go to both because, you know, the Mayor's going to propose the budget and the Council is going to tweak and approve the budget, so you will need support from both. You know, the Council is about

-- the Budget Committee I guess is wrapping up its deliberations on the FY09 budget. I mean they've been working -- putting in very long hours. I think they were up to 8:30 last night working on the budget, but it's not too late maybe for the -- perhaps the FY10 budget because, basically, that starts in September-October, you know, with the Mayor going out to the community and saying, well, we're trying to put together the FY10 budget, you know, what would you folks like to see.

Mr. Chaikin: Thank you, Clayton. That is a good strategy. Kalipi, did you have something?

Mr. Kalipi: Yeah, Clayton, is it, you know, is it even possible like the group can also look at soliciting support for funds through like OHA or the EC, alternate funds that would kind of come along side that way that the County is not really carrying the whole half?

Mr. Yoshida: Yes, I believe in the letter from Army Corps of Engineers to Linda, dated August 23, 2005, I think they are looking for other government agencies, organizations, so they would be pleased to work with any Federal, State, or County agency upon their request, so it could be a State agency like OHA. It doesn't necessarily have to be the County.

Mr. Chaikin: Thank you, Clayton. Okay, so what Clayton was saying is that he thinks that we should write a letter to both the County Council and Mayor requesting them to support this initiative. And so is there any objection from anyone here that we have Nancy proceed and to draft a letter that we can approve at our next meeting? Alright, hearing none. Nancy, maybe you can draft a letter and what do you do? You draft one letter and send it to both or, you know, when he says you -- is that a carbon copy or how do you do that?

Ms. McPherson: No, I can -- I can address it to the Mayor and the Chair of the County Council, and there will be two original letters sent out, and then we'll probably have a bunch of people copied on that as well, and so then those will be copies, basically, that will also be sent out but it -- it'll -- we'll have two originals that'll go out.

Mr. Chaikin: And so how do we get past the point where it falls into a black hole and we never hear anything again? I mean can we actually request some kind of a response back from them so that we can see where their heads are at with regard to that and we know if we're moving in the right direction or we're not?

Ms. McPherson: I think it would be reasonable to ask for a timely response from the Mayor's office and, actually, Kuhea Paracuelles, whose the Environmental Coordinator has -- is aware of the situation, has been very helpful and supportive to Malama Pono's efforts and is really trying to coordinate, so, you know, her name could be mentioned in the letter and just make sure that they know that -- that time is of the essence, that budgets are moving along, and the Corps is moving along, and USGS is moving along. I was told by

Derrick Chow that they were putting money in for this for their fiscal '09 budget. I guess they just have the power to do that. And, you know, so now the point is to try to get onto the radar of the Council as well as the other State agencies. It sounds like OHA and DLNR are a good place to start. So, yeah, we can put that in there.

Mr. Chaikin: Good. Commissioners, do you have anything? Other final comments on this subject before we move on?

Mr. Kalipi: Comment. I don't know where it is really in the process but also by writing a letter and things that was done last year under DeGray, I don't know if we can even get on the agenda to public speak in support of this process, but even presenting the letter physically together with the group, and as I said, I don't know where it is, but I think it holds stronger deliverance and then it also would go on public record. And I don't know where it is, as I said, but if we're going to extend ourselves and we really believe in this project, then, yes, a letter would be the first step but physically having our Chair or someone alongside with the group of Malama show up, I think that's going to hold a little bit more punch.

Ms. McPherson: Yeah, I'm really not sure how, you know, one can present a letter in person to the Mayor but I'm sure we could find that out as well as I don't how you could get on the agenda of the Council to do that, but I think it would be very effective if, perhaps, the Chair accompanied, or the Vice-Chair, you know if need be, accompany the group to go ahead and read the letter to recipient and let them know how strongly you feel about it.

Mr. Chaikin: Commissioner Buchanan?

Ms. Buchanan: Clayton was just saying that they're finishing up their budget. I'm assuming that Malama Pono made a request at the budget hearing. Is that correct? Okay, see, they already made the request. The request is already in. What we're doing now is we're supporting their request and we're trying to expedite that request for this fiscal year. In that letter, if that cannot be met, then it would strongly ask for it budget as a line item on the next fiscal year, and so that letter of support is going also in front the Mayor as well as the County Council budget review board and they can encumber funds from places you wouldn't believe cause this would even go out of the emergency funds from watershed protection, which they just went out and scooped over a \$400,000 to buy Kawaikapu, okay, without minimum hearings. So that 200,000 projected budget for this type of project is a drop in a bucket, okay, cause we doing other USGS things that is in half a million and upwards of that project from Molokai now times two. So I cannot see this stalling out, you know, I would like to hurry up and get it because it very well could -- hundred thousand dollars be approved by the County is very reasonable.

