

**LANA`I PLANNING COMMISSION
REGULAR MEETING
FEBRUARY 18, 2009**

Approved 03-18-09

A. CALL TO ORDER

The regular meeting of the Lana`i Planning Commission was called to order by Chair Sally Kaye at approximately 6:00 p.m., Wednesday, February 18, 2009, in the Lana`i High & Elementary School, Room L-16 (Home Economics Room,) Lana`i City, Hawaii.

Ms. Sally Kaye: . . . February 18th Lana`i Planning Commission meeting to order. Let the record show we have a quorum with Commissioners Endrina, Mano, Kaye, Rabaino, and Zigmond. I anticipate Letty and Dwight will be here. Alberta and Stan will not. Anyone who wants to testify on any of the items on the agenda tonight please sign up, over where Pat Reilly is. First on the agenda is the approval of the minutes from January 21st. Some corrections were sent around by myself and Beverly, so I need a motion at this point.

B. APPROVAL OF THE MINUTES OF THE JANUARY 21, 2009 MEETING

Ms. Beverly Zigmond: I move to accept the minutes as amended.

Mr. Gerald Rabaino: I second the motion.

Ms. Kaye: Okay, any discussion? Any further corrections? All in favor?

Planning Commissioners: "Aye."

Ms. Kaye: Okay, motion carries.

**It was moved by Commissioners Beverly Zigmond, seconded by
Commissioner Gerald Rabaino, then unanimously**

**VOTED: To approve the February 18, 2009 meeting minutes with
the corrections.**

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

1. MR. JEFFREY S. HUNT, Planning Director transmitting Council Resolution No. 08-95 containing A Draft Bill to Establish Solar Energy Facilities as Permitted Uses in the Agricultural Zoning Districts on lands with an overall master productivity rating class of D and E to the Lanai, Maui, and Molokai Planning Commissions. (RFC 2008/0126) (J. Alueta)

a. Public Hearing

b. Action

Ms. Kaye: Next on our agenda is Planning Department transmitting a Council Resolution No. 08-95 containing a draft Bill to establish solar energy facilities as permitted uses in the ag zoning districts on land with an overall master productivity rating class of D and E. And we'll turn this over to Joe at this point.

Mr. Joseph Alueta: Good evening Madame Chair and Commissioners. What you have before you is, again, Resolution 08-95. This is basically a County Reso that would amend two sections of Title 19. One is 19.04 with the Definition. And if you look at Exhibit A of Exhibit #1, you will see the definition section where they're going to add the definition for solar energy facilities. And then they're also amending 19.30A, section 050, permitted uses within the agricultural district to allow for the new definition of solar energy facilities, but limited to agricultural lands with a master productivity of D or E. This is basically in response to the State, if you recall earlier last year, the State Legislature passed Act 31, which allowed for solar energy facilities also within the State Agricultural district with D and E lands – of master productivity with D and E lands. And so the Council felt that they should line up with what the State law allows. And also in trying to encourage alternative or green energy, I guess you could say, to meet the State wide goals and the County goals of providing more alternative energies within the County of Maui.

So that's pretty much what the Reso is about. We did send it out to various County agencies. If you look on page # 2 of the memo report, you'll see that there was three agencies that had any type of significance. I'm not sure if it's on your numbers. If they're not, for the Department of Public Works, you should put in Exhibit #7 on that table. On Department of Land and Natural Resources, that should be Exhibit #12-A. And for U.S. Department of Agriculture, that should be Exhibit #16. Yeah, there was a little typo.

Again, so those are the three agencies. So if you look at Exhibit #7, you can see the actual comments from Public Works. Primarily their concern was the situation where potentially these solar panels could create a bounce effect of sunlight to passing motorists and create a hazard. The Department of Land and Natural Resources, DLNR, is actually coming from the Division of Aquatics. If you look on Exhibit #13, that's the actual letter from Division of Aquatics. And their concern is looking at what you call commercial uses, and they feel that solar energy is not related to ag – a generation of ag. And maybe there should be some re-zoning if need be if they're actually going through and do purely energy generation.

You also had comments from the U.S. Department of Agricultural which talked about a recommendation that the plan identifies conservation practices. My only comment on that is I think that they were reading the overall bill because when they got the bill they looked at what all of ag is. And if you looked at what the permissible uses of ag is, one of them is conservation. So they were actually commenting on actual language that's already

existing and not commenting so much on the proposed new language of adding the permitted use of solar energy facilities.

As this Commission is quite aware there's basically two methodologies in which alternative energy or solar energy has been allowed within the agriculture district. And the two methods has been either it's part of, and support of, or subordinate to an agricultural operation which is allowed already within the State and County facilities. Or, it was deemed to be a minor utility, which the facility here on Maui, as you remember, was determined later on. And so, that's pretty much the two. This reso was kind of happening in between. When the State Ag was going on, when the act was making it through its passage as well as trying to determine what was going to be allowed within the County's side and so that was probably the impetus for this resolution.

In reviewing again, my job is to kind of review how does it meet up with your Community Plans and the General Plans throughout the County of Maui? And so I tried to highlight where the General Plan statements, as well as the Community Plans, have identified statements that support the use of solar energy and primarily within the agricultural district. There's only one community plan region that I found where –. I'm sorry, if you look on page #2, you'll see where as far as Lana`i goes – on page #56, here, of your existing Community Plan – where I found some type of language within your objectives and policies that could lend support to the resolution.

Ms. Zigmond: Joe, excuse me. On your quote from the Lana`i Community Plan, it says objectives and policies, #1, incentives. To your knowledge has there been any incentives of such, specifically here, since this is from our plan?

Mr. Alueta: Not specifically for Lana`i I guess you'd say. One of the incentives – you have State and Federal credits for incentives to provide. I'm not sure whether it's in your design guidelines whether you allow for flexibility within the design guidelines to accommodate solar facilities. This incentive, I guess you could say, is the regulation that prohibits solar energy. And I guess, the incentive that the resolution is trying to accommodate is reduce the barrier entry and reduce regulatory requirements and review for, in particular, land use issues within an agricultural district. And I think, if you go through the Community Plans and the language that they talk about, a lot of them talk about conservation. And a lot of them have to do with home base conservation or the use of solar facilities – solar or sometimes alternative energy on an individual or business level – and not so much talking about what is proposed in this ordinance. Or in this resolution which is more of a larger scale generation facility – moving away from just people putting it on their houses but going to where it provides acres. In this case, acres of land and providing generation facilities actually replaces some type of diesel generator or turbine that is used in the traditional method for electrical power on this island or on all of the islands. It was a stretch for me to find language, but the intent, I think, and objectives that all of the Community Plans, the

General Plans, talk about is that they want to see the communities and islands move away from fossil fuels in some fashion and to reduce the barriers to entry that would restrict the use of those facilities.

And only one, like I said, Community Plan that I found where there could be contradictory and that is required proper site selection – that was in the Kihei-Makena Community Plan – in which they required proper site selection, facility construction and monitoring of power generation facilities in order to minimize adverse environmental impacts upon the Kihei-Makena community. Again, I guess, this took more of a whole list. They deal directly with power generation in the Kihei-Makena plan because they do have one of the two main power generation facilities for the island of Maui. And from them, they were looking at how does this fit in and where is it going to be – the down wind – and some of the adverse impacts that's associated with, I guess, this project. But in foresight it does – every project – whether it's a green project or a non-green project, it does have an impact on the land and that needs to be accounted for. And I think that's kind of where they're going at.

Again, from the Planning Department – also, I wanted to let all three Commissions to know is that the Council proposal to put a limit of D and E lands, and so does the State. But it talks about the overall master productivity which is a rating. We do have, if you look at all of our plans, there are irrigated/unirrigated ratings. And so it is an issue that you do have ag lands that may have an overall master productivity of a D-rating. But if you add irrigation water to it or if you water it, it becomes an A-level category land. It doesn't change your master productivity because that's still set by these maps. But it does change what the overall productivity for that land could potentially be. From the Department's stand point, or from the Planning Department's side, or the administration's stand point, we see the benefits to going toward a green source of energy out weights the potential impacts, I guess, of using agricultural lands given that the – one – there's a vast amount of agricultural lands out there limited to D and E lands. But also, the scale of the grid system, overall – the market – there's only so much alternative energy that could be provided to any size of a grid system because of the inconsistencies with the current alternatives of wind, solar, and what not, as oppose to hard or fixed generation capacities that you have either by hydro or by oil generation. But it's our job to point out the goods and bad of every ordinance. So that's pretty much I have as far as the summary of the ordinance itself, and from the Department's stand point. Is there any questions at this time?

Ms. Kaye: Commissioners? I have.

Mr. Alueta: Okay.

Ms. Kaye: Yeah, I just want to throw out there, for consideration, that the comment from the DLNR Aquatic is, I would think, that would be the worst thing we could do. And any recommendation that we would send over to Council tonight, I think, should include an

acknowledgment that re-zoning is not appropriate for ag lands on Lana`i. If the solar facility should cease to operate – in fact one of the conditions we put on the solar farm before the Special Use Permit process was yanked – was that they had to restore the land to better or the same condition. So I would hate to see it re-zoned. I think that would be a very bad idea for Lana`i. And I also would like, when we do, for the Commissioners, to consider adding a recommendation or recognition that when this came to us in April, when it was still under Special Use Permit process, the Department of Agriculture at that time sent over comments making it perfectly clear that they consider the ag land on Lana`i unique and making the point that you made – if you restored irrigation, it would no longer be D and E. So I think we need to acknowledge that as well. Those are the two comments I have. No other questions Commissioners? Comments? Okay, I guess we'll take public testimony at this point.

Mr. Fairfax “Pat” Reilly: Thank you Chair Kaye. My name is Fairfax “Pat” Reilly at 468 Ahakea Street. I have a steady theme, and it's come up at meetings in the past, is that it seems to me that unless the commission and the public has a clear map of Lana`i before it, with the zoning areas designated, how in the world do you know where these areas are, and all the areas on Lana`i that could be impacted? So I always – as people run around the room to put the maps up – I always wonder how in the world is the public and the Commission to really understand the full impact of some of these Bills that will go before the Council and how they impact Lana`i?

Now the second aspect of that is exactly what Chair Kaye raised is that rating levels of the productivity and we referred in the past exactly that water does change the productivity of that land. I have a constant theme that, as you know, our Lana`i Community Plan is up for review. It may be years before we get to that process. I will state again, I urge the Planning Department to push the process for Lana`i forward. We need that process for exactly these kinds of reasons. So that we can fit in the new technologies into our plan, and know exactly what it means. We need to understand the rating process. How does the rating – and have before you a map that has the rating. Where are the D and E lands? Do you know? Is there something attached to your packet? I doubt it. No. And since I'm here, my final testimony has to do with the matter that will come up the next time.

Ms. Kaye: Pat, can I interrupt you and ask you to save that for communications because we –

Mr. Reilly: Okay, if you're going to allow me to make that testimony, yes.

Mr. Kaye: Absolutely.

