

**LANA'I PLANNING COMMISSION
REGULAR MEETING
MAY 18, 2016**

APPROVED 07-20-2016

A. CALL TO ORDER

The regular meeting of the Lana'i Planning Commission (Commission) was called to order by Chair Kelli Gima at approximately 5:10 p.m., Wednesday, May 18, 2016, in the Lana'i Senior Center, Lana'i City, Hawaii.

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

Ms. Kelli Gima: Good everyone. We're gonna go ahead and get started. It's now 5:10 p.m. I'm going to call the May 18th, 2016 Lanai Planning Commission meeting to order. We do have five members present so we do have quorum. No minutes to approve at this time, so we're gonna go right into our public testimony.

Before we start off with the public testimony, I just want to lay out a couple of ground rules down please. When any of you are testifying please direct it to the commissioners, not to anyone out in the audience. Do not try and single out anyone. And during the time of your testimony, you know, please, again, stay focused on the commission. If anyone in the audience has anything to say, you wait your turn for public testimony. We want this to move nice and smoothly.

So right now I'm gonna open up public testimony. After the first presentation I'll open it up again after the presentation is done. So I'm gonna go down the list and you guys can let me know if you're gonna testify now or after the applicant's presentation. So Ron McOmbler.

B. PUBLIC TESTIMONY - At the discretion of the Chair, public testimony may also be taken when each agenda item is discussed, except for contested cases under Chapter 91, HRS. Individuals who cannot be present when the agenda item is discussed may testify at the beginning of the meeting instead and will not be allowed to testify again when the agenda item is discussed unless new or additional information will be offered.

Mr. Ron McOmbler: My name is Ron McOmbler, resident of Lanai. I'm requesting that this commission...defer on this tonight. The reason is we just now getting the packet of all the information. This information has not been available to us. We haven't seen it until tonight. I need to see -- my hunting group needs to see it, the hunters on the island, the people that use the shooting clays, and this is not fair to them. This is not fair at all. But whatever you decide I'd like you to have it defer it until the next meeting, and then by that time the Hunting Association get with the hunters and the packet can be sent out. Because reading the packet I see that the same thing is going to happen at the golf course down at Manele. Four Seasons is going to have preference over everybody else, and this is -- you know, this is the same thing going on every where. So thank you very much, and I'm just requesting that you defer on this tonight. Thank you.

Ms. Gima: Thank you. Kathy and Mike Carroll.

Mr. Tom Hayne: My name is Tom Hayne. I'm going to read a letter, testimony for on behalf of

Kathy and Mike. They couldn't be here.

Dear Chairperson Gima and members of the Lanai Planning Commission. We have lived on Lanai for 15 years, and have owned and operated the Mike Carroll Gallery since 2002. We support the Special Use Permit necessary to ensure the re-opening of the Lanai Sporting Clays facility and the addition of the two containerized pistol ranges. The facility will provide a terrific array activities for Lanai's community and visitors alike. Because our island depends heavily upon tourism to help fuel our economy and provide jobs, we support the sporting clays as an added incentive to entice visitors to this beautiful island. Mahalo, Kathy and Mike Carroll.

Ms. Gima: Thank you. Next, Barbara McIntyre.

Ms. Lesley Kaneshiro: Hi, my name is Lesley Kaneshiro, and I'm reading a letter from Barbara McIntyre, President of the Koele Homeowners Board of Directors.

Dear Chairperson Gima and Lanai Planning Commission members. This written testimony in support of the Special Use Permit for the Lanai Sporting Clays Facility which in my absence will be read at the Lanai Planning Commission meeting today, May 18th. The members of the Board of Directors of the Koele Homeowners Association are in unanimous support of this proposal. We are in favor of this amenity which includes the 14 station course, skeet shooting, five stand shooting, archery range, and the addition of the two containerized pistol ranges. The sporting clays facility is world renowned with a five star rating from Trip Advisor. The re-opening of the facility with the addition of the above amenities will attract more tourists to the island of Lanai which depends on those resources. In addition the facility is very popular with local residents. It is an additional recreational facility which compliments other recreational opportunities here, provides jobs, and will attract more visitors to the island and the hotels, thus improving our economy. Sincerely, Barbara McIntyre, President, Koele Homeowners Board of Directors.

Ms. Gima: Thank you. The next person is, it's kind of hard to read. I think it's Max Kincaid. Did you sign up to testify? Okay, so not wanting to testify. Okay. Next Dennis Rapp.

Mr. Dennis Rapp: I'd like to thank you for the opportunity to address the commission. I wanna bring just a little bit of a personal side to this. After being at the sporting clay range as a manager for most of the years its been open in operation, I'd just like to say that it's provided a lot of local jobs and a lot of economy, and over the years have watched a lot of families grow. And a lot of people come back and enjoy the facility, and bringing back their families and friends, so it's been a great asset to the community. And so on those words I would hope that the commission would take a look at that and say, let's continue this tradition for many more years to come for lots of families. Thank you.

Ms. Gima: Thank you. Alberta de Jetley.

Ms. Alberta de Jetley: Good evening commissioners. I had the privilege of --. Well, my name is Alberta de Jetley and I am testifying for myself as an individual. I had the privilege of working at Lanai Pine Sporting Clays when I first returned to Lanai back in 1996. It was a wonderful facility. I worked in the retail shop there. I was working at school and needed a part-time job to supplement my part-time school job, so I went up to Sporting Clays and I worked retail and then became a certified level one instructor. This is an established family sport. The facility was world class, very, very well run, very safe. We taught hundreds and hundreds of children, young adults, men and women to shoot safely.

My family, I come from a long family of shot gun enthusiasts. My father was a skeet shooter. My brothers, we also shot trap. So this facility combined the best of all shooting worlds, and it was truly a world class facility. I strongly suggest and hopefully recommend that you re-open as quickly as possible.

We also had an archery range. The range is open. The archery range is open to the Lanai Youth Center, to students at school, and they came up in . . . (inaudible) . . . and we taught them how, how to use the archery equipment safely. We also had a rifle, an air rifle range, and that, that was also very, very popular. So this is a family sport that can be enjoyed by people of all ages, and I hopefully hope that you will re-open it again as quickly as possible.

Ms. Gima: Thank you. Gerald Rabaino.

Mr. Gerald Rabaino: Okay, Gerald Rabaino, Lanai resident. I will support this with some reservations, okay. Pulama should have stayed in control of the sporting clays, for number one. For Four Seasons, I would encourage you to set conditions. When employing Lanai residents, make sure they have the proper training, and Lanai residents is priority as number one. Number two, outsiders coming in, if they have certification, then that's fine. But those are the conditions that I want you to set because this community is going through some kind of transition where Pulama is giving everything to Four Seasons on a silver platter. Because when we first open up under the hotels before it was renamed Pulama, majority of all the outlets on Lanai was ran by Castle & Cooke, now it's now Pulama. Majority of those employees was once employed, running the stables and other areas before Four Seasons came in and took over. So those why I have the reservations of Four Seasons. So those conditions is make sure Lanai residents is still hired and training is provided, and any outsiders has to take a certification. I whole heartedly support this, but make sure those conditions are tied in because we are still in this transition Mr. Ellison and his team. Thank you.

Ms. Gima: Thank you. Winnie Basques.