Mr. Chaikin: Thank you for bringing that up because time is of the essence. They're working on the budget right now, we need to get this in ASAP or we slip to next year as the first chance to get it in. So, yeah, I think we should really press in the letter that they have made that request and that we're hoping they could -- could accommodate that. Alright, any other final comments on this? Did the -- Malama, do you guys have any final comments before we move on?

Mr. Bacon: No, the only thing is that we appreciate your guys consideration on this thing and it's going to be something, when it's done, it is going to be helping all of us. I know it's going to help you guys make your decisions. It's going to help us. It's going to help everybody.

Mr. Chaikin: Okay.

Mr. Bacon: So it's really worthwhile.

Mr. Chaikin: Alright, thank you. And I guess this is on our agenda, we should ask anyone from the audience out here if anybody wants to provide testimony on this item. Judy?

Ms. Caparida: We're part of this group and because there is so many meetings that we have to go to, we ...(inaudible)... so that's why we support them only can sometimes make the meetings once a month with them. But you know what? We are very concerned because a lot of them pouring all kinds of stuff in the fishpond and then we took Mele Carroll, took her on the boat, they went all the way around on the boat to go check it all out. I mean we did this. This going be three years I think we already started this thing and we thank Linda them for pushing this to get funds so that we can move faster. So we even started to have them to put it up in legislature. So please kokua Manae. They're raiding us.

Mr. Chaikin: Alright, we're on it.

Ms. Manu: Yeah, we're for that. Okay, thank you.

Mr. Chaikin: Any other final comments here?

Ms. DeCoite: Yeah, real quick, I think it would be good too if you would, I know you guys get like one coconut wireless email, Linda, just have everybody send in emails in support to the County Council and the Mayor. That was like one big help for one of the other projects that just went through seeking funds. And that's all.

## **E. CHAIRPERSON'S REPORT**

### **1. Molokai SMA map**

2. **Molokai zoning map**
3. **SMA permit processing complaints**
4. **Wetland delineation**
5. **MoPC Recommendations to the county council regarding transient vacation rentals (TVRs) and Bed and Breakfasts**
6. **Memorandum dated 3/27/08 of meeting with Chair and Vice-Chair with Director and Staff**
7. **Administrative Rules of the Molokai Planning Commission**

Mr. Chaikin: Alright, we need to move on with our agenda here cause I know that the Planning Department has a time constraint today. They've got some flights to catch and so the next thing on the agenda is the Chairperson's Report and I think, at the last meeting, I had requested that the Planning Department come forth with some SMA maps and some zoning maps and I'd like to get an update on -- on how we're doing with that particular request.

Ms. McPherson: The SMA -- the zoning maps are here and the SMA maps didn't make it through TSA. They got stuck in the machine and I forgot them, so I'm going to go Friday and pick them up, so I'll bring them to the next meeting. As far as the boundary study goes, I don't have an update on that but I'll talk to Thorne about it cause we really need to get going on that also. You've been very patient.

Mr. Chaikin: Okay, I'm sorry. I heard that we did get the SMA maps but they got stuck in the process, and then there is the zoning maps, and what was --

Ms. McPherson: The zoning maps are there. We brought those in today.

Mr. Chaikin: I guess what I was asking for is small versions of some zoning maps --

Ms. McPherson: Oh, I'm sorry. Yes.

Mr. Chaikin: That we can keep in our booklet so for home or something, if we wanna check some things out, we can -- we can do that.

Ms. McPherson: Okay. Well, we haven't done that yet but I can -- I can get going on that. I think I'll have to ask Long Range Division to produce those for us since I don't have GIS yet here and I don't have a color printer. So you're going to need color in order to see this. So I'll ask Long Range to get going on that so, hopefully, we can get those for you for your next meeting also.