Mr. Reilly: Okay. I'll leave it at that. Thank you very much.

Ms. Kaye: Any other public testimony? Okay.

Mr. Ron McOmbler: My name is Ron McOmbler, and I'm a long time resident of Lana`i. We already have a solar farm, so I don't know what we're talking about. This is kind of putting the cart before the horse. But I think it's important that if you're sending a message back to the Council, that the Community Plans has got to address this before the County just throws this out randomly. I think every Community Plan needs to address it. We already have it here, so we're going to have to address it as an after thought. But I think that you need to send a message back to the County that this is why Community Plans have got to be here. There's a whole bunch of stuffs being pushed through that may have various adverse impacts on their community. And each community is going to have a solar farm or solar area in their area. That particular area should benefit from that – and Lana`i in particular – and we haven't heard that yet. All we've heard is there's no battery back up. There's nothing like that. So people has got to get educated about that they're talking about. I think it's a great idea to go green, but again, I think that you're going to send a message back to the Planning Department that the Community Plans need to address this. We haven't seen it. And watching GPAC on Maui, we may not see it for six to eight months yet. And that's going to hurt us because there's a whole bunch of stuffs in the wind, like the wind farm and a whole bunch of stuff that we need to address in the Community Plan before it's inaccurate. So thank you.

Ms. Kaye: Don't run away Ron. Any questions for Ron, Commissioners? I have one or two for you Ron. Like you, I'm concerned, we have a solar farm already. The State Law has made it a permitted use, and as long as it's a minor facility, County law, made it a permitted use as well. This would change it so it's no longer limited to voltage, the per voltage. And when the solar farm was dedicated, I asked the Sun Power representative, and they could get another 100 acres and put up more PV panels. And I'm not sure that there's any way to have the community be advised of this before it happens. Would you have any thoughts on that?

Mr. McOmbler: Well, I think, like all things that people do, they've got to go through the permit process, and the community has to.

Mr. Kaye: If I understand this, they won't.

Mr. McOmbler: Why?

Ms. Kaye: There will be no more permitting process. It's a permitted use. It can just go up.

Mr. McOmbler: In that area?

Ms. Kaye: Yeah.

Mr. McOmber: And how many acres was that area? Was it in that permitted use?

Ms. Kaye: The permit was pulled because it's no longer required either by State or County regulations. So they didn't have to go through all of that back in April. Had they been doing it tonight, they wouldn't have been here. They would just put it up.

Mr. McOmber: Well, okay, that's the scary part when they start doing this. That's why the community has to be involved. And it has to be stated that the community has to understand that. Because we're lost. The community is taken out of the equation, and I don't think that's right. The community needs to know this and needs to be able to react to that. The solar farm . . . (inaudible) . . . don't get me wrong, but it could be something else – could be a bad thing. And they do the same thing, we can have all kinds of problems on our hands. Like the windmills, for instance. Doing that, just getting a – by passing the regulations, just to throw up a bunch of windmills, is going to have tremendous impact on this island.

Ms. Kaye: Well if you can help and think of a – I mean tonight what we're to do is to make findings and send over recommendations to County Council. It's not an up or down thing for us tonight. So if you can think of anyway to put language, suggest language, to us that would address your concerns that would be helpful.

Mr. McOmber: Anything – just the general languages is that I believe that the community plans should have that in their plans. I mean if they're going to do it, they're going to mark an area to do, that particular – Makawao or wherever it might be – needs to have that in their community plan.

Ms. Kaye: Okay. I will tell you that I talked to someone in the Long Range Planning Department, and they anticipate taking a look at starting Lana`i up at the end of March.

Mr. McOmber: I've talked to a few people myself –

Ms. Kaye: Thinking about.

Mr. McOmber: – and they're eyes go in the back of their head. March, I don't think so. What year?

Ms. Kaye: This year. Let's keep a positive thought on that. Hope it comes sooner rather than later. Thank you. Thank you Ron. Any other public testimony?

Mr. Alueta: So I'm just here to take your comments and make a – if you have a recommendation. All I'll say is Maui raised the same issues with regards to size. They didn't want to stop the process. They all agreed that it was a good use. But they did feel

that they wanted to have the Council come up with a number on their own as far as at what size? Or how many acres? At what height? Should you have some type of secondary or public review? And that's what they wanted the Council to address in their comments. Because, again, none of the Commissions are the final approval of this. They're just making comments back to the County Council. And so those were the comments they had because they were concerned with one is the height. How tall the panels will be, as well as, and how many acres? At what cut off do you say, hey, you know what, maybe let's have some type of public review because there could be some impacts. And so –

Ms. Kaye: Has there been any discussion on what they might look like? Those height restrictions and size restrictions?

Mr. Alueta: People just threw out numbers, but again, because they did not want to come up with an arbitrary number. And they felt that there was going to be an arbitrary number, let the Council do it because they're the final authority. And that's . . . *(Inaudible. Mechanical problems with the tape recorder)*. . . Commission. The Maui Planning Commission voted to approve the recommendations and their comments were to, to the Council, that they felt that there should be some type of height as well as area restriction in which a secondary review to come up with.

Ms. Zigmond: Did Moloka`i look at this?

Mr. Alueta: Yes. Again, they wanted to have a map of D and E lands, and so it was a good point.

Ms. Kaye: Does the map that you have, that you provided to us, have anything other than just a general ag?

Mr. Alueta: It just has general ag – that is County zoned ag. Whatever was on the community plan as ag – was zoned County ag. As to what the – your land rating – I think the general land rating for Lana`i is D and E. I'm not positive, but I will get another map.

Ms. Kaye: Yeah, I tried to find it through the State Library system and Lana`i doesn't even have it zoned. There's studies that were done in the '60's and '70's of every island.

Mr. Alueta: Right, we have a book.

Ms. Kaye: You have Lana`i?

Mr. Alueta: Yes. We have one for every island.

Ms. Kaye: Did you bring it?

Mr. Alueta: No I did not. I failed on that. I tried to get it. In my rush to get out, I did not grab it. And like I say, when we get stuff from Council, it's what they give me is what I –. I mean, we hope to have as much information as we possibly can from the Council when they send their resolutions down. But we don't know exactly what kind of questions that can come up.

Ms. Kaye: Tell me something. Do you know the difference between D and E?

Mr. Alueta: It goes through A through E, A being the highest productivity. A and B obviously being the most productive land. And then D and E being the lowest productivity.

Ms. Kaye: But is there any difference between D and E?

Mr. Alueta: Yes. In poundage of productivity. Like so, you'll get x-pounds of tomatoes from A land and x-pounds of tomatoes from D land. You're able to, on E land, you can graze one cow per acre. On E land, you can get, you know, whatever – more cows or cattle; and that's how they rate them. So like I say, even if it's D or E land, there is uses of it. It's just what kind of use? And a lot of times, your D and E lands, like say above Kihei which is pretty dry scrub land, the majority of the use there is open range for cattle and horse.

Mr. Rabaino: Joe, you have any maps over there on the table that has currently a Lana`i map showing the areas of what we're discussing tonight?

Mr. Alueta: Just ag.

Mr. Rabaino: Just ag?

Mr. Alueta: Yeah. That's what we're talking about.

Mr. Rabaino: So you said A is productive, D is for poundage, as you used as an example. So if we're looking at the west end of Lana`i, you have that – just a sample map that you can place up so everyone can view that?

Mr. Alueta: Sorry. Again, this is actually your community plan.

Mr. Rabaino: Okay Joe, the last time that you showed the map on your – the left of me – that's the current one, correct?

Mr. Alueta: No.

Mr. Rabaino: Versus the one – the smaller one.

Mr. Alueta: That is your State zoning. So your light green is your ag. Your dark green is your conservation. I believe there's a legend. Your orange is your urban. And your blue is your rural.

Mr. Rabaino: Okay, so the dark green, going to Polihua side, where she's pointing right now, that's where the wind farm is going to be located, correct?

Mr. Alueta: That's conservation.

Mr. Rabaino: Any designated or a scale stating – because if I can't find my map right now where all the sites going to be – but does it give the – what is the word that I'm looking for?

Mr. Alueta: The ag rating?

Mr. Rabaino: No, the top – how do you say it – the topographic soil and are the characteristic of that section of that area of Lana`i?

Mr. Alueta: No, but it's not agricultural. And that dark green area is all conservation land. So it does not –. There may be an ag rating for it, but it's not in the State agricultural district. And in fact, it's easier to get – if you're in a conservation district, it's actually sort of easier because all you have to do is go through the CDUA process. It's a long process but given the current situation, that's where most of your stuffs is.

Ms. Kaye: Is any of the zoning interim?

Mr. Alueta: We talked about that at your interim zoning, and that would be your open – where you was not comprehensively zoned under your ag law ordinance which is all the light green was. So all the open space stuff is interim because it didn't get automatically zoned. Either that or a BCT ordinance or counted under the rural district. So again, if you use this map, which is your community plan map, and it does coincide with – when the County agricultural ordinance went in, it automatically zoned all of this land ag – County ag. And then again, that's your State ag side.

Ms. Kaye: And the County's zoning is not interim ag?

Mr. Alueta: The ag is not interim. No. The only place that you would have interim where there is State ag – right? – would be on the back side or where you had open space. Because that would remain interim, but it may have been State ag because I know that you guys have designated a bunch of stuff open space, or in fact, you may have designated it conservation. No, open space, I'm sorry.

So multiple options tonight. You can either recommend approval; recommend denial of the

ordinance; recommend approval with some type of conditions; recommend approval with comments; you can defer if you want to have a map and be more specific. But I just don't –

Ms. Darlene Endrina: I think we should defer until we have a map so we can see exactly where everything is designated, rather than holding up things and not being real sure of what's transpiring. I think it's real important for Lana`i. That's my suggestion to defer.

Mr. Alueta: If I can just address a part of that – is that if worse case scenario is that all the lands are D or E. That would mean all that area on your map would be eligible to do the solar ag farm. If it's anything other than D or E, you could not do a solar ag facility on it based on the ordinance the way it's written right now. So just going by that, if that's your worse case scenario.

Ms. Zigmond: But we don't know what D and E is? Where it is?

Mr. Alueta: But I'm saying the worse case scenario is all of that is D and E, and all of that land that's green is eligible.

Ms. Zigmond: And that's a pretty worse case.

Mr. Alueta: I was just reminded, if you look on the first paragraph of my memo report, I did note that there is a deadline of March 14th. Now, again, that deadline means is that if they do not receive any comments back from the Commissions by March 14th, the Council can act on their own.

Mr. Rabaino: Joe – Commissioner Rabaino – my concern would be right now that I would like to see a map. If you can send it to us within this time frame. Because this kind of stuff we need to see visual so we can get the right location and the area that we are referring to even though it's just open space right as we can see it. But with a little bit more clarity and details, it will help the Commissioners whether to move or add other conditions or concerns that may be affecting the area due to this planning.