Ms. Winifred Basques: Good evening. My name is Winifred Basques. I've been on this island 53 years. Any of you folks on the planning go hunting? Anybody? Nobody goes hunting? Well I tell you. I been going hunting on this island 45 years. Imagine 45 years. And then you folks talk about the sporting clay. What are we going get out of it? What's the cost? And who is

available to use that area? Okay, to me, it's my opposition. I'm sorry to say. That goes way back. That used to be Dr. Palama's bird hunt. He used to bring all these people come in, with the dogs. They use to use that area, but now . . . (inaudible) . . . has changed a lot. To me, I don't think it's right. If it would be possible to leave it like that, but no. Hunters is very, very... upset when they cannot go hunting in that area. There's suppose to be a boundary over 500 feet from the road to inside the area, the hunting area. When you folks do this kind stuff, you betta make sure because the lot on liability. Because when the hunters go in and hunt, bullet and arrow, and somebody using that area, somebody going get hit. Think about that. The liability is going to very, very crucial, and who is going to take the blame for it. I hate to say this, but it's true. Think about. I know you folks don't carry riffle. I do. I got two riffles that is in the Lanai Police Department. I got my license there and the thing is that I'm very . . . (inaudible) . . . when go out hunting because why, I bring home food . . . (inaudible) . . . house, to a family, and I share. It's not the kine that you give me, give me, and I ain't going give back. No. But I hate to say this, please think about it really good because it is very, very important. Thank you very much.

Ms. Gima: Thank you. Next we have Melanie Bandalan. Oh, okay. Elton Atacador.

Mr. Elton Atacador: Elton Atacador. I'd just like to say I support this sporting clay project. I think it would be good for everybody, both sides. The facility was already open. All we doing is making it a bit more nicer and better for everybody. Thank you.

Ms. Gima: Thank you. Next, Jason Fujie.

Mr. Jason Fujie: Testing. My name is Jason Fujie. Long time -- well, life resident of Lanai, and I wish that the committee...well, commission, expedite the approval of the permit. This...the range was suppose to have open, what we heard earlier, February of this year, so for me it's late. And I am a little -- well, I enjoy sporting clays shot gun shooting, trap, skeet immensely. And I do travel to the mainland for trap and sporting clays. And I'm a member of the, both, trap and sporting clays national organization. I'm not very competitive, but I still enjoy it. And...this...the range has been opened since 90, you know, 97, 96, so, you know, it's there. It's just a matter of, you know, renovating and getting it going. And a lot of times when I am shooting -- I was shooting up there -- we got a lot of good comments from guests that, you know, they kind of ran out of things to do so they decided to try it, and a lot of times they really enjoy it. And also when there's corporate...people come over, corporate, at the hotel, they would schedule, like, classes and you know, we, and I help at the range instructing. I am a certified level one instructor. And that's another part of the sport that I really enjoy is that seeing the light come on with someone when they, they, they hit a moving target. You know, it's hard to explain. You guys need to maybe try and experience that. But it's something that, that, you know -- I don't know, it just turns me on that, you know, you've got something flying in air, you point the gun at it and shoot and it breaks, you know. So thank you for the opportunity and I do wish you expedite the permit. Thank you.

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

1. **MR. KURT MATSUMOTO, Chief Operating Office of LANAI RESORTS, LLC, a Hawaii limited liability company doing business as PULAMA LANAI requesting a State Land Use Commission Special Permit in order to operate the Lanai Sporting Clays project, an archery and sporting clays facility on approximately 14.75 acres of land located in the State Agricultural District at Keomuku Highway, TMK: 4-9-002: portion of 001, Lanai City, Island of Lanai. (SUP2 2016/0002) (K. Wollenhaupt)**

Ms. Gima: Thank you. Lastly we have Sherry Menze. Okay. Anyone who...anyone who hasn't that wishes to testify at time? Again, we'll re-open public testimony after the presentation. Okay. At this time I'm going to close public testimony, and we're going to move on to the next item, and that's number one. (*Chair Kelli Gima read the above project description into the record.*) So I'll turn it over to Kurt.

Mr. Kurt Wollenhaupt: Good evening members of the Lanai Planning Commission. My name is Kurt, and I'm based in Maui, and I work in the Current Planning Division with Clayton Yoshida who is up at the desk there. As the chairwoman said tonight's matter arises from an application for a State Land Use Commission Special Permit filed by Lanai Resorts doing business as Pulama Lanai. And as I think most everyone in this audience knows this is to undertake renovations and limited facility improvements saying they're rehabilitating a previous archery and shotgun activity area on Lanai to meet the needs of both guests coming here and people who resides here.

The facility was previously in operation as the Lanai Pine Sporting Clays being in 1997. And they did in fact did get a permit as tonight's debate will look at for a State Special Use Permit. So for the members of the commission who this is one of their first meetings, again, it's always helpful, why are we here at all? And that's because this land is State Ag land. All lands in Hawaii are divided on a State bases into rural, urban, conservation or ag, and this piece of property is an ag piece of land. Hawaii Revised Statutes indicates that when there is a portion of a parcel less than 15 acres, the Planning Commission, the Lanai Planning Commission will act as the reviewing body for certain activities in the ag district. And as this goes it would be that Section 205-4.5 states that "*public and private open area types of recreational uses can be permitted in the State Ag district,*" and in looking at the history of sporting clays, the department along with the applicant took the highest level of caution and decided that this really should have the State Special Permit which will be explained in greater depth by Mike Munekiyo, as well as the entire project. But that's why we're here tonight to see if this merits a State Special Permit. And this body is the final authority on this permit. So should it approved, then the applicant would move forward.

Mike Munekiyo is going to do a power point presentation and that will cover exactly what the improvements will be and enhancements in the project. Thank you.

Mr. Mike Munekiyo: Good afternoon commissioners. My name is Mike Munekiyo and I'll be going over the project overview, and talk a little about what Kurt had mentioned with respect to the permitting requirements.

As Kurt mentioned we are here to seek your favorable consideration for a State Land Use Commission Special Permit for the re-initiation of the Lanai Sporting Clays Facility. This is just a listing of our project team. Noteworthy is the land owner and applicant is Pulama Lanai, and the operator will be Four Seasons Resorts Lanai.

This is just a regional location map showing the -- showing the location of sporting clays facility relative to other major landmarks on the island. Lanai City here. Zooming in a bit, this is...the 14.75 acre site. It's access off of a private driveway, off of Keomoku Highway. And just from a locational standpoint, the site is about two miles north of The Lodge at Koele. With respect to the request itself it is to provide renovation, repair activities, to rehabilitate what was previously known as the Lanai Pine Sporting Clays, and that was, as previously noted, started in 1997. And so the improvements and reopening of the clay, sporting clays facility will provide further diversification of recreational opportunities for the island's guests and residents.

With respect to permitting, as Kurt mentioned, we are seeking a State Land Use Commission Special Permit. Previously, it was obtained, but it was not renewed and so at this time the applicant is seeking a new permit to operate the -- or continue the operations of the sporting clays facility.

Briefly the project site is 14.7 acres. It's part of a larger tax map, 2-4-9-002-001. Again, located off Keomoku Highway. On site you'll see later that there are parking spaces for vehicles and shuttles.

Existing land use designations, the State Land Use District, as Kurt mentioned, is State Agricultural. The Lanai Community Plan designate the area as -- designates the area as OS as Open Space. And Maui County Zoning classifies the property as Interim.

Just a little bit about the State Agricultural District. What this Hawaii Revised Statutes, Section 205 refers to is the section of the State law that provides for public and private open area types of recreational uses. And it does lists a sample of uses that would be permitted, but sporting clays and shooting ranges aren't specifically listed, so we are seeking a Special -- seeking a permission to resume the operation through the special permit process.

The Lanai Community Plan, again, is Open Space. And this -- I'll read briefly, it is "intended to limit development on certain urban and non-urban designated lands which may be inappropriate for intensive development." And they have a listing of uses which includes "grazing, farming, equestrian activities, hunting, or other recreational or outdoor activities including related structures," so the proposed action does fall within the land use purview of the Lanai Community Plan.