***(Commissioner Williams was excused from the meeting at 4:37 p.m.)***

Mr. Chaikin: Thank you, Nancy. The next thing that I had on my Chairperson's Report, if you remember at our last meeting we had Lloyd come before this Commission and he had some concerns, and the reason I put it on the agenda is that I think it's important that we're responsive. When people take the time and the energy and the effort and get the courage to come up and spill whatever's on their mind to us, we should make an attempt to, you know, give them the benefit of the doubt that there's actually something to what they are saying. So that's why I put this on the agenda and -- and so, anyway, with his particular issue, the first thing that I remember him saying was that he got fined, and we don't like to hear anybody in the community get fined. But then on the other hand, I remember this Commission, not too long ago, saying that there was absolutely no enforcement on this island. And he is not the only one that I have hear gotten tagged for different things. So it is particular encouraging to hear that we have a Planning Department with an enforcement division that is at least somewhat resilient that can, you know, take the call that we made and come to our community and at least take some action. Now, the reason I think that's important is because it kind of provides the checks and balance. I mean if you have a community and it's the wild, wild west and no one's paying attention to the rules, there's no sense making the rules. It's really what allows the government to govern. So, you know, I give credit to the enforcement division. I'd like to give credit where credit is due. And the other thing that he had brought up was that he thought that the permitting process was overly burdensome; almost to the point of being ridiculous. I think there are two kinda sides to that story. One side would be that this particular community does not necessarily embrace development so the fact that everything goes in kind of slow motion, is not necessarily a bad thing cause it allows more people to provide input and just take a look at what is going on.

On the negative side of that is when the process gets so burdensome that it becomes -- it just gets to the point where it doesn't work anymore. Then that's the point where we need to take some kind of an action. So I would like to ask Nancy, you know, you were there. You heard his complaints. You deal with the permitting process on a day-to-day basis. I mean how do you feel about, you know, the process? Is it working? Is it okay? And then also, you know, I don't really understand the process that well. Is it our rules that are requiring all of these forms to be filled out or is that some SMA requirement that comes from the State? Could you just clarify that for us.

Ms. McPherson: For Kaunakakai Town, the entire town is in the SMA and quite a few of the business -- I believe all of the businesses on the streets are in the business country town designation, which is the design review designation, so that means there's two sets of review processes that you have to go through. You know, to my knowledge, neither -- those questions just weren't asked initially and the work was done and so then, you know, then it was noticed or reported by someone. You know, and it's in violation because there were no permits pulled. So the point is to talk to the planner. Come to window, you know. Ask me what it is that you need to do. I'll sit with you for an hour and go through the

application. I think the hard part for a lot of people is they just never had to do it before. They just managed somehow to get through without going through the process. So that's kind of a shock right there that you actually have to go through this process especially when you don't -- really don't understand it, it can seem pretty complicated, but I was hired to assist this community in doing these things and that's what I'm here for. So I -- actually a lot of my time goes towards educating the public, educating property owners and business owners and, you know, at the same time, I'm also supposed to be processing the permits, so it's hard for me to spend -- I probably spend way too much time doing that and, you know, and then it seems like the permits are taking a long time. So, you know, you have to find the balance. I don't know that I've totally found that balance yet.

But design review actually is kind of complicated. You do have to go to the Urban Design Review Board a lot of times and so for small businesses who maybe don't have a lot of resources, the thing can seem really onerous, and I'm not sure what -- what we need to do in order to fix that. The SMA assessment's actually fairly straightforward, so that's pretty easy, unless you're on the shoreline, and unless you have, you know, historic, you know, lo'i, archaeological, and wetlands, and all that stuff. In town, it's really easy. Our problem, you know, is that -- I mean when I look at photographs of what that gas station looked like originally, it was beautiful. It was a beautiful structure. And why some of these buildings have been torn down in this town is called "demolition by neglect." And I've had long conversations with our Cultural Resources Planner and a lot of the most beautiful buildings in town were just allowed to just fall apart and fall down. So I think the idea of the business country town district ...(inaudible)... bringing Kaunakakai Town back to its former glory because it was beautiful. It was all kinda plantation style and the colors were awesome, I mean I wasn't here so I don't know exactly, but you know when I see that original gas station and I look at what's there now, it makes me sad. So, you know, if owners, property owners are willing to work with us, we'll provide as much ! technical assistance as we can to help the town look better. That's the idea. That's the purpose.

Mr. Chaikin: Okay, thank you, Nancy. It sounds like what you're saying is the system works and it's not dysfunctional; it's really an educational issue that the community has to be educated into the process. But thank you.

Ms. McPherson: I mean I'm sure there's way that things could be streamlined. You know we're going to be looking at that but, for now, actually asking what permits you need is a good place to start.