Ms. Zigmond: Joe, what happens if we defer and March 14 comes and goes? You said, the County Council could act on their own, which is not necessarily something that we might want to do. So, Madame Chair, what if we did something with –. And I'm a little fuzzy tonight. I did not have my cappuccino. If we did something like recommend with conditions and made those restrictions or conditions pretty restrictive, such as having a map – any 2nd or 3rd one has to come for, you know, additional hearing or something.

Ms. Kaye: But I think Joe's point is well taken. We don't want to miss this opportunity to respond to this, and I think we can be pretty specific about what it is we would like to send over as our comments and recommendations and not lose the opportunity to speak at all.

Ms. Zigmond: That's my point.

Ms. Kaye: And worse case, as Joe said, it's all D and E. Which means, every bit of ag land would be available. So what we want to do, I would think, is think about setting very specific size restriction, beyond which would trigger community review. Now, what's out there now is 10 acres.

Mr. Michael Hopper: Regarding the 120 day deadline, it should be noted that Council can act without your recommendations, but it would need a 2/3 vote of the entire body to do so. So there is that provision in the Charter that would require a super majority for them to vote despite not having your recommendations. So there's that as well. It doesn't mean they can't, but I think you need to know that for clarity.

Ms. Kaye: Okay, anybody want to try and –?

Mr. Riki Hokama: Actually, are you done with public hearing?

Ms. Kaye: No, would you like to speak Mr. Hokama?

Mr. Hokama: If I'm allowed.

Ms. Kaye: Absolutely.

Mr. Hokama: My name is Riki Hokama. 438 Fifth Street. Commissioners, you have a great opportunity. I would just ask you to consider some of things that you might want to provide comments to the Department back to the Council would be something such as if you want an arbitrary number why not 15 acres. That is the number that is the division line between what the State Land Use Commission passes on to the County for Land Use considerations, and anything over 15 is the State – Land Use Commission takes control. It's as good as any number that I've been told in the past. I'm not so concerned about where the facility is going to be because if it's more than 15, I'm sure there's going to be requirements. My suggestion to you would be that if it connects to the grid, then you would pray that there's a Public Utilities Commission review since it's going to impact the domestic residential system. And that is where, we would hope if it adds onto the grid, one, they address what happens to the question of firm power and the need of still yet diesel back generation units to provide that firm power if that alternative source, for whatever reason, can not produce electricity. Second, if it does go on the grid, then why, as some of the Commissioners have mentioned earlier, shouldn't the host community, or if it's on Lana`i, the Lana`i Community, potentially have rate reduction benefits in its utility bills?

I think those are the type of questions I would ask you to consider forwarding and hopefully get some type of response because I think that's what the community is looking for. If

there's a program or project going on, what is the Lana`i benefit? We would like to see a rate reduction and lower utility cost to the Lana`i people. So that would just be some of my comments I share with you, and I thank you for this opportunity.

Ms. Kaye: Wait Riki. Hold on. Commissioners, any questions for Riki? I have one.

Ms. Leticia Castillo: I was just thinking about Riki's comment. I have been hearing things that generated energy from this project that Company have is all going to be all diverted to Honolulu and other islands except Lana`i. So I would like to see that Lana`i would have a part of this because, you know, we are really going up hill for paying high electricity and everything else. And if they are going to use the land in here, I'd like to see that Lana`i people benefit from this.

Ms. Kaye: That's a well spoken sentiment Letty. Tonight, on the table, though is only solar. So all that's in front of us is a resolution that would allow solar panels, solar devices, solar equipment on ag land. It has nothing to do with other renewables. Okay?

Ms. Castillo: What's going to happen with the one the wind farm?

Ms. Kaye: That's not what we're here for tonight. We'll keep that one for another day.

Ms. Castillo: Okay.

Ms. Kaye: We can't address that.

Ms. Castillo: I'd like to say that we would have a part for Lana`i on that.

Ms. Kaye: Riki, I'd like some guidance from you. I think it's a great idea to address the integration issue because I understand that's still problematic. But I'm not quite sure how to word it in such a way that Council could use it. How would you?

Mr. Hokama: Mr. Hopper sits right there, from Corporation Counsel. He can assist the Commission in ensuring that your language satisfies the Lana`i Planning Commission. And I just have one additional add on if the Chair would allow it. I think when we deal with height, it's a sensitive issue. The County has gone through more than enough lawsuits regarding height. In the last three years that I've been named in those suits. The Public Works Department, as I understand, is forwarding a new height definition. And maybe in that proposed ordinance is where you might want to address this issue including what solar power generation height limitations may or may not be. But the question becomes where does the level of the elevation start? Original grade? After mass grading? And those things. Lana`i has always had a different take from Maui island, I can tell you that. So that is something that you folks may want to consider in another vehicle when the height

definition gets re-reviewed once more. Thank you.

Ms. Kaye: Thank you Riki. We'll make a note on that. Any questions Commissioners? Okay, we always take suggestions on what we want to send back as recommendations. Okay, one, Michael, I would like see language if we end up recommending approval for this resolution that there be a clear recognition that Lana`i has been classified by the Department of Agriculture as unique ag land which essentially defines it as high value food crop land. And therefore, we would oppose any re-zoning of ag lands out of agriculture into any kind of commercial or industrial as the DLNR suggested.

Mr. Hopper: (*Changed Cassette Tapes*) . . . Because this Bill doesn't seem to propose any re-zoning – are you talking about putting in – you would be oppose to putting this in as a permitted use? An out rightly permitted use? Or would you want it as a special use, for example? Because the zoning – I thought that the DLNR's issue was that if you are going to allow this type of use, then it should be appropriately re-zoned and not as a permitted use. I thought that was their comment was suggesting. If we were going to use ag lands for this type of use, then why not just re-zone it for that type of use rather than making it a permitted use in ag.

Ms. Kaye: Right. And we would be oppose to that approach and since we're going to be throwing our comments in it, along with the other Planning Commissions, it would be great if we could just be more restrictive and say anything over 15 acres should require a permit. But I don't believe we can do that unless you have more information than I do.

Mr. Hopper: Well, for Special Use Permits, the State Land Use Commission regulates them, but we have been advised by the State Land Use Commission and – actually I have two Special Use Permits in front of them tomorrow – that the County Planning Commission for a State Special Use Permit is not only advisory to the State Land Use Commission, it actually has a discretionary approval in that if the County Planning Commission, Maui County or this Planning Commission, decides to deny a Special Use Permit, the State Land Use Commission can not grant that Special Use Permit over 15 acres. So you do have some approval authority if you would make this. But that would be a State Special Use Permit, and that deals with HRS 205. As far as a County Use, you could state that you want to only allow these facilities as Special Uses. I don't necessarily see that as a problem. You would be saying or advising Council that rather than having this as an outright permitted use, you would prefer it as a Special Use. And they're asking you for your comment. That certainly can be your comment if you felt that way as a Commission.

Ms. Kaye: I would certainly think that would be a strong statement to send over. Does everybody understand what that means? Okay. So, that's a second comment. The third comment, I would agree that barring that, if the County decides not to agree with that for this island, then anything over 15 acres should be –. We should try to write some language

that would trigger community review for any facility that would exceed 15 acres.

Mr. Alueta: So if I hear your comment correctly, it's, one, you oppose to the DLNR comments. Just in case they somehow they get traction – if they get traction at the Council, you want to make it known that you are opposed to those comments of re-zoning. Second, your first preference is that you require a County Special Use within the agricultural district for solar facilities. And that as an alternative, if they don't go with your – require a – State Special Use Permit for these facilities in the County Agricultural District that you at least require a County Special Use Permit if it gets over 15 acres.

Ms. Kaye: And the final one that I'd add that any future solar facilities should address the issue of rate reduction because there wouldn't be a facility on this island that's not going to tie into our grid. I don't know how you would send solar elsewhere. So any future facility would, I would think by design, come to our grid.

Mr. Alueta: And then just address rate reduction for host communities.

Ms. Kaye: Yeah, I noticed there was a letter submitted in support of this from Castle & Cooke that, again has happened last year, many times in front of the legislature, stated a goal to make Lana`i powered by 100% renewal energy. And so far there has been very few steps taken to do that, with the exception of the solar farm. And as Mr. Hokama noted there are integration issues that requires us to rely on fossil fuels for quite some time until we get our act together and start putting our own rules, I think that's where we're going to be for while. Any other comments or recommendations?

Mr. Alueta: So is it by – are you planning to take a vote, or should I assume by consensus that –?

Ms. Kaye: I'll ask for a motion if anyone wants them re-read or you want to add anything – have a motion, discussion, second and we're done.

Mr. Alueta: Okay. Re-read them? So what I have now is that comments coming out of the Lana`i Planning Commission is that opposed to the Department of Land Natural Resources' comments regarding re-zoning for this type of use within an agricultural district, requires a County Special Use Permit for these facilities in the agricultural district. And if that doesn't gain traction, to at least require it for 15 acres or more. And that you would also comment that the Council should address some type of rate deduction for the host communities in which these facilities are located.

Ms. Kaye: I'm sorry, Joe, I would really would like it to appear in writing to the Council that this Commission recognizes that the Department of Agriculture has classified, even if all of the land is D and E, as unique ag lands if irrigated would be more highly rated. And we

know that, and we want them to know that we know that.

Mr. Alueta: Okay. Then also note that, for Lana`i, that the lands here are uniquely rated if irrigated. Okay.

Ms. Kaye: Okay, I would entertain a motion.

Ms. Zigmond: Okay. Dwight –

Mr. Dwight Gamulo: That was my motion.

Ms. Zigmond: Okay, I will –

Mr. Gamulo: I would like to make a motion that we approve the Council's recommendations, but also attach our six comments.

Ms. Kaye: Actually, if I could just suggest – I don't think – given the nature of the comments we're sending over, I think we should hesitate to approve. I think we just send over those recommendations because one of them essentially goes against what they are saying which is to make it a prohibited use.

Mr. Gamulo: Right. Right.

Ms. Kaye: So I think we're having a motion on sending the following comments over to County Council.

Mr. Gamulo: Okay. That's what I said. We'll recommend that we send over the – was it six comments that Joe just made?

Mr. Alueta: Five.

Mr. Gamulo: Five. Okay, that's my motion.

Ms. Zigmond: . . . (Inaudible) . . .

Mr. Alueta: Pardon me?

Ms. Zigmond: Is it possible to include in there that it would really benefit us to have the tools that we need including maps.

Mr. Alueta: Yeah, and again, I apologize.

Ms. Kaye: That's not the Council's –?

Mr. Alueta: Well, they should have sent it me, but I should have thought ahead about it.

Ms. Kaye: All right. Okay, is there a second on that?

Ms. Castillo: I second to that motion.

Ms. Kaye: Okay, any further discussion? Okay, all in favor?

Planning Commissioners: "Aye."

Ms. Kaye: Oppose? Okay, motion carries. Thank you Joe.

Mr. Alueta: Thank you.

**It was moved by Commissioner Dwight Gamulo, seconded by
Commissioner Leticia Castillo, then unanimously**

**VOTED: To recommend approval along with five comments to the
County Council.**

Ms. Kaye: Why don't we take a five minute recess. And then we have JoAnn Ridao from the County Department of Housing and Human Concerns for our next workshop.