And finally with respect to Maui County Zoning as I mentioned it is interim zoned which provides for "existing parks, playgrounds, community centers or public/quasi-public facilities owned or operated by private or governmental agencies." And again the proposed facility does fall within the provisions of this section of the Maui County Code.

Just briefly, I think many of the testifiers mentioned some of the components of the sporting clays facility, and these are components which previously existed at the Lanai Pine's operation. There's a sporting clays course. The 14 station course is navigated by a golf cart. There's a skeet shooting area, a five-stand shooting area. An archery range was mentioned. And all of these, again, were previously in place from the previous operation. The existing registration building will continue to be used. It will be used for management purposes. And in fact, this is where guests arrive and will receive their safety instruction training and equipment. A portion of that building will also be used for ancillary sales where sales of products which typically are considered to incidental or subordinate to the permitted uses. These will be smaller items.

Storage/maintenance facility, this is where the ammunition and equipment will be stored. And a new feature, I think, was mentioned in the testimony would be the containerized pistol range. This would be two pre-manufactured containerized ranges, and by containerized it's similar to a shipping container, 8-feet wide, by 40-feet long. There will be two shooting lanes in each container, so each one will be equipped for shooting purposes.

These are a couple of photos to give you an idea of what some of the facilities look like right now. In Photo #1 is the existing maintenance and storage shed. You may notice some deferred maintenance on this photo, and in fact, this would be removed and replaced. The archery shed here would be refurbished...get them refurbished. This is the five stand shooting structure here; again, to be refreshed. This is a photo of the skeet shooting area. This is part of the sporting clays course. The photo on the left is what is -- one of the original shooting structures and it would be refurbished or rebuilt to look something like this. And finally, this photo shows a typical clay throwing machine. Again, you notice some degree of deferred maintenance and so some of these will be replaced as needed.

This is the site plan, and I know it's difficult to see, but let me just go through at a very high level what we're looking at. The outer boundary is the 14.75 acre limits. This line here is a driveway to Keomoku Highway. As visitors arrive, they park in the parking area or be shuttled, dropped off here. The registration building is here where they receive their training and equipment. This is the 14-course sporting clays facility. The containerized pistol ranges would be located here. This is the new feature. The existing five stand shooting station will remain as is, as would the skeet shooting area. The archery facility is here and there is onsite a restroom which will be improved as well.

So just a little bit about the kinds of improvements that we anticipate to implement; with respect to the registration building, the restroom facility, the five stand structure, and the archery equipment building, these will be primary be refreshed activities. Replacing of old doors, painting, repairing decks and wood sidings, so forth. The clay throwing machines and enclosures, you saw in the last photo, some degree of deferred maintenance. And so to the extent that they can't be repaired, they would be replaced. And the cart path/driveways, these refer to the sporting clays cart path. They are some cracks and potholes, and some places where's ponding involved so there needs to be some filling and repairing of the cracks and maybe just some slight modifications of the driveway as well, cart path as well. No realignment however.

The maintenance and storage building which is shown in the photo. This will be removed and replaced by new containers or a container with a prefabricated roof structure. Again the maintenance storage building is quite important as it will secure equipment ammunition, so forth.

The course shoot structures, these are the structures that I showed in the photo, one being the old one, and the one on the right being the newer one, if you recall. So those would be upgraded. Clays throwing machines power modifications, this just refers to power upgrades to the clays throwing machines. And the cart path driveway, the last item here, this refers to the area near the registration building where some ponding does occur, and so some adjustments would need to be made to that cart path driveway.

There are going to be a couple of new items; generator enclosure, a security system. This would provide the 24/7 monitoring. And to the extent, at a future point in time that is being warranted, a roof top photo voltaic and internet connectivity could be provided. These are just listed as options to explore.

Operationally, the sporting clays facility would open from 8:00 a.m. to 4:00 p.m. It would employ three full time and two part time individuals. Average guests on a daily basis will be 15. And when there is a high occupancy period at the resort, it would go up to 30. But for the most part, it will be in this range of 15 to 30. Of course, parking is onsite, and most of our guests would be shuttled to the sporting clays facility.

Just a little bit about environmental impacts that we looked at; topography, agricultural lands, archaeology noise. Those are items which no adverse impacts are anticipated. I did want to note that an environmental site assessment report was done because there was some evidence of battery stains, acid stains on the ground. As a follow up to that...result, though, a site assessment report -- this is a more detailed analysis where they actually take the soil and do laboratory analysis. And what that lab analysis found was there was no soil contamination. It was just a surface staining incident. And so, of course, from this point forward, under the new operations, all batteries or petroleum products, whether it be fuel or what have you, would be stored with secondary containment measures as a mitigation item.

With respect to water, potable water will be trucked in and stored in an onsite tank. Non potable water would be provided for restroom use and irrigation, as needed. Waste water, a new septic tank would be installed to replace the existing with an, with a new absorption bed or leech field. No drainage improvements are anticipated. There will be no additional grading involved, and no adverse traffic impacts are anticipated.

Socio-Economic impacts -- the economic impacts, of course, would yield some positive returns from a short-term basis just based on construction. And from a long-term basis, I think one of the testifiers did mentioned that it provides for a new avenue for guests spending and job creation. Solid waste, police, fire and medical facilities, no adverse impacts. Recreational resources, we just listed this is a separate item as it does provide for some diversity in terms of recreational opportunities for guests and residents.

Finally commissioners, in making your decision today, there are five criteria which the State Land Use Commission has defined for the granting of a special permit. And so if I could just briefly go through each of the criteria for decision making. Number 1, the use will not be contrary to objectives sought to be accomplished by Chapter 205 and 205A, Hawaii Revised Statutes, and the rules of the commission. Chapter 205 is a State Land use law, and Chapter 205A is a coastal zone management law. And so what they're saying is as long as the use does not impede or contravene those laws, this is a basis for approval. And indeed, this was, this site was a previous sporting clays facility. It is consistent with the objectives of Chapter 205 and 205A.

Number 2, the desired use, use would not adversely affect the surrounding property. The proposed use would not affect the surrounding property which is currently vacant and undeveloped. And again, there is a somewhat of separation from the urbanized areas of Lanai City.

Number 3, the use would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, and school improvements, and police and fire protection. And as we noted previously, these types of public facilities and public infrastructure systems would not be affected by the proposed actions.

A couple more. Number 4, unusual conditions, trends and needs have arisen since the district boundaries were established. Basically, the district boundaries are established in the 70s, I believe, and so, at that point, of course, Lanai was agriculture, was an agriculture based economy, now shifted to visitor based economy. So that shift really has created this need for activities which are aligned with a visitor based economy.

And finally, the land upon which the proposed use is sought is unsuited for the use permitted in the district. Basically they're saying let's look at the lands, is it going to be detrimental to agriculture productivity. The lands underlying the sporting clays facilities are classified by the Land Study Bureau as D and E lands. And what that means is that these are lands of lowest agricultural productivity. And so with that in mind, we believe that this criteria has been met.

And finally, a number of agencies, Federal, State, and County, have reviewed the application and no substantive comments have been received.

And just to summarize commissioners, we are, again, requesting your favorable consideration for a State Land Use Commission Special Permit for reinitiating the Lanai Sporting Clays Facility.

Ms. Gima: Thank you for that presentation. Like I said earlier, I'm going to open up public testimony again to see if there's anyone in the audience that would like to provide any additional comments or ask any additional questions. Is there anyone at this time wishing to provide testimony? Come on up.