Mr. Chaikin: Alright, Commissioner Buchanan, do you have something?

Ms. Buchanan: I put in -- asked the Mayor for a lot of money for support for Nancy's office. She's got a lot of technical issues. A lot of information, communication breakdown with Maui that can be fixed, it's just it needs to be fixed.



Mr. Chaikin: Alright, we have that on our agenda and we're going to be moving on to that. So I think we can leave this -- this issue behind. I think that, you know, the system is workable and I don't think it's dysfunctional, so we can move forward.

Ms. Buchanan: Well we, at some point, might wanna have a task force work on it or a committee at least do something about it. That would be my recommendation.

Mr. Chaikin: Alright, well let's bring that up at a future date. Commissioner DeCoite?

Ms. DeCoite: Oh, I'm sorry. Mr. Chair, yeah, I think it is kinda dysfunctional because, I mean as we heard Lloyd say, he sends in his permit, it comes back, he makes the changes, it goes to another person, it comes back with different changes, and it needs to go to one area, do the changes, everything, and then come back, but he was going around and around in circles and that's what the problem was because for one thing, you know that our inspector is working out of Maui, and when they were hired, even like Mr. Nanod, they were hired designated for Molokai, but now because they're short-staffed over there, we're sucking wind. So we kinda need to make sure that we're taken here and the dysfunctionality needs to be revisited, which was why the streamline process of the permits was what we talked about in the beginning I think and I no think we really went streamline down.

Mr. Chaikin: Okay, well it sounds like, you know, this is something that we might wanna take up on a future agenda to, you know, really take a good look at the process, figure out if there's any areas that can be improved or streamlined, if there's areas that are dysfunctional, and try to just make it a better process. So we can consider that for a future agenda item. Anybody else before we move on?

Ms. Kalipi: The last comment I guess or -- the one thing that I remember Lloyd mentioning that I think this would be -- would go under amendment rules or somehow we gotta look at amending some of the things that we have in place right now because, in Lloyd's case, there's one part that he said was that he had to do because it was public safety and health and welfare issue. If he wouldn't have done it, then, you know, if he just let it go and then, you know, the public got hurt, then he got sued. So there gotta be some language there to exempt certain things that when it comes down to public safety and so I think we gotta revisit that and so I do agree with misses -- Chairman Buchanan there to say we just cannot just past this and let this go by but there needs to be amended rule change and some thought behind the amended rule change. Thank you.

Mr. Chaikin: Thank you, Commissioner Kalipi. I don't mean to push on and just leave this issue behind but we do have other things on the agenda and I know that the Planning Department has a plane to catch, so let's just try to go through this, what we have remaining on the agenda here.

And the next item that we have is recommendations to the County Council regarding transient vacation rentals and bed and breakfasts. And the reason this is on the agenda is this Commission spent a lot of time and energy and effort, had multiple meetings to come up with our specific recommendations. Those recommendations have been transferred up to the Council for their review and, you know, the thing that's really missing is, you know, we have to understand that we are a very small fish in a very big pond, so, you know, there's a lot of other people that are a lot louder and they happen to be over there. So our voices kinda get drowned out. So I'm just bringing this up, you know, just asking if -- if we feel that we should, you know, take some action to make sure our voices are heard more than just submittal up there because one of the things that's really missing in this is that our recommendations get passed up to the Council but the why is missing. When people make decisions, they make decisions based on some type of rational, or some kind of a -- an argument for or against something. But those argument is just not even there. It's just saying, oh, they agree, or they don't agree, or this or that, so it's really hard for the, you know, the Council to just really latch on to our ideas because they really don't know the why behind those ideas.

And the other thing that I think that we have a problem with, and this is going to be an ongoing problem for this Commission, is that the Planning Department feels as though this is one County. One County. One set of ordinances across the board. That will create a sense of continuity and community throughout the County. Our problem is that we don't necessarily concur with that reasoning and we feel we are slightly different, and that's why we always put in our ordinances "except for Molokai." You know we put that in a whole bunch of times, okay, but that's not supported by the department so we don't have any cheerleaders up there supporting our recommendations. So they're going to get drowned out. So if we're passionate and we really feel like we wanna go and support the decisions we made, we should write a letter and just have a couple why's up there, just say, hey, we're alive, we're real people over here, we have real feelings, and, you know, just because I think th! at that's what really moves decisions. People get up there and they lobby for this or lobby for that, and hopefully they get it through. So anyway, that's why I put it on the agenda. If there's some, you know, consensus with the -- with the Commission or something, maybe we can form a committee and write a letter or something. If not, we can just forget it and let the chips fall where they may. Do you guys have any comments on this?