(The Lana`i Planning Commission recessed at approximately 6:53 p.m., and reconvened at approximately 6:58 p.m.)

D. Workshop conducted by the County Department of Housing and Human Concerns on the following:

JoAnn Ridao, Deputy Director, Department of Housing and Human Concerns, presenting an update to the Lanai Planning Commission and Lanai Community on the 65 Acre Lanai Housing Project in Lanai City, Lanai. (December 5, 2008 letter from JoAnn Ridao)

Ms. Kaye: Next on the agenda is a workshop conducted by the County Department of Housing and Human Concerns. We have with us tonight JoAnn Ridao, Deputy Director. She's going to be presenting an update on the 65 acre Lana`i Housing Project.

Ms. JoAnn Ridao: Good evening everyone. I'm JoAnn Ridao, the Deputy Director of

Housing and Human Concerns. Although I've been with the County for only two years, it is my understanding that this project has been on your Commission agenda for a very long time. And so I'm happy to report to you tonight that we are making progress. A consulting firm has been hired to do the preliminary master plan which you have before you. And we have all of the consultants here tonight so please pick their brains if that's what you choose to do. I would like to introduce to you Michael Munekiyo, who is the consulting firm on Maui that is kind of taking the lead on this project, and he is with Munekiyo and Hiraga. And Mike will do a presentation for you from the material that you have before you. Thank you.

Mr. Michael Munekiyo: Thank you JoAnn. Good evening Madame Chair and members of the Commission. Mike Munekiyo, I'm with Munekiyo & Hiraga. We are a planning consultant firm on Maui, and we are actually a member of a broader, larger consulting team which is headed by Pacific Architects. And if I may Madame Chair, introduce members of the team here this evening. And if there's questions after our presentation, they will be happy to answer any questions you may have. We have Dwight Mitsunaga and Dennis Kimura. They are with Pacific Architects. And they are the prime consultant for the project. They are engaged with the County. We are a sub-consultant to Pacific Architects. And our role is limited to the environmental assessment and entitlements process – land use entitlements – for the project. We also have Mr. Donald Okuhara and Collin Hashiro. They are with Okuhara and Associates. They are the civil engineers working on the preliminary civil design works. And Mr. Robert Hobdy. I think many of you know Mr. Hobdy. He is our flora fauna consultant. We do have other consultants on board to do archaeological work, cultural impact work, traffic studies, market studies, so forth. So the range of technical information that we are bringing to this study is quite broad.

And maybe just as background. You know the County, both the administration side and the Council, particularly during the term of Mr. Hokama, had been quite enthuse about moving this project forward. And so over the past few months, what we have been doing is actually developing a master plan. What I'd like to do tonight is talk a little bit about what we have done today, what we anticipate the process to be, and what some of the outcomes we hope will be forth coming for the community.

Ms. Kaye: Could I – excuse me – just interrupt you and ask two quick questions?

Mr. Munekiyo: Yes?

Ms. Kaye: First of all, your consultant firm and all of the sub-firms are all clients Maui County has hired?

Mr. Munekiyo: That's correct.

Ms. Kaye: And the land itself, the 65-acres, has been deeded to the County yet?

Mr. Munekiyo: That's correct. And more specifically, Pacific Architects is the contractor or the consultant contracted directly by the County. And the others are, including our company, are sub consultants to Pacific Architects. But as I mentioned, we have a fairly comprehensive team in terms of bringing technical expertise to the project.

The total project area, as many as of you may recall, is 115 acres. And although you might have some difficulty identifying the delineate boundaries of the 115, it's something like this. And the housing portion was originally intended to be 65 acres. We have since made some adjustments in coordination with the Department of Education, and the area now has been delineated as 73 acres for the housing component. And I say this because the point in the process where we're at is a conceptual plan development stage. And although you do have plans, and it does have elevations, floor plans, so forth, all of these renderings that we have before you today are considered conceptual. We are in the early planning phases. What we have done is studied the site so that we understand what the capacity of the site might be in terms of total yield from the unit development standpoint. We've looked at what some of the architectural themes may be. But, still, a lot of room for input, revisions, and certainly as process progresses, we expect that to happen. But what has occurred up to this point is both Pacific Architects and the civil engineer has studied the site both in terms its topographic consideration or characteristics access considerations. And after studying the site from those standpoints, they've developed this concept, again, a conceptual plan which they believe will be quite workable.

Let me just give a little background about the property itself. Again, 73 acres – and let me just – if you could follow along with my pen here. The delineated 73 acres basically encompasses this area here. And if the public has a hard time seeing, let me just go around it like so. And as a point of reference, this is Fifth Street right here. This area here, although it shows the conceptual future school site, this is something that we were able to bring forth from DOE. We're not saying that this is the site, but I think conceptually this is what they are considering. And again, this is kind of gives you an orientation for the property location, and its relationship to the school.

The existing Land Use designations – the property is classified by the State Land Use Commission as agricultural. The Lana`i Community Plan designates the property as single-family. And County zoning is interim. Over the past few months, as I mentioned, the consulting team has been studying the site. We've actually had a number of consultants already initiating their work. Robert, for example, has completed his flora fauna study. He's been out in the field. We have a cultural specialist starting their work. And of course, our civil, which is quite an important component that the study, has begun their coordination work as well. Briefly –

Ms. Kaye: Excuse me, can I just ask you, is that, the not colored in area, that's – yeah – is that Hawaiian Homelands?

Mr. Munekiyo: Right. Future Hawaiian homes.

Ms. Kaye: No, future or existing?

Mr. Munekiyo: Is this future Hawaiian Homelands?

Ms. Kaye: So the existing is the ones where you have no lot lines?

Mr. Munekiyo: Right. That's correct. Maybe I should just pause. Any other questions up to this point? Thank you. But if I could, just take you to the plan itself. Again, just keeping in mind that this is conceptual. As we go through the refinement process, you know, what really is going to be done, in terms of getting this plan to a level which everybody is comfortable with is to make sure that it works from a technical standpoint, coordinating with the engineering agencies – Public Works as an example – making sure that the Parks Department satisfies with the Park's configuration and location and so forth. So those kinds of processes will continue. And I'll kind of go through that when they explain the entitlements process.

But the yellow area – I guess olive-green area – that's designated as single-family. And there are approximately 238 single-family lots indicated on this plan. Again, that's variable. But from a capacity standpoint, this is what we expect in terms of single family roughly. The dark brown areas here are designated for multi-family use. And we have approximately 14 acres designated for multi-family use. And, you know the number of units that can actually be developed in this multi-family area can range. Under the multi-family designation, for example, it could be in the future depending on market conditions. We indeed we have multi-family uses or the market might demand single-family as the more appropriate type of use at that point. But again what this does in terms of our capacity, it says if we were to designate these areas as multi-family, what kind of yields might we anticipate? And so, with this, approximately 13.8 acres of multi-family, and if you assume 10 to 12 units per acre, that's probably another 140 units – 150 units. So in total, again from a capacity standpoint, probably 380 or so units roughly. And again, we need to gauge what the market conditions will be over time.

One of things we're doing right now, we're wrapping up a market study. And that market study will help us define how the phasing of the project will progress. In other words, this project area and master plan is not something that would be done in one single phase. But over time, as demands warrants, and so, our market analysts will let us know what might be an appropriate number of lots for the first phase. And then of course, we need to work that in with our engineering requirements, and make sure that all those things work.

Separate from the single-family and multi-family units which I just spoke about, we do have approximately 4.8 acre park here. We also have, in this blue area, is a public/quasi-public

site, roughly 6.9 acres. Even I had a hard time reading it. But public/quasi-public as you may know would include uses such as community centers, public facilities, churches as well. So it's quite a broad range, but it gives some flexibility and some diversity to the plan, and that was something that we wanted to make sure that we could provide especially in terms of its relationship to its school here. These other areas, these shaded areas, are designated as open space, but primarily provided for drainage detention purposes. So they do have a function in terms of storm water run-offs.

This then basically establishes the land use context for the plan. In terms of access, as I mentioned, we do have Fifth Street here which we anticipate to be extended to provide access, as well, we have Ninth Street access extension. This is Ninth Street right here. This would be a new extension to provide access at this location. This roadway here is for a future by-pass road. It is not a part of the project, but it is shown to provide some relational reference to where this project sits relative to that road. So the roadway infrastructure aside from the internal subdivision roads would be an extension of Fifth Street and this new access road via Ninth Street. And that access road would terminate roughly around here. So that's how we're looking at the – at least the roadway infrastructure extensions.

In your packet, and I'm not going to talk too much about it right now but if you do have questions, we do have our architects available, we do have conceptual designs for multi-family units and single-family units. Again, these are just to give an idea of what design themes might be appropriate here to the extent that – of course the objective is to bring some uniformity and consistency with existing Lana`i City architecture. Generally, the single-family units would run about 1,200 square feet, three-bedrooms. I think these are the kinds of units that are reflected in the handouts, again, subject to change as the project progresses over time. The multi-family units are little smaller, maybe 900 square feet or so. So, you know, there is a range in terms of product type. If we are to proceed with multi-family, for example, then we're looking at two-bedroom units probably. Again, the single family, as depicted in the concept drawings in front of you, three-bedroom, two baths right now.

So, how do we ensure that the project and its units can be delivered affordably? Because the whole point of this project is to deliver an affordable housing project. One of the things that, of course, we're looking at is making sure that we can get the project engineered in a cost efficient way – that's real critical. But the other thing we look for in terms of guidance is our County's workforce housing policy. Now the specific pricing for the units, of course, at this point has not been established. But, just to give a point of reference so that we can understand how it is that the units may be priced. We looked at what the workforce housing requirements might be – this is the County's workforce housing policy. And for a three-bedroom unit – and this is going back to the 2008 guidelines, pricing guidelines – at 5 ½ % interest – and again pricing varies according to interest – but assuming at 5 ½ %,

the three-bedroom would be offered roughly \$295,000. For the multi-family units, for two-bedrooms, roughly \$225,000 - \$230,000. So that is just to give you an idea of where it is that the sales prices might run, again, assuming the 2008 pricing guidelines. Now, this project will be implemented over time, so what we need to understand is that the pricing targets will move over time. But, the idea is to keep it within the affordable range throughout. So again, those prices I gave you are pegged at 2008, and again, understanding that over time prices will vary again depending on the pricing guidelines set forth by the Department of Housing and Human Concerns.

Ms. Zigmond: So, excuse me, are none of these rentals?

Mr. Munekiyo: They may be rentals. In other words, as an example, I mentioned earlier that there's some flexibility in the product types which may be placed in these areas. And so, for purposes of this plan, however, we just indicated generically as multi-family. Certainly, rental product types could be provided within the project as well. Any questions up to this point? Any other questions?

Ms. Kaye: Yeah, I'd like to ask about – is there a 201H component too?