Mr. David Green: My name is Dave Green. I'm a Lanai resident. I'm strongly in favor of

granting the Special Use Permit. As we've seen this use to be in operation. It was a great facility. I've been there. My wife's been there. Our two children have been there. We've gone there numerous times, unfortunately, until it was shut down, or until people discovered that the permit had not been re -- reapplied for. So to me this is pretty much a no brainer. I would suggest that you don't defer approval of this. It's good for the economy, it's good for the tourism industry, it's good for the island, and it's good for everybody here, so I would urge you to approve it. And my wife seconds what I'm saying. She had a little dermatology surgery and she's a little shy about coming up in front of everyone.

Ms. Gima: Thank you. Thank you. Anyone else wishing to provide testimony? Come on up.

Ms. Wendy Kaupoiki: Aloha. My name is Wendy Kaupoiki. I'm a resident of Lanai, and I'll be one of the management team running the operation. And just on behalf of us, we always make sure this project is safe and will respect the community so I ask you to support the project and get our guys back to work. Thank you.

Ms. Gima: Yes, go ahead. Please state your name.

Mr. Jay Ballesteros: Hi. My name is Jay Ballesteros, and I'm a long lived resident of Lanai. We all know a part of . . . (inaudible) . . . culture is outdoors, you know, whether it's hunting or fishing. You know, we all that sporting clays were actually started as a means of conservation or even off season practicing for the hunters over here. It's creates a opportunity. Yeah, we talk about hotel guests, but that's what we're looking forward and, you know, providing for the community as well, you know, for the kids, you know, malama the kids, and giving them that opportunity to learn, you know, from the year of experience that this island has to offer for these keiki. Okay, mahalo.

Ms. Gima: Thank you. Last call for public testimony. Come on up. You next Max. Let him go first.

Mr. Martin . . . (inaudible) . . . : Hi, my name is Martin . . . (inaudible) . . . I was born and raised on Lanai. Yeah, we started the sporting clays. We're one of the construction guys that did most of the job up at the stable so I hope everything goes through and give these guys back their jobs. And get one new supervisor. We going miss you Ed. Right? I hope you come back. Thank you.

Ms. Gima: Thank you. Go ahead Max.

Mr. Max Kincaid: My name is Max Kincaid. Retired...police officer. I'm a little concerned about the hand gun thing. How long are these...containers going to be? It ranges about 50 feet, right? Are you going to be regulating the type of weapons, you know what I mean. I've got my cannons. I'd love to blow off a few holes in there. But however, you know, I just hope that you pick up on the Lanai guys when you open this place up, get them back working, in jobs they like instead of yard men. And other than that, don't waste any time, get to it. That's it.

Ms. Gima: Does the applicant want to address specifically what he asked about weapons being regulated? Lynn?

Ms. Lynn McCrory: Lynn McCrory, Pulama Lanai. Yes, the guns will be regulated as to what can be used within that facility, so I can tell you yes. But which ones, I can't give you the details. I don't know the guns, but that's --. I don't have the information on what specific pistols will be used in that facility. I don't have that for you, Max. But I will get it for you. Does that work?

Mr. Kincaid: . . . (inaudible) . . .

Ms. McCrory: Okay. Thank you.

Ms. Gima: Thanks Lynn. Anyone else? Winnie?

Ms. Basques: Hi, it's me again. Okay, you talking about pistol...does the pistol goes with the police department? Do you folks have to have a license to operate the pistol while they're there in that facility? Do they have license, and are they accompanied by an adult if a student goes up there? Do you folks have that in mind? Like a student, like about 16, 17 year old, they have to be accompanied by a adult, with license, like hunting license, registration license. And what is the cost of it when you going apply or go to that facility to use that pistol, rifle, archery; what is the cost? Thank you.

Ms. Gima: I'm just want to remind everyone to please either turn off your phone or silence your phone at this time. Lynn, do you want to reply?

Ms. McCrory: Lynn McCrory, Pulama Lanai. In terms who can fire weapons, it will follow the laws as to what can be done. Obviously you don't want a 12 year old or a 14 year old up there by themselves. That, that makes absolutely no sense. I think part of what I understand sporting clays was about was the families coming up, the tournaments that were held for different age ranges of people, for adults, for children. I mean, it's a way for your children to learn how to hunt. Well, maybe not necessarily hunt, but at least aim at a target. It's that -- how did you describe it, it's an incredible feel when that clay pigeon goes through the air and you actually see it break.

Mr. Fujie: . . .(inaudible) . .

Ms. McCrory: Yeah. I mean, that is something that is really special, you accomplished something. And that's, that's what this is about. It's about the families. It's about everyone having one additional thing. I understand tournaments came in here from other parts of the state at various points. Pardon? World tournaments, so you know, let's have that occur again.

In terms of prices, Winnie, I don't know that they are set at this point only because they still have work to do on the buildings. That all has to be factored in, and they'll come up with it. When we did the community meeting on sporting clays, that was one of things that I asked

people who had been using the facility in the past to suggest, you know, what's important, what did you think the amount was, let's hear testimony on it tonight. It doesn't have to end tonight. I mean, we're more than willing to, you know, give me a call. I think everybody has my e-mail by now, or my phone number or something, but I'd be happy to hear about what you think is important. And, and if there's a special event or something that you thought was important, let us know that.

Ms. Gima: Lynn, while you're up here, I have a question. You mentioned community meetings, how many community meetings did you hold specifically on this topic? And the reason I asked is there was a testifier that said no knowledge of this, no information, but if you could kind of just briefly share that with us.

Ms. McCrory: We did one community meeting on this. I have an e-mail list of about 300 people that we send this notification out to. And I'm trying to remember how many people attended but I think it was somewhere around 30 to 40 which is kind of the normal attendance that we have. I did make sure that I contacted everyone of the Hunter's Advisory Group to tell them we were having this meeting. We wanted them to come talk to us so you could understand what was going on. So they were all very aware of what we were doing. No one gave me a call back or attended the meeting as a matter of course, so I think it's probably as simple as everyone knows what sporting clays is, and we're looking to just open it up with one new thing.

Ms. Gima: Thank you for providing clarification on that. Okay, so I'm going to close public testimony at this time, and turn it over to commissioners. Okay. You're going to be the last testifier.

Mr. Sid . . . (inaudible) . . . : My name is Sid . . . (inaudible) . . . I've been here since 2001. I'm not -- I wasn't born and raised here, but I do have a son that was born on this island and, you know, he's 13 years old now. My two kids -- been at the clays since 2001, since I moved here, one of my first jobs. My kids grew up doing this. They've been up to the range. They have done summer programs. We do a lot of community events up there where kids come up and help, and I think, this facility if we reopen it, it's a big part of the community. This whole island, if the community's not behind us, it's not going to work. I mean, that's just how it is. So this sporting clays facility it brought my family up, I've seen other families come up to it. I've learned from people in this crowd who was my instructor prior to where I'm at, and this facility here, it's really important to me, my family and I'm sure a lot of people here. This island, we all know, a lot of us do a lot of hunting. The younger kids just coming up. The sporting clays facility, with the archery, we can teach them the right way of doing things, and not just they grabbing a bow and going for it. And, you know, I think that's important, for us to teach them the right way and get it done correctly. And we have everything there and we just need your approval. Thank you.

Ms. Gima: Thank you. Okay, public testimony is now closed. Commissioners, now is the time, any questions that you may have for the applicant. Any discussion?

Mr. Bradford Oshiro: Construction, your pistol container, what's the material being used to

prevent projectiles from leaving that container?