Ms. Buchanan: I do. That should be included in a staff report back to Council whenever you transmit your decisions or whatever your concurrences. You could forward that in the form of the staff report that those ideas be conveyed. Just be very clear in what you wanna convey.

Mr. Chaikin: Thank you. And that's a really good idea. And what we need to do in the future is we need to -- to approve what Joe thinks we said. Cause basically we have these

meetings, we approve, and then he writes his report, sends it up to Council, we never see it. Okay. So we don't, you know, really know if what we really thought we said is being portrayed. So I think that's part of the problem. So if we can actually get to the point where we can do that. The question for right now is do we wanna just let this go and let the chips fall where they may, or do we wanna write a letter of support or something? Do you guys have any feelings on that?

Mr. Kalipi: I have a comment but not necessarily of just writing the letter for the B&B's, and I don't know the legality of the process of it, but, you know, referring back to what Commissioner Chaikin says, you know, more than just writing the letter and lobbying and being a voice like that, and I guess the question is going to be to probably Nancy or even Clayton that, and maybe it's to amend some of the rules and policy to venture on how can we have our Chair participate in some of the draft letters to follow the letter up to the County Council to actually be present there and so what I'm kind of looking at is I don't know what the budget or funding or if there's any funding, they don't give any funding for the planning commissioners or to the chair to get liberty to fund him to go and present letters or present certain items that is very important to our committee, we know that the County supply Planning Department staff to come to Molokai twice a month, there's about four or five of you that come, and maybe six, seven, and you get long term planning, you get all kinda guys coming over here, but I'd like to see our Chair, possibly our Vice-Chair, maybe getting an opportunity to present things in Maui, in person. I know DeGray, I don't know, I think he probably flipped his own bill or anything like that but, however, I mean if you're doing the work of this Commission and representing in behalf of the Commission and for the public at large, I think that's something that we really need to look at when we look at amending rules and stuff like that. Again, maybe Nancy can comment on this or even Clayton.

Mr. Chaikin: Yeah, I'd like to hear, Clayton, do other Planning Commissions, as a routine, like the Maui Planning Commission, is it routine for them to go and present testimony before the Council in support of their particular positions?

Mr. Yoshida: Thank you, Mr. Chair and members of the Commission. We do send out a copy of the transmittal letter to the various boards and commissions that had input on a document, such as the Hana Advisory Committee, the Molokai, Lanai and Maui Planning Commissions, as well as what we transmitted to the Council. If that's not sufficient, then, you know, the Commission may want to supplement that. But I mean we did the same thing, I believe, for the Countywide Policy Plan where it went to the three Planning Commissions and they came up with all different recommendations.

Mr. Chaikin: Yeah, okay, I understand, and I think it goes back to what Commissioner Buchanan was saying is that, you know, the why we made the decision should be also included in the staff report because when I look at this, it's very generic. It just says three

or four, it doesn't really say why we're taking the position that we're taking, so I think that's important. Hold on a second.

Mr. Hopper: Well, I mean the obligation is to transmit the recommendations themselves. As far as a why, that's kind of a nebulous idea. You need the why would have to be approved by the group by majority vote as well if you wanted to have sort of a basis because there could be -- I mean the minutes, and it is an issue if the minutes aren't getting up there, but the minutes typically should be transmitted as well so they can look through and, you know, if they're very patient obviously, read everything because those are long minutes, but if they take the time to look through those minutes, they should be able to see as far as what was discussed. But you should be aware that, you know, to be careful, as Lori said, make your recommendations very clear, they're obligated to transmit verbatim your recommendations, exactly what they were, and as far as sort of a -- if you wanted to put it's almost sort of a legislative history type thing where you say this is why we thought this, keep in mind that's something that you're going to have to approve as a majority because one person could have voted for something for one reason, another for another reason, and so, you know, just be aware that typically recommendations are actions even though they're just technically recommendations so --

In addition, as far as sending someone over to testify on a proposal, I included something in your orientation packets from the OIP about how to go about having a board who's interested in piece of legislation testify and they had the rules for going about doing that. You could look at that. It's helpful to determine. The main concern is that you don't have someone individually go over without talking to the Commission and start testifying because that's person's take might be different than what the board's take is and even though they may say, oh, I'm speaking as an individual, but I'm the chair of the commission or something, the OIP doesn't see it as you becoming an individual. You're still considered to be that chairperson or you're considered to be that member and it's very easy for someone to be confused to think that you're speaking on behalf of that commission, especially when you're talking about the commission's business. So just be aware that OIP recommends that you do get some sort of a -- either a consent as -- it's exactly what Steve did, I think, for the EIS on Laau Point when he went over to the Land Use Commission. But be aware that that's what they recommend that you do.