Mr. Munekiyo: Yes. And let me just speak about that because that was next on my notes here. I'll talk a little bit about the entitlements process. What does it take to get this project fully entitled or permitted from a State and County standpoint? Well a number of things. #1, we are in the process of preparing a Chapter 343, environmental assessment. And so, that environmental assessment document will look at all of the potential impacts which would be associated with the development of this type. And as I mentioned, we will look at the flora fauna that Mr. Hobdy has completed. We'll look at the engineering implications, of course, archaeological/cultural concerns, market impacts, and so forth. So the range of probable impacts that one would ordinarily study in an environmental assessment will be presented as part of the process. And that of course, that environment assessment document will be available for public review as well. So, that's another point of input from public standpoint. And by the way, we are in the process of preparing that environmental assessment, and we'd like to have that at least have something available for review – at least draft document – probably in the June or July time frame. So fairly soon.

Separately – so the environmental assessment is one element – the other element is dealing with the land use entitlements. As I mentioned, this area is classified by the State Land Use Commission as agricultural, and it is County zoned Interim. As well, the Community Plan designates it as single-family. And so there are land use requirements that we need to address. In other words, we need to have the property re-designated to Urban. We need to address the zoning limitation which is now presented by the interim zoning classification. Because a project like this can not be subdivided with a zoning classification of Interim. As well, we need to understand that the Community Plan may not

necessarily, or would not necessarily, permit multi-family use because the entire area is community planned for single-family use. And so, all three levels of Land Uses would need to be addressed. And we would like to do that through the 201H process as the Chair has mentioned.

And let me just talk a little bit about what 201H is. 201H is a section of the State Law which allows qualified projects to seek exemptions from State and County Code requirements as it relates to developments. So a good example, and not necessarily one that we would use here, but just as an example – because affordable housing projects are price sensitive, often times, applicants of 201H projects will seek exemptions from fees. And so, one very common exemption request is an exemption from grading permit fees, or building permit fees, that type of fees. More importantly however, the 201H process, allows applicants – in this case the County of Maui – to seek exemptions from land use processes. And so, what we would do here, as an example, as it relates to the Community Plan and Zoning, is we would ask the County Council – by the way the 201H process is reviewed with authority vested in the County Council for final approval – we would ask the Council for a couple of key exemptions.

#1, to allow the project to proceed – although the entire project area is designed single-family by the Lana`i Community Plan, we do have other land use components such as public/quasi-public and multi-family – we would ask the Council for an exemption from the Community Plan Amendment (CPA) process to allow the project to be developed as presented. So it doesn't necessarily change the Community Plan, but it allows us to proceed without going to the Community Plan Amendment process. And you can see how this might really be a time saver and a cost saver. And that's really the intent of 201H – it's to expedite affordable housing projects. Because by doing so, we get the project through a process which involves community review, but at the same time, it provides for a more speedier review and action by the Council in terms of Land Use. So that would be one exemption. The other exemption would be an exemption from the Maui County Zoning Code, so that the project can proceed despite its interim zoning designation. We would develop specific so called custom zoning standards for this project so that it can be developed without actually having a zoning change. But again this is a fairly important exemption that we would ask of the Council.

Separately, with respect to the State Land Use Commission agricultural zoning designation, the State Land Use Commission has its own separate 201H process. It is a fast track process. We would need to submit a Land Use Commission District Boundary Amendment petition with the State Land Use Commission, and we would ask the Commission to reclassify the property from the State Agricultural District to the State Urban District. And again, it is a fast track process, so once we file the application and the petition is deemed complete, the Commission has 45-days to render its decision and order. So it moves pretty fast.

So how does all of this stack up from an overall time line standpoint? I mentioned that we have begun the preparation of the Draft EA, we need to go through the County 201H process and have the County Council approve the project. We would then need to go through the State Land Use Commission to have the State Land Use Commission reclassify the project from Ag to Urban. The way we've got it scheduled right now, the entitlement's process will probably take a year – plus or minus. When you stack everything up, there are certain statutory requirements in terms of how many days of review and so forth that needs to be kind of inserted into the process. And when we tag it all, end to end, it comes out to about a year, and that's under ideal conditions. So I just kind of say that because often times when you go through a process like this, there are commenting comments from technical reviewing agencies who asked for certain things. And, you know, there are these issues that we do need to resolve. So some uncertainties in your process. But one thing is certain, it's a very, very expeditious process relative to the other traditional approach that we would ordinarily take.

Ms. Kaye: I'd ask you to clarify one thing when you say that you would ask to be exempted from the Maui County zoning code, you reference the fact that this is interim zoned right now. Aside from that, if you are successful, does that allow you to avoid the standard lot size?

Mr. Munekiyo: That's correct. So what is reflected on the conceptual plans here are generally 5,000 square foot lot sizes. And what we would actually do is request that the Council consider this, and this is an example. Rather than utilizing the interim zoning standards, we would ask the Council to allow the project to be developed with zoning standards which are specific to this project. In other words, if it is that we have one of our smaller lots – this is an example – when we actually get into more detailed design we find that actually the smallest lot is 4,500 square feet, we would ask the Council to say the minimum lot size for projects for this project, this 4,500 square feet. If it's 5,000, we'll set it at 5,000. But basically it becomes a custom zoning ordinance to fit this project, to make sure that it works as we intended it to work.

Ms. Kaye: Okay. That speaks to me of density. Meaning that if you heard, for example, if you heard from the community that we, lots of people, think that 5,000 is way too small. And ask that you go back to the 6,000 square feet that's required by Maui County Code currently, what would that do to this project?

Mr. Munekiyo: In terms of it's viability? I don't think it will affect the project in terms of –. Well, what we need to do is, again, look at the project in terms of its overall density. There can be a minimum set for 6,000, as an example, but what we're trying to do – there are two things which I think we all want to keep in mind as we proceed with the process – #1 is how do we ensure affordability for delivery? And again, balance that against what it is may be the community would desire. We need to take a look at that. But just off of the top of my

head, I wouldn't think that a 6,000 minimum would have an adverse affect. I would defer to the architects, at this point, and engineers. That's something we would need to kind of work through.

Ms. Kaye: Are utility poles underground?

Mr. Munekiyo: Yes.

Ms. Kaye: And sidewalks?

Mr. Munekiyo: Sidewalks would be provided, yes.

Mr. Rabaino: My question to you is you said 5,000 and the minimum of 4,500. Okay, you know the yellow area that you have located on top there on the very top, the single row? What is the minimum lot-age in that area?

Mr. Munekiyo: Actually, this plan in general doesn't have any associated minimum lot size. The 5,000 is how it is roughly divided up into 5,000 square foot lots. The 4,500 square foot number that I used was merely an example just to illustrate that whatever the minimum lot size is, the smallest lot size here that would make the project work, we would try to reflect that in the 201H application. If it's 5,500, you know, we'll set it at 5,500. We're really not at a point yet where we know what the minimum lot sizes are. This 238 units is based roughly on a 5,000 square foot lot configuration.

Ms. Kaye: Have you done any calculations if you did adhere to County zoning lot size standards, how many units would lose?

Mr. Munekiyo: We have not.

Mr. Rabaino: How much is a square foot for the 5,000? Because I live on a 5,000 plus in Lalakoa III. Okay at that time, if I remember correctly, it was almost \$12 a square foot or so. So if I'm looking at your figure, it says \$295,000 for a three-bedroom, and the other one is \$225,000 or \$235,000 for a second bedroom lot – multi-family. You have single lots in there to be sold – is that the yellow portion or the other colors area?

Mr. Munekiyo: It would be the yellow portions would be the single family housing.

Mr. Rabaino: Single family – okay – so I'm referring to the single-family. My concern is, yeah, we do have residents who do want to buy. But I would want to know for my curiosity because I went through the experience myself. So I would want to know in layman's term how much it costs per square footage and the standard lot size you say is 5,000 according to the zoning, or Maui standard size? Because when I look at Kapolei, and you have a two-

story house sitting on a Kapolei lot – where my sister lives – you’re looking at your neighbor’s parlor. Okay, and where I live, at least I have some breathing room, where I don’t hear what my neighbor watching television. Now if you’re going to cramp all in the yellow area which you state as single-family, now majority of these homes are double walls?

Mr. Munekiyo: Yes.

Mr. Rabaino: Okay, and everything as Sally quoted earlier is all – the infrastructure is all going to be underground, and sidewalks are provided?

Mr. Munekiyo: That’s correct.

Mr. Rabaino: Okay.

Ms. Kaye: Can I ask all of this project would be built by one contractor? I mean, you would have – this is what’s available. You couldn’t just buy land and build your own?

Mr. Munekiyo: The idea is to have house lot packages delivered and by phases. As I mentioned earlier, we’re not sure what the first phase would be, but it would necessarily be the same contractor because we would – I’m assuming the County will issue the construction package by phase and so it will be developed incrementally over time.

Ms. Kaye: Okay, but that doesn’t answer the question of whether you can conceivably selling any of these lots as just lands.

Mr. Munekiyo: That could be a possibility. You know, one of the things that the County has done in the past – and perhaps JoAnn could respond better than I could – is to have lots available. And self help has been an option, as an example, previously under County affordable projects or County sponsored 201H projects. So I’d think that’s a possibility as well.

Ms. Endrina: . . . (*Changed Cassette Tapes*) . . . Chair Kaye? Are we like married to these plans of how the homes will look?

Mr. Munekiyo: Not at all.

Ms. Endrina: Okay. Thank you very much.

Mr. Rabaino: My next question to you, you said you will be doing this in increment phases.

Mr. Munekiyo: Yes.

Mr. Rabaino: What is the starting figure for the homes, for the single-family, that you're looking to begin with?

Mr. Munekiyo: One of things that the affordability or the price of the homes will be guided by would be the affordable housing guidelines which are issued annually by the department. And the number, the \$295,000 number I started earlier, was based on the year 2008 affordable housing guidelines. Now each year, the County adjusts that guidelines. And so depending on when a particular phase is developed – if this phase is developed in say three years or whenever the first phase comes on line, and another phase down the line as it progress up stream is developed in six or seven years, then we would look at what the affordable housing guidelines is at the time the house, the unit, is delivered. So it will be somewhat of a variable cost number, but the goal here is to keep it affordable as we move over time.

Mr. Rabaino: Okay, you want to keep it affordable. You keep on repeating 2008 guidelines. Does any of your staff, currently in this room, have a guideline that they can present tonight that the Commissioners can look at? Because my concern is being that this is a County housing project, and this is very inviting and encouraging – my question to you is – because I'm looking at \$225,000 - \$235,000, we don't have too much opportunity for job wise here. Two things, is this going to be done by lottery or as fee simple in this area? And what programs are you going to provide under the County? Is it going to be HUD, Farmers or Conventional Bank?

Mr. Munekiyo: Let me answer one of your questions and perhaps JoAnn can help me on the other questions with respect to County financing. The way the units will be marketed will be through a marketing program which basically – and the County uses a marketing sequence which basically targets qualified families who meet the income qualifications for a particular product type. So as an example, that \$295,000 figure that I've cited was for those families who earned 100% of the County median income. And again, depending on – so that's for 2008. In 2010, the figure could go up. We're not sure, but again that's how it moves. So the County would then make sure that they have their family qualified for that income category, and then proceed to ensure –. Well once that criteria has been met, then they can go ahead have their lot sale made.