Mr. Yogi Higuchi: How's it. I'm Yogi Higuchi, project manager with Pulama Lanai. So the pistol range, it's actually a pre-fabricated. It's based on a shipping container, and it gets basically armored on the inside with plate steel about an inch thick, so it's not going to, the bullet is not going to leave the structure. There's trap, bullet traps at the end that are engineered to dissipate the force of the bullet and it stops and collects it, and it exhaust out whatever gasses happen when the bullet hits the plate. At the manufacturing facility which I visited, they actually shot a 50 cali into the plate steel, and there was just an indent. So other facilities have used this container system. Also for -- what do you call it, like bomb shelters because the thing is super strong. So, I mean, it, it's got every safety . . . (inaudible) . . . so hopefully it answers your question.

Mr. Oshiro: I know you talked about secondary containment on spills, on gas and diesel, whatever you plan to use up there. I just want to make sure that it doesn't leak because there's no contamination up there before they put the range up there, even though it's surface spill. So I just want to make sure because I read something in there that they were going to put a secondary containment so whatever leaks out will not even enter the soil. That's right, right?

Ms. McCrory:.. (nods)...

Mr. Oshiro: Okay. Thank you. Lynn, you said they still gonna open up the shoots for like State shooting competition, residence competition, the people of Lanai still -- I mean, you know, when I see the golf course and they say, residence have, you know, you can use the course, but you only can use the course after 12 o'clock. You know what I'm saying is, you know, there's a set time that you can go use the course as a residence, so you can get the resident's rate. Is that going to apply just like this to the sporting clay?

Ms. McCrory: Lynn McCrory, Pulama Lanai. The answer is no. It will depend, I think, more than anything on what's going at any particular time. What we have is the range opens at 7:00 or 8:00 in the morning, closes at 4:00 pm, and it's important to have the residents there. I mean, that's a big part of what's going to make this successful.

Ms. Gima: Will preference be given to Four Seasons guests?

Ms. McCrory: I think it will be on whoever shows up when.

Ms. Gima: So based on reservations?

Ms. McCrory: Yes.

Ms. Gima: Okay.

Ms. McCrory: They are taking reservations. So if you make the reservation, then you're set.

Ms. Gima: Okay. I just wanted to clarify that, and I'm glad that you brought that up as well, Brad is I think, through testimony tonight, we heard how it's been an intricate part of the community and for families and youth, and making sure that just because it's now being operated and run by Four Seasons that guests don't get all the privileges and, and preferences, and you know, hoping that there's still the tournaments and the activities for the youth, and collaboration with the youth center and the school.

Ms. McCrory: Yes. That is correct. That is the whole point of this because just having guests come, there won't be enough. There aren't enough guests to do this. This is a hunting community. This is where people learn how to hunt, learn how to shoot, learn how to a whole range of things, and this brings other people in. So, no, it is, it is about the community first.

Ms. Gima: Since I have you up here -- so the employees will be Four Seasons employees?

Ms. McCrory: My understanding is yes, they will be.

Ms. Gima: Okay. And...using previous -- the previous employees that have been here before and have operate, helped to operate this facility and knows all the ins and outs?

Ms. McCrory: I believe that's correct. That's Sid back there...and a few others that are in the room.

Ms. Gima: Okay.

Ms. McCrory: Only because they already know what they're doing.

Ms. Gima: Right. Right.

Mr. Oshiro: Wendy, you'll be managing the sporting clays? You're certified to operate the shooting –

Ms. Gima: Wendy, I'll ask you to come up because I need you to be on the mic for the record please.

Ms. Kaupoiki: Hi. I'm not a certified instructor, but I'm a manager and that's what my position is. That's why we have all the other guys who are experts.

Mr. Oshiro: Okay, according to my experience from, you know, wherever I've been working for, the manager usually can do the job. So I would advise you to at least kind of learn it.

Ms. Kaupoiki: Yeah, absolutely. I would love to.

Mr. Oshiro: Thank you. The last question. Since I've been --. I haven't been home long for the last two months. Anyway, I went down on that side of the island and I noticed that the fence that usually...doesn't let anybody enter that property, a lot of it is knocked down. Is it going be

put back up?

Ms. McCrory: Lynn McCrory, Pulama Lanai. Yes, the entire property will be fenced, and that is for safety purposes so that other hunters don't cross over into it. Because do you remember the site map, the edges of that archery walking range, that 14 station range go very close to the edge. So, yes, it will be completely fenced.

Ms. Gima: Thanks Lynn. Anybody else, commissioners, questions? Do you guys have any questions? No? Stu? Okay, no further discussions. Kurt, you'd like to share your recommendations?

Mr. Wollenhaupt: Good evening members of the Lanai Planning Commission. In light of the review, in light of that this operation is essentially a renovation enhancement of the past operation, the Maui County Planning Department does recommend approval of the State Land Use Commission Special Permit and that the time frame would be until May 31, 2026, and subject to eight conditions which also involves things like archaeology, best management practices, and insurance. So that's the recommendation of the Planning Department for approval.

Ms. Gima: Would anybody like to make a motion at this time?

Mr. Stuart Marlowe: I'd like to make a motion that the permit request be granted as stated, and we do so tonight, and let's move forward.

Ms. Medigale Badillo: And I second it.

Ms. Gima: So the motion has been made to approve this Special Use Permit. It's been second. Any further discussion before voting? Okay, all --. Go ahead.

Mr. Oshiro: Okay, I haven't been up there since I came here in the first --. I've been here for 14 years. I haven't been up there for the last 13 years, but what I noticed on the slides and in the packet we received, you guys gotta look at your safety up there because you have cylinders that are leaning against the building. That should be strapped down because if they ever go ballistic somebody's going to get hurt. Just my advice to you, okay, you need to look around. Even if the facility is not being used, if one of those necks snap off the cylinder, it's going ballistic, so my advice to you.

Ms. Gima: Thank you. Any further discussion? Okay, all in favor of the motion raise your hand. One, two, three, four, five. That's unanimous, so it passes.

**It was moved by Commissioner Stuart Marlowe, seconded by
Commissioner Medigale Badillo, then unanimously**

**VOTED: to approve the permit as presented.
(Assenting: M. Badillo, S. Ferguson, K. Gima, S. Marlowe, B. Oshiro)**

(Excused: M. Baltero, J. Barfield, S. Koanui Nefalar, B. Zigmond)

Ms. Gima: We're --. Let's go ahead and take a quick 10 minute break and then we'll resume with our unfinished business.

(The Lanai Planning Commission recessed at 6:15 p.m. and reconvened at 6:35 p.m.)

D. UNFINISHED BUSINESS

- _____ 1. **MR. WILLIAM SPENCE, Planning Director transmitting Council Resolution No. 16-9 referring to the Lanai, Maui, and Molokai Planning Commissions a Proposed Bill to Regulate Agricultural Tourism Activities in the Agricultural District. (J. Alueta) (deferred from the April 20, 2016 meeting.)**

The Commission may provide its recommendation to the County Council.

Ms. Gima: Up next on our agenda is our unfinished business, and that's item number 1 (*Chair Kelli Gima read the above project description into the record.*) And it's saying that the commission may provide its recommendation to the County Council...so I'm gonna turn it over to you.

Mr. Joseph Alueta: Good evening commissioners. Again, my name is Joe Alueta. I'm the Administrative Planning Officer for the Planning Department. Again, as I explained last month I primarily do –

Ms. Gima: Okay, hold on a second. Everyone outside, if you're not here for the meeting, can you please take your conversations elsewhere because it's a little distracting. Thank you. Go ahead.

Mr. Alueta: Primarily my role is to bring, as the Administrative Planning Officer, is to bring you bills amending Title 19 or Title 16 as it deals with signage or anything like that. There's two ways in which you can amend the Maui County Code, Title 19, which is the Zoning Code, and that is either through a Resolution by the County Council. They are proposing a change. Or, it's done by us which just comes to you guys as a regular bill.