Mr. Chaikin: Alright, so you know I haven't really heard any concurrence with, you know, that we should, you know, take this any further. Unless anybody, you know, feels strongly one way or another, we'll just drop this issue and move on.

Ms. Buchanan: I would -- if you wanted to draft the letter as a Chair on issues that you felt strongly for especially on -- if you worked hard on the B&B and in a timely fashion, I'd be willing to review that and sign that letter and even support you going over to do that. I don't have a problem with that.

Mr. Chaikin: Alright. Do you guys concur with that? Well maybe I'll work on a letter. I can bring a letter to the next Commission and -- and I just think it's important that we make our presence known. You know we get -- we're way out here and we ain't, you know, they're not going to be listening to us unless we jump up and down unless we make a big scene over here so --

Mr. Kalipi: Commissioner Chair, and I totally agree, and to clarify what I'm saying, and I know our Corp. Counsel said that, you know, be careful if one person represents or whatever going to Maui, but that person, in my mind, would represent us to just reiterate what we have decided and what's in the minutes and I think it gives more punch and pull when you're there, face to face physically, whether you call it lobbying for your position or point out or specifying your position and I just think that that's more, you know, making ourselves present in that fashion and form.

Mr. Chaikin: Thank you. And we gotta move real quickly here just to finish up because I know -- Clayton, do you wanna give us your time situation again?

Mr. Yoshida: Yes, Mr. Chair, I believe that, you know, we have to basically clean up the equipment and then we have leave. We're on a 5:45 flight. I was wondering if we could defer the rest of the agenda say for agenda items for your next meeting.

Mr. Chaikin: Okay, I was wondering if I could just ask you, just very briefly, on Item No. 6, I had asked you if we can provide email agendas out into the community because, as you know, we are required by law, if somebody request to provide them with the agenda for this meeting, so, you know, we've been doing it by licking envelopes and sticking stamps, sending it in the mail, which is very slow, it's not a very efficient means and we're trying to upgrade and just send it to whoever wants by email. Did you find out anything on that?

Mr. Yoshida; Yes, I believe the secretary to boards and commissions had sent out the email on the instructions on how to access agendas of boards and commissions or Council committees as soon as they are posted on the website. So if you follow those instructions, then you'll be notified of those particular boards and commission agendas when the County post it on the website.

Mr. Chaikin: Okay, great. So I hope you got it fixed cause, yeah, I've been doing that for the last year and it hasn't worked, so I hope they've actually fixed it and got that so it'll actually function properly.

Mr. Yoshida: Yeah, you could try to follow the instructions and if it doesn't work, let me know.

Mr. Chaikin: Okay, will do. So, yeah, we're going to defer the rest. We almost made it all the way through and I'd like to thank everybody for their patience. The only thing that we're going to do is does anybody have any pressing issue that they'd like to see on the next agenda? Okay, hearing none.

Ms. DeCoite: Motion to adjourn.

Mr. Chaikin: Yeah, I'd like to have a motion to adjourn. Motion to adjourn. Okay, I'd like to thank all of you for your patience. I'd like to thank AKAKU for being here and thank you for all that you do on behalf of our community each and every day. This meeting is now adjourned.

## **H. ADJOURNMENT**

There being no further business brought before the Commission, the meeting adjourned at 4:52 p.m.

Submitted by,

SUZETTE L. ESMERALDA  
Secretary to Boards and Commissions

## **RECORD OF ATTENDANCE**

### **Present**

Steve Chaikin, Chairperson  
Mikiala Pescaia, Vice-Chairperson  
Lori Buchanan  
Lynn DeCoite  
Joseph Kalipi  
Sherman Napoleon, Jr.  
Don Williams

### **Excused**

Bill Feeter

**Others**

Clayton Yoshida, Planning Program Administrator

Joseph Alueta, Administrative Planning Officer

Nancy McPherson, Staff Planner, Molokai

Michael Hopper, Deputy Corporation Counsel

Ralph Nagamine, Administrator, Development Services Administration