Ms. Kaye: Okay, and what if you don't have enough people on – two questions actually – don't have enough people on Lana`i that meet those income guidelines, then can the County turn around and market it at a higher price? And ancillary to that, if not enough people on Lana`i qualify, will these lots be available to people from other islands as well?

Ms. Ridao: The intention of this project is for the people of Lana`i. So we're waiting on the market study that will help guide us on how we will do the project in phases. So, I'm sure – I mean, that's not the intention at all, is to market or out sources to the entire State. The

intent is for the people of Lana`i. And also, as far as, assisting with the purchase of the homes, as the project becomes more of a reality and we get closer and closer, as Mike indicated, we would probably market the project. We would be qualifying people to see what they qualify for. We would work closely with the United States Department of Agriculture to see what kind of Federal and government monies we can get into the project. As well as, if we ever get it off the ground, the County's first time home buyers program. So there are a lot of opportunities for this project as it develops.

Ms. Kaye: Thank you JoAnn. Will you do all the infrastructure at once even though you're going to do the development in phases or are you going to it piece meal?

Mr. Munekiyo: It will probably be done in increments. Donald, do you have anything to add on that?

Mr. Donald Okuhara: Hi. I'm Donald Okuhara, Okuhara and Associates. We're the civil engineers for the project. I would think that it would be done in piece meal because if we were to put in all of the infrastructure at once, it's going to cost somebody some bucks. That's why I say, I think, it's going to be piece meal. But there might be certain things that have to go in. Like there's a pump lift stations for sewer. That has to go in. So we're going to try and keep whatever has to go in at a minimum to try and keep the cost down.

Mr. Rabaino: Donald, you read my mind. That was my next question. When you do it in increments, will the current sewage will be able to handle as you implement by phases?

Mr. Okuhara: We'll we're looking at that now. It seems like we talked to the environmental department that handles the sewer, and basically there seems to be enough capacity in. And what they're doing is they're not really telling us, yeah, it's okay. As they issue permits, it's when they're going to say it's okay. But right now if we add the affordable and I think the Hawaiian Homelands, there should probably be enough capacity.

Ms. Zigmond: Is this subject to the show me the water bill?

Mr. Munekiyo: Yes it is.

Ms. Zigmond: And at what point is it going to be determine whether or not there's enough water?

Mr. Munekiyo: I believe the ordinance as it's crafted now requires that the evidence of water availability and sustainability be provided at the construction plans review phase, or prior to. So basically, as I mentioned, it will be developed in phases. And each phase, by the way, would need to have its own subdivision approval application. And through that subdivision approval application all of the requirements of subdivision would need to be

complied with including the water availability ordinance. As I mentioned earlier, the Section 201H does allow an applicant to exempt themselves from certain County Codes, but I think, the water availability is some what important that we probably should not do that. That's kind of my thinking right now.

Ms. Kaye: Okay, Commissioners, any other questions? I think we'll open this up for public – Dwight – and then public testimony or questions.

Mr. Gamulo: When does the year start for the zoning processing?

Mr. Munekiyo: I beg your pardon?

Mr. Gamulo: When does the year start for the zoning changes?

Mr. Munekiyo: As I mentioned earlier, the environmental assessment is being prepared. That process takes about seven or eight months. And once the final environmental assessment is completed and issued, at that point, we would be able to file our section 201H application, and that would address the zoning issues. So, from now probably closer to the end of the year, we would be ready to file that, if not sooner. Again, you know, there's a lot of variables, but certainly that kind of gives you an idea of the time frame that we're looking at.

Ms. Kaye: Okay, yeah, I'm sure some people would like to ask questions. I guess we'll just open it up for public testimony. We didn't have anyone signed up did we? Okay, so we have Ron, Pat – anyone else? Pat, Butch, Winnie, John. All right, we're going to do a three minute limit since we have so many and I assume that we'll have others come afterwards. Pat one second. Sure. Sorry Pat.

Mr. Dwight Mitsunaga: My name is Dwight Mitsunaga, and I'm from Pacific Architects. We've been looking at this project for a while and I just wanted to present a few items before we have the testimony or if you have questions come up. At this stage – and first of all, I want to thank Mike for making such a nice presentation for us. He's been able to present it very well. But I wanted you folks to see the intent of the project. One is that, you know, you need to have it affordable for so many different types of families. You have people starting out. You have elderly. You have a lot of different categories. And this project was meant to be, you know, pretty much flexible. As you see, we've indicated areas as multi-family. We have public/quasi-public areas. These are basically general in terms because it has not yet been determined fully as far as what the uses will be in the future. When you say multi-family, it could be for elderly. You could have elderly assisted. It depends on the community's needs. This is a first pass.

We're looking to see what is affordable to our community and its residence. The 5,000

square foot lots, what that does is provides a single-family home for families, and it becomes more affordable. A 5,000 square foot lot, in the long run, becomes more affordable than a 6,000 square foot lot. You have to remember that you have not only the cost of the homes, but you also have the site development costs. You have to put in the roadways. You have to put in the utilities, the electricity, the sewer – everything has to go in. So what that does is it allows you bring the unit costs down per lot. If you look at something, when you buy in bulk, everything comes down. And that is one of the intents of this first pass. It is a first pass where we tried to provide whatever information we could so that you folks have something to comment on. You know, if we come with just words, and nothing shown to you, there's nothing to comment on. So that was the intent of this, and we started this out a while back already. We're working on it a little bit, you know, for little while, but the intent is to have the input of the community of the residents of Lana`i. And please understand that whatever we're doing is meant to be for the benefit of the Lana`i citizens and the community. So as far as what's here tonight is just a broad paint brush type of presentation for you. So, you know, I just wanted to let you folks know that it's basically a conceptual at this point. And the development of this area will be for the future. It's going to be based on what you folks question, what you end up donating to this project.

Another thing is that, a lot of the development as far as the phases will be according to needs. I don't think you have enough people right now standing in that line to have all of these units developed at one time. So you have just a small portion developed for the future. You have to go by need. No sense to put up a white elephant where you have everything in place and nobody to buy it. Even in this area which is for the public area, it could be for early child care. It could be for elderly support systems. You could have things that would benefit the community. You could even have a post office or something or things that make it more convenient for the community. And as far as my understanding is that, you know, there's all the residents and the inhabitants of Lana`i, but then there's also Castle & Cooke, and you have all the different concerns. You have the Lodge over here. You have Manele and everybody has to kind of work together and develop everything together. So basically that's what I wanted to present.

Mr. Rabaino: I'm looking at the last page where you have the accessible model. That's for the ADA, yeah?

Mr. Mitsunaga: Yes.

Mr. Rabaino: My next question to that is how many will be available as you do it in increments?

Mr. Mitsunaga: Normally it's 5%. And as far as how many you develop at one time could be based on needs and based on the overall number. There's certain ways to approach

it.

Ms. Zigmond: How about solar for hot water and solar panel on the roof and such?

Mr. Mitsunaga: All of that can be considered. It depends on the input and as we go along.

Ms. Kaye: I thought there's a State law that requires that after 2010 and in any new construction.

Mr. Mitsunaga: All of this will come about as far as the input. It's questions that you folks ask will have to be answered to develop this project. And I believe the next step as this develops all the questions will be coming in based on the environmental assessment, and that will determine what the impact is on the project.

Mr. Rabaino: One last one. You may laugh at this but we have all this all cluttered in their yard – will they be able to hang clothes in their yard?

Mr. Mitsunaga: You know that's a good question because it depends on how you want to control this project because there's also rules and regulations. You have covenants. You have certain requirements that has to be respected, and all of that would be a part of this project.

Ms. Kaye: Hold it. Who's going to set covenants and restrictions?

Mr. Mitsunaga: That could be a part of this development. Any development you have, you have County standards that gives you set backs, it gives you building heights, it gives you a lot of restrictions. I think we would follow the Lana`i zoning requirements.

Ms. Kaye: Right, but you're talking – when you speak like that, you're talking like a neighborhood association that imposes its own rules, covenants and restrictions on the area, and you're not suggesting on that, are you?

Mr. Mitsunaga: Well, it depends on what you want because basically is it okay for your neighbor to just build anything they want or do what ever they want? So as far as any limitations, I think that's a community issue that has to be somehow presented and answered. I mean, that's the best way I get out of this. But, you know, like I said, I just wanted to add something for you folks.

Ms. Kaye: Thank you. Okay, where's my list? Pat, you're standing, so you're first, and then Ron.

Mr. Fairfax "Pat" Reilly: Thank you. Pat Reilly. 468 Ahakea Street. Olupua Woods, 201.

I am blessed. I thank Riki. I thank the people in the County – Castle and Cooke. That was the last phase of these kinds of housing. I'm an employee of the Department of Education. I worked here at the school. I've been here 30 years. I now own my own home. It's a miracle. I mean, I could stand here and cry because for me that's been my dream. It's a miracle that I was able to come to Lana`i and actually own my own home through work. I hope the young people – and I'm glad to see the young people here – and that people put their needs out. One concern I would have is what is the next forum where the community can put forth all of these needs into some kind of comprehensive manner? Is it going to be through the EA process or some hearing because I think you need a broader community hearing to get all of the inputs. I'll tell you today and we all know the circumstances of this economy today. I'd also like to thank Butch because as Chair of this Council, he pushed this project for years trying to get this, and I respect the County and Riki again for having this before us. You don't know how long it took to get this presentation tonight, and for these architects to come forward for us.

I met – I had a conversation with a family today, in tears because they can't afford their mortgage. We're going to go through this guys and we need to get it out in the open as to what our community needs for our young people. For the people that are working in the resorts and the hotels, when they're confronted with these issues for the next several years. And we hope that the economy in this island will pick back up. I think the questions about rentals are very important because the comment was I got to get out. I can't afford my mortgages. I can barely pay a rent, but maybe I have to give up my house. Family with three or four children impacts the schools. All of this impacts all of us. I can say those are 6,000 square foot lots at Olupua – and just give me a few more minutes. It's tight. 6,000 square foot, I felt was just about right. You squeeze it a little bit. And because of the situation, we have families, extended families, living together in those lots. And as you asked there were covenants and restrictions when we purchased those lots. Nobody is going to enforce them. I understand that. Nobody is going to enforce them. We kind of live – let people live the way the are use to living, and live there. This is a very important project. We need to think comprehensively. As the gentleman said, elderly care needs. We need a facility down there. So we need some process to comprehensively make input as to the potential possibilities here. Thank you very much!

Ms. Kaye: Pat, just to be fair to everyone else that's going to be restricted, you can come back when everyone else – if you have something more to add. Okay. Ron?