The Charter requires that if there is an amendment to Title 19 that those changes go to the three commissions if it affects -- depending if affects that island specific then it doesn't go to those commissioners. But this one would affect all three islands in the County of Maui. And this one is, again, is a Resolution by the Maui County Council. Again, we did not draft it; the Planning Department.

The bill is -- I'm sorry -- the Resolution 16-09 again is entitled referring to the three commissions, a bill regulating agricultural tourism activities in the Agricultural District. State

HRS, or administrative -- HRS, Hawaii Revised Statutes, the amended -- they did amend HRS to allow counties that consisted of three islands in the State of Hawaii, to allow for tourism activities on bonafide farms if they adopted an ag tourism bill. This was...a response to that, to try allow for agricultural tourism activities. Primarily basically what it would do is it would avoid getting a special permit. And I'm kind of glad today you had the State Special Permit process today, which you saw there are some criteria for that. Currently, so if you want to do certain activities within the state agricultural district, if it's not accessory to an agricultural operation, if it's not permitted principal agricultural operation, then your options are primarily is to get a special permit from the commissions and if need be, a conditional permit, from the Maui County Council if it's in also in the agricultural, County's agricultural district. So, again, this bill is an attempt comply with State law, which would allow for a County that consists of three islands to adopt the agricultural tourism bill.

The Department has reviewed this. We did send it out for agency comments. I did pass out another comments that we dated from Office of Planning. They -- originally, they did not get their comments in time by the time I drafted it, so I'll go over that, first, but. Again, the Department has reviewed this. The primary thing is it has to be, for agricultural tourism, to meet the qualifications under State law, it has to be a bonafide farm, and it has to be accessory to that. That's the intent of the State law. The way the County has written their definition for an ag tourism operation, right, in their ordinance, doesn't comply with State -- it doesn't match up State law. And, essentially, you don't even need to have much of an agricultural operation to become -- doing ag tourism operation in the ag district. So we feel that's contrary to State law, and in contrary to the intent of the agricultural district. And that's the --.

Our position, or I guess, our interpretation of the law is also echoed by the Office of Hawaiian Affairs. You'll see that in the staff report...as Exhibit 5. And then Office of State -- Office of Planning also echoed the same concerns that the Department has raised. They offer some specific --. Actually, they're pretty brutal...a little more brutal than I was, but they...they basically said, yeah, this thing does not meet the criteria under the State law. But...again for a commercial --. I'm reading on page 2. I'm trying to highlight some of the areas what they talked about. You know, when they say the definition of ag tourism, on the bottom, number 2, OP makes some recommendations...that at a minimum, the definition be revised to make it explicit that a commercial activity is accessory to an agricultural operation.

The County, the Reso as presented doesn't even do that. You can basically have an ag plan or an conservation plan, and not be a real, and not have an actual farm, and conduct ag tourism. And one of the -- again, one of the things that the County Reso would allow for is overnight accommodations for farm space. Okay. So again that's --. So if you look at the uses, if you look at the actual Reso itself, and this is on Exhibit 1 of the memo report, not really any --. The way they define ag tourism means tourism that promotes but does not interfere with agriculture. So their standard for agriculture is, for what can be an ag tourism operation is pretty low. And they allow for fitness and health activities, petting zoos, lei making, flower arrangements, basketry. I guess that's underwater basket weaving. Other agricultural related education craft classes, agricultural industry education, archery, adventure or challenge courses. So, normally a lot of this stuff, like, lei making or flower arrangement, if you had a

flower farm, and you were operating that, we would consider that to be an accessory use to your agricultural operation. So that's not a problem. But if you don't have flower farm, or if you have a small flower farm, and you're having 300 people show up to do flower making, then we would have a problem. It would no longer be accessory to that agricultural operation.

But again if you look on page 2 of the Council's Reso amending 19.30A, they go through this whole process and basically it would just be a registration of it...for that issued. So, again, we don't see the connection between some type of agricultural operation and the ability of what the County Council has indicated would allow for ag tourism.

Other things that OP talks about and makes recommendations...is...they, their recommendation on page 3, if you see, they require proof of agriculture income similar to, that is currently required under County Code for bed and breakfast. So they feel that there needs to be at least some type of minimum income standard, and they're throwing out the numbers. So that's, that's pretty strict. That would be, that would definitely be a methodology in which you could say, hey, are operating a bonafide agricultural operation if you can show that you have some type of agricultural income.

Other recommendations by OP...they don't think that subsistence farming as well as conservation farming should qualify under this. That's why they feel, again, there should be an income requirement before you can get this.

Other concerns, and those are just coming from other State agencies. And again, Department reco...echos those same concerns. Other --. And again, the bottom gist, it doesn't meet the criteria under 205. It doesn't meet definition of a farming operation under HRS 165-2 which is specifically listed in the Chapter by, under 205, by the...by the State Legislature.

There's also...recently there was bill that was -- that gone through. It made it all the way to committee; it didn't make it at the very end where the State was trying to amend their own law with regards to ag tourism. And in that bill that had attempted to insert ag tourism activities in which there's no structures. It would have to have at least of an income of \$10,000. Show an income of \$10,000. And if you had structures that were going to be used as part of the ag tourism operation, there would be a minimum of \$35,000 of ag income. So again, even at the State level, they recognized that there needs to be an income level somewhere along the way...at least to start off to determine whether somebody's actually doing -- has a bonafide farm.

Other concerns, again, this is...this would just be a registration process, not a permit. So someone would not get a permit to do --. So they wouldn't get a Special Use Permit, they wouldn't get a County's, they would just come in and say I'm doing an ag tourism operation. And as long as they met the criteria outlined in -- that is outlined in this Resolution, they would just send us a -- basically give us their name, their number, and all the information that's in the ordinance and basically register. The Department is uncomfortable with that because we are now tasked with either verifying the information or do we not verify. Because if it's the registration, they would just give it to us and we'd say, okay, fine, you're property has been

registered. But we don't know --. Are when then suppose to go out and verify that this isn't the actual owner. Are we then suppose to go and verify the other information that is being required by, by the ordinance that the Council has proposed and there's no fee.

Ms. Gima: Can I ask a question? So just by registering and not having a permit, then there's the issues of who's monitoring, I guess, or enforcing. Obviously there is those conditions that are put upon.

Mr. Alueta: Just the conditions of what's in the Code. And that's fine, but then it would be on us to do the enforcement.

Ms. Gima: Right.

Mr. Alueta: We would just rely on, it would be on complaint driven. So to prove that someone's operating. However the way...the way --. One of the things that's confusing about this is that because we don't feel that this meets State law, the Department's position is that we would still require a State Special Permit. That you don't meet the criteria under the HRS, you still need a Special Permit. Thus, this could create confusion with the general public because, all I gotta do is register my bar because I'm selling beer, but I have a lime and I have a really nice garden and a farm plan that's been approved. Therefore, my bar should be okay because that's an ag tourism operation.

Ms. Gima: Why do you think this Resolution is -- I mean, it's kind of loose. You know, there doesn't seem to have a lot of restrictions or things in place. What's the intent behind this? I mean, is Council just wanting to increase, you know, economic -- I mean, increase the economy and does it have to do with the sugarcane closing down and, you know, wanting --? It just sounds so loose is the word I'm using.

Mr. Alueta: There is why --. There's not much in the report...by the Committee Report. Everything that we were given is in the staff report that was given to us by the County Council and -- when they passed it out. Okay. We had some concerns. We were not able to work with the County Council at the meeting prior to it being passed out. So we had concerns from the get go.