Mr. Ron McOmber: My name is Ron McOmber: You know this 65 acres, I didn't think I'd ever see it on a piece of paper. Thank you Butch for pushing it. Thank you Riki. This is a Land Use Commission decision folks. This is given to this community. I did not envision having lots and homes build on it. A lot of this we were looking at self help programs. I think there's got to be a component in this that lots can be sold without houses on it so young men, young ladies on this island can build their own homes. We've got a lot of

talented carpenters on this island. They're going all over this town right now tearing down old homes and re-building them. They're not going to be able to afford that. But they can afford a self-help program. So I beg the architects and the people – the engineers – come back and talk to this community. This is a very small group of people here tonight. This does not publicize very well for the general public to talk about homes. I can remember when we did Lalakoa III, we had 600 people in that room. Remember that? We would love to have this done in a different forum. So don't bet everything on this. We need to have you come back and talk to this community. Thank you very much.

Ms. Kaye: Ron, just so you know, we just got the letter saying what this was going to be about on Friday. And so there wasn't really an opportunity. So you're absolutely right. We need to make sure that JoAnn comes back and gets a little more headlines.

Mr. McOmbler: I'd like to see them back and talk to this community. This is not an open forum for this thing.

Ms. Kaye: Yeah. Thank you.

Mr. McOmbler: Okay, thank you.

Ms. Kaye: Butch? We're very impressed Ron.

Mr. Reynold Gima: Good evening, my name is Butch Gima. It's been almost a year now since I've been off of the Planning Commission. And just some historical context, the reason why we brought this to the table was several of us, John, Pat, and myself have been on the school's master plan for almost 10 years now, and we have been working on this area. And this is just part of the 115 acres that were deeded over to the County many years ago. I'm really surprised with this conceptual plan tonight because my understanding that the County was going to be coming over talking about so-called housing study. And so I'm a bit surprised and in hearing one of the architects in the first past that I'm glad to hear that it's still in its conceptual plan. Because the master plan committee met with the two gentlemen from the Pacific Architects along with Riki, and it was my understanding at that time that we were going to have a somewhat of a charrette process with the community. My understanding was we were suppose to have community meetings during this past summer to talk about stuff that would lead up to something like this in the packets you have. So that's why I'm a bit surprised. One of the things we were always worried about was we didn't want this affordable housing plan to suffer the same fate as the ones on Maui where if they didn't have enough people buying in a certain economic level they could just bump it up to the next level. And if nobody bought it, then they could sell it at market. And it defeated the whole purpose of an affordable housing plan. And I think Riki was instrumental in trying to ensure that this plan wouldn't suffer the same fate. Riki also talked about not building big enough houses where you couldn't qualify for the house. The

concept was make it affordable in the sense, okay if you do have 5,000 square foot lot, build a house small enough so you can afford the mortgage, get in, build some equity, and then extend. I think that was the concept behind that, and I think it's a well thought out concept, and I hope that doesn't get lost as this plan goes down the line. I don't know how affordable \$295K is, and so I'm kind of wondering what formula was used to come up with that amount.

I think that's it at this point. I would echo what, you know, Ron and Pat said that I think it's important to include the community in the next several phases before we nail down all the lines, and all the boundaries, and whether we need more one-bedroom units, whether we need ohana units, whether we need kupuna units just like the Hawaiian Homelands envisions for their area. So looking forward to Pacific Architects coming back to Lana`i, meeting with the community in several more meetings so we can have a lot more people involved in this process. Thank you.

Ms. Kaye: Thank you Butch. Winnie? Three minutes Winnie.

Ms. Winnie Basques: My name is Winnie Basques. I live 633 Lana`i Avenue. Been here on this island almost 47 years. I came from Honolulu to change. From Honolulu to Lana`i is a very big change. And now you look at it, pineapple fields have gone out. Tourists have come in. Everything going (inaudible). I'm the President and the Secretary for the Hauoi Homestead Land on the island of Lana`i. You talk about acres – we have 50 acres. Out of the 50 acres, we have 78 – all have 50% quantum. Okay, out of that, we get 45 homes already. It was all lottered. Everybody their pick. 10,000 square foot lots. The last three, the ends was 12,000. Had only three and that went to the kupunas. Okay, now, you're talking about these areas here. How people going afford that \$295,000? Look at the economy now. You folks have to bring down that price. That price is too darn high. That ain't no affordable. I hate to say it. I know materials is expensive, and the labor is expensive. Where everybody going get the money? I'm retired from the State. I'm on a fixed income. I ain't got that kind bucks for pay for that kind house. Forget it. I hate to say it. I'd rather rent house. I have a private home, and I'm comfortable with that. But the thing is that you have to look at everybody – the situation now. The situation here is very, very critical. And to think of a \$295,000 – \$230,000 – try go a little bit lower than that. Try go maybe about \$160,000 – medium income, right? You got to go according to the bracket or their pay. Now remember now, people who get salary, they can afford that. Hourly wages they can not afford it. Zits!

Ms. Kaye: Okay, Winnie.

Ms. Basques: But if you folks can bring down that price and have the community come and look at this project here, maybe they think twice. Thank you.

Ms. Kaye: Thank you Winnie. John?

Mr. John Ornellas: I've got three things. The first is, Mike, have you guys looked at the draft for the Water Use and Development Plan for Lana`i?

Mr. Munekiyo: . . .(Inaudible. Did not speak into a microphone.) . . .

Mr. Ornellas: And also the drainage plan for the County of Maui for Lana`i? Because I see some problems because when we were talking about the school expansion, we know that there's a runoff problem from Ninth Street and also from Fraser Avenue. And we were hoping that all these runoff areas would go down to the lowest part and then get pumped into our sewage treatment plant or the holding pumps for Castle & Cooke. That way we can capture more water for use of the irrigation up at the Koele. Also, I think Sally kind of hinted on it – who's going to manage this? I guess that's for Ms. Ridao. Who's going to manage these multi-family and single-family units – the rentals? Are you going to defer to Castle & Cooke housing – as far as to manage these apartments, as well as the rental units?

Ms. Ridao: I think we're very premature, but what we would probably do is look for a non-profit management firm that could come over and manage the property.

Mr. Ornellas: Okay, great. And we can talk about that as we head down the road?

Ms. Ridao: As the project progress. Yes.

Mr. Ornellas: Okay, good. Thank you.

Ms. Kaye: Okay, any other public testimony? Anybody else want to share your thoughts or comments on what you see or don't see? Sure, Brad.

Mr. Bradford Oshiro: Hi, my name is Bradford Oshiro. One question – you know our population here, a lot of us are my age. And what I'm looking at is long term care. We don't have anything here. You know, a lot of our parents – if I didn't come back, my parents would be in a care home off-island. So I don't know if this project probably got no room for a long term care type thing. The thing I look at is long term care – you're going to have a trickle down effect – economy wise there could be jobs. But this might not be the right place for this, but I thought I'd just bring it up. Okay. Thank you.

Ms. Kaye: Anyone else from the public want to share?

Ms. Castillo: I believe in regards to Brad's question – maybe he's looking for somebody that would make a care home instead of a long term care because right now we do have a 13

bed facility that does the long term care which we converted that hospital to a 10 bed for a long term care. And maybe he's talking about something like Hale Makua or other facilities that can accommodate long term people.

Ms. Ridao: I'd just like to respond a little bit to that. You know, elder care has taken some very, very constructive ways, I guess, and new ways of dealing with long term care. And it doesn't necessarily mean a hospital or a Hale Makua setting. So, you know, I think, you should include that in your comments and we can see what can come out of that. Some of the new concepts are individual single-family homes that are designed to care for elderly people in the least restrictive environment as possible. So it's a good comment.

Mr. Rabaino: That's great. One question for you and tied in with Donald. Then the next time you come back to Lana`i, can you have a model of how these houses? Because it looks like some parts of Kapolei, Mililani, et cetera, et cetera – just looking at this design. If you can come back with a model. Donald –

Ms. Kaye: Wait Gerry. I understood from what Butch said that we're getting ahead of ourselves altogether so we may want to change that. In January of 2008, as you know JoAnn, this has been an on-going discussion on Lana`i, and we had exchanged – the Commission at that time had exchanged some data and I brought it along tonight because I don't know what's changed but I want to get it on the record to see –. This was from a housing policy study and it was directed at Lana`i which at that time, I think this was in 2007, there were 1,048 households. 50% were owner occupied, compared to 61% Statewide. Of a total population of 297 males and 320 females were aged 60 or older. And of 413 households, or 35%, had a family member over age 60. And it was estimated for us that the over 65 population would grow two to three times the rate of the State as a whole by 2030. So I think that is just to echo that it is a huge concern for this island.

Ms. Castillo: At one point also Sally we have had some survey at – as you folks know, we don't have a community center. And I just wonder where that – we have had some survey before and we had some things that went around and asking for a community center. Because we don't have a funeral home in here. We have to go to Maui. We don't have places where we can get gatherings like that so maybe we can consider.

Ms. Kaye: To make your point, look at where we are tonight.

Ms. Zigmond: JoAnn, do you have any idea or is it premature to ask this now when you all might be back for another community meeting?

Ms. Ridao: I think what will happen after this meeting is we will probably get together again as group and plan for that community meeting. I just wanted to make a comment that I'm very happy to see that there are community members here tonight. The intent of our report

was to report our progress to the Planning Commission, so it wasn't intended for this report to be a big community meeting. So we will go back. We will take your comments into consideration, and we will plan for a time when we can give the community plenty of notice and plan for a bigger location. But we promise that we will be back for the community.

Ms. Kaye: Okay, anybody want to add anything else? Ask anymore questions? Thank you JoAnn. Thank you very much for your presentation, and why don't we take a 10 minute break and we'll come back for the rest of the agenda.

(The Lana`i Planning Commission recessed at approximately 8:11 p.m., and reconvened at approximately 8:27 p.m.)

E. COMMUNICATIONS

- 1. Report from the Department of the Corporation Counsel on the Lanai Planning Commission's options in response to non-compliance with Special Management Area Permit conditions of approval. (Issue raised at the January 21, 2009 meeting.)**

Ms. Kaye: Next on the agenda is a report from Corporation Counsel on the Planning Commission's options in response to potential non-compliance with Special Management Area Permit conditions. I'll just remind us all of what transpired last month, and for those of you who weren't here, we brought this up as a potential just to know how we would proceed. And James Giroux at that time said he would look through our rules because each Planning Commission has its own set of rules, and he in fact found out that we are the only Planning Commission with no enforcement language. And this was an oversight that apparently happened and it just fell off a cliff a while ago. And so, tonight, Michael is going to talk to us on steps they've taken to address that.