You have seen, as seen previous bills, you had your commercial ag structure ordinance that came through that allowed for 2,000 square foot buildings to be built in the agricultural district as long as they were -- and called commercial ag structures with no special use permit. So, and then you recently saw the attempt at composting; also within the agricultural district as an outright permitted use, not as an accessory to a farm or not necessarily tied to an agricultural activity. And so there is a move towards, I guess, liberalizing the agricultural district. From a land use planner side, we're concerned with that.

We recognize in...Planning 101, you know, the State divvied up, as Mike said, back in the late 60s. I want to say 67 is when the first State Land Use maps came out. The first thing they did was, you know, where's the forestry. So they divvied up the State lands between urban,

conservation, rural and urban lands, okay. So urban is easy. You know where you want to have urban lands for the most part. Okay. Conservation, DLNR, they use basically the forestry line that was already on there. Rural was kind of a weird one where they, they threw most of the stuff. Very little. Maui County has the most rural lands. Of the entire, like 85% of all rural designated lands in the State resides in the County of Maui. It's a very, very limited district that's used. Ag as -- I wasn't born when this thing was made, but I've been told by my bosses in the past -- is that basically all of the, you know, obviously all the big plantations were designated as ag. But they couldn't decide whether they should go into conservation or ag. A lot of lands were thrown into the agricultural district. Okay. And as you see, Maui and Lanai has lots of ag lands. What do you do with that ag land? Now the right and proper way and good planning is you designate where you want to have your urban growth, where you want to have your rural growth boundaries, and you designate those ag lands and you convert them through a State District Boundary Amendment, Community Plan, whatever you -- the proper way. The back alley way is by liberalizing the agricultural district by adding urban type uses without actually going through the planning process, without going through, you know, your community plan process, without going through your district boundary amendment process, without going through the change in zoning process. And I mean, to me, that's been the -- what's been coming down through the County Council. The Planning Department whenever we get these Resos and whenever you try to amend Title 19, it's like opening Pandora's box. You don't know what you're going to get, and you don't know the consequences. So we've very leering. We want to be, we want to be very meticulous when we do this. So a lot of times when they come down from Council we're doing damage control. And so this is what we're doing. And all I can say is that our recommendation, when we get through this, we're not in support of this bill obviously. There's a lot of State agencies that are not in support of this bill also. And none of the -- Molokai and Maui did not -- was not in support of the bill either, so having said that, that pretty much summarizes the staff report.

Again, on the last page, 4. I'll jump back to page 4 just to highlight some of the issues. Just the structure of the bill is just -- we have some concerns with the enforcement section, how they got that. Again, for registration. They also require, like, a report, and we're like, you want to report to the commissions on what? For what purpose? So you want to collect all this data, report back that so many people registered, but what is the commission going to do with it? There's no provision for that.

Under parking, they have this weird thing about if you violate the parking under three separate occasions then we're going to suspend -- then a special permit is required. It's just the structure, it's just confusing as I'll get out. And we're not opposed to, again, having some things be done if it's really accessory to and supports an agricultural operation. I think a lot of people farm . . . (inaudible) . . . They call them woofers that come world wide farming associating where they show up on the farm. There's also --. I mean, botanical gardens. There's also --. I mean, there's a lot of things that real farmers could do to enhance their income, but we want to make it that this gonna have real farmers that have an agricultural operation that is worthy of bringing somebody out to take a look at it as opposed to what we call a very nice landscape property and there's no real agricultural operation going on.

Ms. Gima: Is accessory use defined? Because, I mean, you gave that example, like if you had a small little flower farm, but then you have 300 people there for lei making. Obviously that's not -- because it's fortunate. So is there -- is it defined what an actual accessory use means?

Mr. Alueta: In the agricultural district there is accessory uses that's allowed. But there's also like based on the scale, like -- you have to look what the scale of the operation is relative to what's going on. Maui Land and Pine, you know, the pineapple company, when they were in operation on Maui they had a 20 room dormitory in the agricultural district. It was just considered -- because they were for the farmers. They were for the laborers that they brought in to help -- the seasonal workers that came in. So clearly that's a normal function of any large plantation style . . . (inaudible) . . . All of -- look at a lot of Maui, and I'm sure on Lanai too is that you had big plantation towns, okay. They were built. They were in the ag. They was no urban land. They were just built out in the very convenient agricultural area, centralized to the field of that, that group of people who were working. So -- and as, you know, as we develop more urbanized and transportation became easier you saw a lot of those small towns disappear and now are under, actually, sugarcane is on them or will, was...for a little longer there will still be sugarcane on them.

Mr. Oshiro: Joe, like the lavender farm, okay, they've got a -- I haven't been up there -- but they've got a restaurant, so how's that's, how's it --? You know, it's a farm, but did they go in for a special permit to --

Mr. Alueta: Yes. They were told and they -- we -- to come in for a special use permit. And I'll tell you the story all later. But that's the, that is definitely -- it's pushing. And that's why we said, no, you're no longer, it's not --. You know, doing lavender tours, you know, people coming up, hey no problem, you're making -- they make wreath out of -- they do classes like that, sure, no problem. But once you start saying, oh, I'm going to be -- I'm selling products that are not from the --. Once you start selling products that are not from the site itself, or not from an agricultural site within the State of Hawaii, then you need to get a Special Use Permit, okay.

Mr. Oshiro: So that's, that's the way it works for, like, Kona side, Holoaloa, the coffee farms they've got -- some places they've got farms, they've got coffee grindings, and they also serve coffee and they serve a little bit of food, but that's what you're talking about?

Mr. Alueta: Right, right, right. But if you start having margaritas and, you know --. Because -- margaritas because you grow limes, then I've got a little more --. We start to come in -- we call in to question is this truly accessory to a farming operation or not.

Mr. Stephen Ferguson: I had a question. How would that...looking at Lanai, say Pulama own all the land, most of it ag land, and they running one UTV guided tour. How does that -- how you define that? Like would that fall under?

Mr. Alueta: As we saw in some of the examples that -- Mike, sorry, I using you a lot tonight -- he talked about, like, in his Special Permit, you know, like, there's open land recreation that was allowed and listed as permitted uses. So it all depends, as long as there's no, again, structures

on some of these, in open land rec. And again, if it's 2,000 or 20,000 acres that's one thing. You've got five acres and you've got a motorcycle ATV course...no. But if you were Haleakala Ranch and you use ATVs as part of your ranching operation because you've got 15,000 acres, then, yeah, that's an accessory.

Mr. Ferguson: . . . (inaudible) . . .

Mr. Alueta: Yeah, and then also, like certain activities we made it clear. Zip lines are not an accessory . . . (inaudible) . . . That's -- you need to get a Special Use Permit for that...Special Permit for that; you need to get. So people have come in, and again the envelope is going to be pushed, interpretations gotta made that there is a gray area in the law, but this -- we feel this one kind of pushes the envelope a little too far and especially when the State had some pretty clear criteria of what they intended this law to be.

Mr. Marlowe: You've got a couple of problems. The first of which is that there's more ambiguity in everything that you said as well as what's printed here. The probability of future law suits...is going to drive you guys crazy and the taxpayers broke. Until you clean up the language and be specific and stop with all the ambiguity somebody that wants a restaurant on a, on another lavender farm and is not granted the Special Use Permit is gonna sue in a heartbeat because somebody else already had one. So until you clean that up and get all the ambiguity out of it so words like "shall", "must", etc, exists in that. There's no -- there's really nothing --. They tied their owns hands in trying to accomplish what they wanted by having it written the way that it is. You've painted -- they've painted themselves into a corner, and until they clean it up, there's no way out.

Mr. Alueta: Again, I didn't write it and we were not, we were not involved in the drafting of it. So, again, we -- we think there's room for improvement in the bill. We think the --. There's some improvements and to narrow it down I think the echoing by the State as well as -- by State agencies with regards to income requirements. As well as the State Leg is also pushing for this. I mean, they're looking at trying to reel this in also. As you can see again the way the State crafted it, it only applies with counties with three islands.

Mr. Marlowe: Okay, so –

Mr. Alueta: Okay, so you could tell that other State legislatures who represent other counties didn't want it. Okay. And so there was a few legislatures that pushed, allowed for it, and they were gonna give it a try, and so, see what they come up with. So we'll -- again, we think this first past is a no go from a Planning Department's stand point. We'd like to have some work on it. Again, our recommendation is not to recommend approval of this bill.

Mr. Marlowe: Well, not to be repetitive, but let's take a situation where an income amount is required. So now you put the chicken to the egg, right? So if you grant me my Special Use Permit to build the restaurant or to build whatever the other things are, then I'll have the income to meet the criteria. That's why this thing can't go forward.

Mr. Alueta: No, no, no. The income is farm income.

Mr. Marlowe: I understand.

Mr. Alueta: Not, not --. So you should be --. I mean --.

Mr. Marlowe: But the ambiguity in it would make the premise that I'm discussing right now viable if it came to court. You didn't let me add something that would bring revenue. The thing has to be redone.

Mr. Oshiro: So anything that's not ag, right? So if you're coming in with anything else besides farming, right, you have to come in for the Special Permit to, like, to put a building to manufacture clothes, and the farming's got nothing to do with it. So, so –

Mr. Alueta: That is correct.

Mr. Oshiro: Like over here, we've got a whole bunch of lands, so if they come in with something that has nothing to do with agriculture, they gotta come for a Special Permit?

Mr. Alueta: Correct. Or, or a Change in Zoning, or you know, I mean –

Mr. Oshiro: Thanks for making it more clear.

Mr. Alueta: Public hearing or is there any more questions before you do public hearing?

Ms. Gima: Anyone in the audience that wish to give testimony? Alright. So your recommendation is for denial, correct, Joe? I'm looking at the options here.

Mr. Alueta: Yeah.

Ms. Gima: Recommend denial of the proposed bill to the Maui County Council. That's what the Planning Department is –

Mr. Alueta: Yes, we are not in support of the bill. And then you have three ways. You can either recommend approval of the bill to the Maui County Council; recommend approval of the bill with amendments to the Maui County Council; recommend denial of the proposed bill to the Maui County Council; or vote to defer action on the proposed bill in order to gather more specific information. You've done number four so far.

Mr. Oshiro: So let me, let me say something. Let me propose that we deny this bill because it's useless. I mean, I don't see it; I just don't see it at all.

Ms. Gima: Is that your, is that your motion?

Mr. Marlowe: Door number three.

Mr. Oshiro: Yes that's my motion.

Ms. Gima: So Brad made a motion to deny the proposed bill. Do I hear a second?

Mr. Ferguson: . . . (inaudible) . . .

Ms. Gima: Okay, Fergie has second. All in favor of the motion to -- for deny -- recommend denial of the proposed bill to the Maui County Council raise your hand. One, two, three, four, five. That's unanimous.

It was moved by Commissioner Bradford Oshiro, seconded by Commissioner Stephen Ferguson, then unanimously

VOTED: to recommend denial of the proposed Bill to the Maui County Council.

(Assenting: M. Badillo, S. Ferguson, K. Gima, S. Marlowe, B. Oshiro)

(Excused: M. Baltero, J. Barfield, S. Koanui Nefalar, B. Zigmond)

Mr. Alueta: Thank you.

E. ORIENTATION WORKSHOP NO. 1

- 1. Opening Remarks**
- 2. County Policy Against Discrimination**
- 3. The Sunshine Law (Chapter 92, Hawaii Revised Statutes)**
- 4. Ethics**
- 5. Contested Cases**
- 6. Property Rights**
- 7. Rational Nexus and Rough Proportionality**

Ms. Gima: Two hands don't count. Thanks Joe. Alright, we're gonna go to Item E, which is the Orientation Workshop No. 1.

Mr. Clayton Yoshida: Thank you Madame Chair, members of the commission. We didn't discover until yesterday morning that we would have a bare quorum at today's meeting, and we appreciate that we did have a quorum so you could conduct business. However, we felt that Commissioner Baltero was unable to attend today's meeting, and possibly if we could defer this until the next meeting. And then we'll have also besides the items listed some training on coastal zone management, and then Kathleen Aoki can provide an update, a status report regarding the SMA boundary review. I think her last report was at your February meeting. So we would request a deferral on the orientation workshop.

Ms. Gima: Any objections, commissioners? No? Alright. Next would be the Director's Report; and starting off with the open Lanai applications report as distributed by the Planning

Department with the April 20th, 2016 agenda.

Without any objections by the commission, Item E, Orientation Workshop No. 1 was deferred to the next scheduled meeting.

F. DIRECTOR'S REPORT

- 1. Open Lana'i Applications Report as distributed by the Planning Department with the April 20, 2016 agenda**
- 2. Open Lanai Applications Report as distributed by the Planning Department with the May 18, 2016 agenda**

Mr. Yoshida: I guess we had distributed this at your last meeting, April 20th. We were unable to get to the item due to the lateness of the hour which is pretty much replicated in the open applications report for today's agenda. And by and large the commission has already dealt with many of these items such as the Lanai Helistop pad; this evening, the Lanai Sporting Clays; the three houses; and the Special Events at the Manele Golf Course. So if there are any questions on the other items, we can answer those. But by and large, you know, move to another forum for the three of them, the helistop pads, the three houses, and the special events at the Manele Golf Course to the Maui County Council who has the final decision making authority. So are there any questions?

Mr. Oshiro: This one, the last one, the Waterous residence. Waterous residence, what, what is that? You've got any idea?

Mr. Yoshida: I believe he wants to make some additional improvements to the residence. Maybe Kurt can explain.

Mr. Wollenhaupt: Apparently there's a two story building in the front of the house, and so they're actually going to add the floor inside the existing building. Manele. Yeah.

3. Agenda Items for the June 15, 2016 Lana'i Planning Commission meeting

Ms. Gima: Alright then lastly was the agenda items for the June 15th, 2016 meeting. So as you said, Clayton, we'll do the Orientation Workshop, SMA Boundary update, Coastal Zone -- was it Coastal Zone Management. Anything else that you guys know that's going to be on the agenda?

Mr. Yoshida: I believe we would have -- the commission would have to look at potentially canceling or rescheduling your September meeting. This year the Kauai Planning Department is hosting this year's conference. It is scheduled for September 21st to the 23rd. Your regular meeting date in September is September 21st, so we either cancel the meeting or we try to

reschedule the meeting.

G. NEXT REGULAR MEETING DATE: JUNE 15, 2016

H. ADJOURNMENT

Ms. Gima: Okay. Alright. Anything else? Anything else Clayton? Okay, we'll have an early evening. So it's now 6:59 p.m., and with no objections, the meeting is adjourned.

There being no further discussion brought forward to the Commission, the meeting was adjourned at approximately 6:59 p.m.

Respectfully submitted by,

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

RECORD OF ATTENDANCE

PRESENT:

Medigale Badillo
Stephen Ferguson
Kelli Gima, Chair
Stuart Marlowe
Bradford Oshiro

EXCUSED:

Marlene Baltero
Jarrod Barfield
Stacie Lee Koanui Nefalar, Vice-Chair
Beverly Zigmond

OTHERS:

Clayton Yoshida, Planning Program Administrator, Current Planning Division
Joseph Alueta, Administrative Planning Office, ZAED Division
Kurt Wollenhaupt, Staff Planner, Current Planning Division
Richelle Thomson, Deputy Corporation Counsel, Department of Corporation Counsel - On Call