Mr. Hopper: Thank you Madame Chair. I did speak to Mr. Giroux. He has a draft that he's working on with to adopt rules, as you might remember, with your SMA Rules Amendment. It's a relatively arduous process. It's got to be reviewed by our office, set for public hearing, and in that public hearing, you know, you need to have that hearing, and then vote to adopt those rules. The rules would govern not only enforcement, but could potentially govern amendments to permits, as well as an order to show cause dealing with non-compliance with any permit's terms or conditions, that would be modeled off at the State Land Use Commission's procedure for an order to show cause. Such an order to show cause procedure would actually be a new provision for any Planning Commission. None of our Planning Commission have that, so the rule amendments would be fairly extensive including other Commission. So actually Mr. Giroux told me that in his review he did find that there were rules in other Planning Commissions in need of updating. So it was a

useful exercise to look at the rules. He is fairly far along in the drafts. I've seen he's got more than just a concept. He's got some drafts down. And hopefully there will be some progress on that that we can report to you by the next meeting. But he did recommend that before initiating any proceedings that these rules be adopted to have a pretty clear process for how you would go about review of any potential non-compliance with permit terms or conditions.

Ms. Kaye: Okay, thank you Michael. Any questions? I assume from that, then, that we're in just a status quo for the moment until the language is reviewed by your office, and submitted to us for discussion?

Mr. Hopper: Yes, it's still being drafted. We want to be very careful about how we would draft those rules. So, they're still in drafting phase, but it hasn't just started. It's moving along.

2. Follow-up regarding Castle and Cooke, LLC's December 15, 2008 letter on the Lanai Solar Farm. Any further issues of concern to the Planning Commission.

Ms. Kaye: Okay, thank you very much. The next one is actually a result of a conversation that I had with Mr. Hunt about the Solar Farm situation. As we know, it's now a permitted use under State law, and the permitting process that we went through and negotiated with Castle & Cooke vanished. And he was sufficiently concerned. We checked again one more time and see if everyone is comfortable with the way issues have been resolved. If there's anything outstanding, this would be the time to speak up. I think pretty much the letter that came in from Castle & Cooke responded to most of the conditions that we had asked for which now becomes voluntary on their part, with the exception of a long range plan for alternative energy practices on Lana`i. That escapes us. But other than that, I'm not sure that we have much else we can do.

Ms. Zigmond: Madame Chair, can I just make a couple of comments for the record please? You're right, there's probably not much we can do about the long range comprehensive planning, and I am dismayed about that. I wanted to just mention that in their copious materials, Castle & Cooke once again has inconsistent numbers, and it just drives me crazy. In this case, it's only a matter of four employees, but none the less, you either have employed 20 out of 25 positions of Lana`i residents or 24. It's not both, and I'd just like to put that for the record.

And I have a question. If we're – it's my understanding that we don't even use all of the electricity generated on a good sunny day. It's kind of wasted because we have no way of storing it. And that just seems like a big waste, I guess, is a comment that I have. And that would be it for me. Thank you.

Ms. Kaye: . . . (*Changed Cassette Tapes*) . . . Okay, any other comments from the Commissioners? Okay, I think we can safely say thank you Mr. Hunt. We've revisited it and there are no outstanding issues, and we – Public testimony on this – sure. Anyone would like to testify on this particular item? I think this was just to Mr. Hunt from Mr. Hunt being kind to us. Okay, next is Director's Report. We have open Lana`i applications and Joe is ready to go on that one.

F. DIRECTOR'S REPORT

1. Open Lana`i Applications Report.

Mr. Alueta: As best as I can.

Ms. Kaye: And at this point, really, Commissioners do you have questions for Joe? I asked him to come prepared to address specifically – Well let me just start with mines. The Miki Basin, we know what that is. And the wind farm project is in its very early stages. The rest of them – the question I would have – how many of these would ultimately end up with us if any of them?

Mr. Alueta: Conditional Permit would be. Accessory Use. Phase III approval would also be with you.

Ms. Kaye: I'm sorry. The Conditional Permit?

Mr. Alueta: Yeah. If I can, I'll just go down and give you whatever information I have and then tell you how they work out. So you have again the Miki Basin Heavy Industrial. It's the six acres. It's the last of the 20 acres that you have on the community plan. The uses are unknown. There was a condition. I believe, that they're trying to work out is that how they're going to – they're suppose to be allowed to leave some of them for fee simple. Of the six acres, I believe 50% of it suppose to be fee simple to residents of Lana`i or people who want to start up something on Lana`i, and so they're working out on that.

Again, as you talked about the wind farm in its early stages. The Lana`i recording studio – that's John Romero. That's at 311 Ehunani Circle. And it's basically using an old garage that's kind of dilapidated, and he's proposing to renovate it and to use it as a recording studio. So that requires a conditional permit. It's in the residential district I assume. And therefore it would come before you for comments and recommendations to the County Council.

The Lana`i Recycling Center is on Twelfth Street. It's approximately one acre, or the portion that's going to be used for the recycling center is one acre. The lot is bigger.

Ms. Kaye: And that ACC is accessory?

Mr. Alueta: It's an Accessory Use Permit.

Ms. Kaye: Would that come here?

Mr. Alueta: Yes, it would be and you would be the final authority. What it is is that in many of our districts or our zoning is inclusion meaning it has to be listed as a permitted use. If it's not listed as a permitted use, it's excluded and prohibited. And obviously recycling centers didn't exist, or per se, it was never thought of, so it's now being -. Every time someone wants to do a recycling center, we're at a quandary as to what zoning category would it automatically be allowed in. And it would make sense that it wouldn't be allowed in a commercial district or in some other manufacturing, but it's not as a permitted use. Therefore it has to be established. And right now, the only place we would normally allow them is in public/quasi-public if they are run by the County.

The R.M. Towill, the Land Court Consolidation, that one ties in with also the other land court consolidation that you have. That should be together. And it's an easement – for an easement lot – that's Danny Dias. And then the Koele – the Palms – I was not able to talk Paul Critchlow, the Planner.

Ms. Kaye: I think that's landscaping. Yeah?

Mr. Alueta: Yeah, that's an LPA, so it's just landscaping. And then the other one is the flexible design standards, and we're just a commenting agency. And actually Danny Dias is taking over that one.

Ms. Kaye: But do we know what it is?

Mr. Alueta: It's to – Lana`i Company, I guess, in their Koele Project District, they are trying to get flexibility in how wide their roads are – sidewalk easements. As you know within most subdivisions or within most County zoning, we require a minimum roadway width, depending on the type of street it is, whether it's a neighborhood street or a collector road. We also require where there are some areas that require current gutter sidewalks. We have a lot of times that comes into conflict with design guidelines, especially on Molokai and Hana where they don't even want paved parking. They would prefer to have gravel parking lots. Or they don't want to have curbs and gutters, they would rather have a grass swale. And I believe in Lana`i there's a similar situation that calls out for them. And that's what they're trying to get – some type of – come up with a design. And I'm assuming that because it's a Project District they have that ability and they're trying to establish that and then get that approved in some fashion. So we're just a commenting agency.

Ms. Kaye: Thank you Joe. That was great. That's the best open project's report we have ever had.

Mr. Rabaino: Right on!

Mr. Alueta: And it really wasn't that hard. I just had to go track the planners down.

Ms. Kaye: Next month we'll get a map.

Mr. Rabaino: Great!

2. Agenda items for the March 18, 2009 meeting.

a. Continuation of deliberations on Castle & Cooke Resorts, LLC.'s district boundary amendment and change in zoning requests for the Miki Basin Heavy Industrial addition

b. Water Workshop Series - Kepa Maly

Ms. Kaye: Okay, now agenda items for March 18th – that's next month. I would like to throw something out for the Commissioners to consider and this goes to the last point that Pat made in his letter. As we know, we have heard over and over again the Community Plan is about to be redone. And I understood, actually Dwight made a point last month about should we be reviewing projects or applications when we don't have enforcement? This wasn't to the Heavy Industrial Project, it was to the Water Report. But it got me to thinking about whether the Community Plan process should put a little slowing down on re-zoning, District Boundary Amendments and that sort of thing. So I had a conversation with the Planning Department and then found an article in the Maui News where in fact you did that. You said no more Community Plan Amendments until the Community Plan is redone. And I think to be fair, if the Commission thinks this would be an idea to pursue, that we schedule it next month as an agenda item and have a public hearing on whether the community would like to just put a moratorium on District Boundary Amendments, Changing in Zoning, until our Community Plan is redone. Thank you for the bread Kathleen. It's delicious.

Ms. Kathleen Aoki: I just wanted to respond to that. What we did as a department is what we said was for Maui Island Projects while we were updating the Maui Island Plan that we would look –. By law, we have to accept applications that come into us. So if Community Plan Amendments came into us, we have to review them. We have to process them. And then depending on the nature of that Community Plan Amendment, we would determine whether or not we supported them or not. So that's not us saying – because ultimately County Council is the one that makes – you know – it goes to the Planning Commission for

recommendations, approval, denial or whatever their recommendations are to County Council, then it's ultimately up to County Council to make that determination on whether or not they're going to grant the Community Plan Amendment. So I don't want you to think that the Planning Department denied or denies at this juncture Community Plan Amendments. It's just that we may take a stand that we may not support it at this time.

Ms. Kaye: Okay, but the newspaper article wasn't quite that clear. It made it sound –. I mean, Mr. Hunt was quoted all over it as saying we're not – unless it was a substantial benefit to the public or de minimis, there would be no support for Community Plan Amendment.

Ms. Aoki: And that's not the same thing as District Boundary Amendments and all that kind of thing.

Ms. Kaye: I understand that.

Ms. Zigmond: Kathleen, having said what you said though, can we still not do that? Put this on as an agenda item?

Mr. Hopper: At this stage, you need to decide if you want it on your agenda is my recommendation because I don't want a whole lot of discussion on that because of the sunshine law. And then all of this can be discussed then and can be clarified and everything. So that's what I'd recommend. I know you're trying to get accuracy in the agenda item, what is it exactly would be for, but it's kind of tough without the notice here to have a protracted discussion.

Ms. Kaye: Okay, can we just respectfully request that we have that on our agenda for next month? Okay, and Mr. Reilly has recommended in his letter a site visit to the Miki Basin. And that might be something that we would think about after we have the public hearing on what we just asked for. Does that make sense?

Okay. All right, so next month we have a public hearing on this, the issue we just discussed, and a water workshop by Kepa, and additional deliberations on the District Boundary Amendments for the Miki Basin Heavy Industrial. Anybody want to add anything else? Okay, nice work everybody. Thank you very much!

G. NEXT REGULAR MEETING DATE: March 18, 2009

H. ADJOURNMENT

There being no further discussion brought forward to the Commission, the meeting was adjourned at approximately 8:37 p.m.

Respectfully transmitted by,

LEILANI A. RAMORAN-QUEMADO
Secretary to Boards and Commissions I

RECORD OF ATTENDANCE

PRESENT:

Sally Kaye, Chair
Dwight Gamulo
Beverly Zigmond
Matthew Mano
Darlene Endrina
Gerry Rabaino
Leticia Castillo

EXCUSED:

Stanley Ruidas, Vice-Chair
Alberta de Jetley

OTHERS:

Kathleen Ross Aoki, Deputy Planning Director
Joseph Alueta, Planning Program Administrator
Michael Hopper, Deputy, Department of Corporation Counsel
Suzette Esmeralda, Secretary to Boards and Commissions II
JoAnn Ridaao, Deputy, Department of Housing and Human Concerns