

**LANAI PLANNING COMMISSION
REGULAR MEETING
AUGUST 17, 2016**

APPROVED 09-28-2016

A. CALL TO ORDER

The regular meeting of the Lana'i Planning Commission (Commission) was called to order by Chair Kelli Gima at approximately 5:01 p.m., Wednesday, August 17, 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 evening everyone, I'm going to call to order the August 17th Lanai Planning Commission meeting. It is now 5:01 p.m., and we do have quorum here tonight. So we're going to start off with anybody who's going to be providing public testimony. Has anyone signed up or wish to provide testimony at this time? Do you want to provide public testimony? Okay. Okay. Alright if there are no others, I'm going to close public testimony and move on to Item C, which is approval of the July 20th, 2016 meeting minutes.

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.

C. APPROVAL OF THE JULY 20, 2016 MEETING MINUTES

Ms. Beverly Zigmond: Madame Chair?

Ms. Gima: Yes?

Ms. Zigmond: I move that we accept the minutes of the July 20, 2016 meeting. Leilani did an outstanding job as always and...good to go.

Ms. Gima: Do I hear a second?

Ms. Stacie Koanui Nefalar: . . . (inaudible) . . .

Ms. Gima: Okay, so it's been moved by Beverly, second by Stacie that we approve the July 20th, 2016 minutes. Any discussion? All in favor of the motion raise your hand. That's unanimous, none opposed, that carries.

It was moved by Commissioner Beverly Zigmond, seconded by Commissioner Stacie Koanui Nefalar, then unanimously

VOTED: to approve the July 20, 2016 meeting minutes
(Assenting: M. Badillo, K. Gima, S. Koanui Nefalar, S. Marlowe,
B. Zigmond)
(Excused: B. Oshiro)
(Absent: M. Baltero, S. Ferguson)

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

- 1. MR. JESSE BURGESS of AT&T MOBILITY requesting a County Special Use Permit for the operation of a telecommunication facility with permanent backup generator on lands located in the County Agriculture District at 80 Hulopoe Drive, TMK: 4-9-002: 001 por., Lanai City, Island of Lanai. (CUP 2016/0001) (E. Aako)**

Ms. Gima: Let's move on now to Item D, item #1, Mr. Jesse Burgess of AT&T Mobility . . .
(Chair Gima read the above project description into the record) . . .

Mr. Clayton Yoshida: Thank you Madam Chair. The staff planner on this, for this application, is Evelyn Aako.

Ms. Evelyn Aako: Thank you. Good evening Chair, good evening Commissioners, good evening to members of the community. So this item is, again, under your review because the applicant, AT&T Mobility who is represented today by Jesse Burgess of Center Line Solutions, is requesting a County Special Use Permit or a CUP, to operate an already existing cellular telecommunication facility just north of Manele Waste Water Treatment facility. The applicant is also proposing some minor new construction to be permitted under the CUP as they are proposing the installation of a new permanent backup generator. The consultant Jesse Burgess is here to cover the scope and details of the project. He'll take you through a power point presentation. And just before he starts I just wanted to clarify and emphasize that the site is already existing. It was previously permitted under a CUP. In Exhibit #2 of your staff report is the CUP that was approved in 2011 to T-Mobile to propo – to construct and utilize the space. So essentially this CUP is just to transfer the ownership to AT&T and then to cover the installation of the backup generator. So with that I'll let Mr. Burgess take the power point.

Mr. Jesse Burgess: Thank you very much. I'm Jesse Burgess with Center Line Solutions representing the applicant AT&T Mobility for this application. I have a power point presentation to -- to go along with my remarks. First I kind of want to give a little bit more context as to why we're actually doing this. When we realized -- we initially approached this with the intention of trying to get permitted use for adding the generator. And when we realized the, the CUP was not under AT&T's name, after a momentary freak out we realized that we would have to get a transfer of ownership from, from T-Mobile, although all the carriers are professional and play nice to each other, the amount of time and money that

was taken for our counsel and their counsel to come to an agreement for the transfer of ownership was deemed far exceed the -- what it would take to actually to just get a new one under AT&T's name here, so that's why we're here and that's why we're doing this.

The scope of the work is to add a permanent backup generator to the site. There isn't one there now, and in general AT&T likes to have as many permanent backup generators especially on the islands where our outages are more common than the mainland.

I think I've kind of covered a bit of this, but I'll sort of add maybe a little bit more. This...this site is pretty integral for providing coverage in this area. I'm sure you are all familiar with where it is, but up on the hill it has elevation to provide good down till which allows them to get a broad slot of coverage which you don't necessarily get from cell phone installations that are at a lower elevation. And that's probably also why T-Mobile and American . . . (inaudible) . . . Company also have their, their facility in the same spot.

Here's a tiny map showing a dot that kind of shows where it should be...right there. I apologize, this is not the most illustrative map, but basically, you know, you come down the highway and then you come up a dirt road up here to the facility.

Here is a slightly better map I guess. And as you can see there's actually a pretty small installation. The antennas are, I think, only 25 feet tall so they have -- they're just relying on the natural elevation of them being at the top of the hill rather than, you know, trying to project above ground level at the location.

So here's the overall site plan, and here you can see better. What we have negotiated with Lanai Resorts is to increase basically this tiny little spot here to...to provide the space to add a generator. It's a pretty small spot. It's only 300 square feet as it is now, so we would need to add a little bit more space to accommodate the pad and the generator that would support it there.

This is a blow up of that, of that drawing showing the new area here, which is the overall site plan. And this kind of shows what coverage is providing. You can see that this area is basically being hit by almost entirely that one, one site; and similarly with data coverage as well as the voice.

I don't really have anything else much more specific to add, but if you have any questions I'd be happy to explain more in detail anything about our application or the, or the site as it currently exists now.

Ms. Zigmond: Madame Chair? Mr. Burgess I was on the Planning Commission and approved the original application and so I have no problems with that. I just had a couple of questions though. When you said there was going to be a little more construction, about how many workers do you estimate?

Mr. Burgess: I think usually two or three I would say. It can kind of vary. There will be --. Because -- because of how it's situated, they'd probably have to use a crane to lift it over, so there will be like a crane operator, a couple of other people sort of supervising. So there might be maybe up to five, I would guess, maybe for an afternoon. But overall it would be -- after that it would just be, like, one person there to kind of oversee and then an electrician to do the hook up.

Ms. Zigmond: Okay, thank you because one of our specific conditions on that original permit, and obviously there was a larger construction is that Lanai folks got first dibs at the jobs, but this seems like of moot with such a small amount of employees. So you're not changing the height of the antennas or anything because that was another specific condition.

Mr. Burgess: No, definitely not in this application. Maybe AT&T might be interested sometime down in the future, but if so, I haven't been told of that plan.

Ms. Zigmond: Okay, and one, one final one, and just to throw this out there, one of the other conditions that we had...put on the original permit was that in the event that this site goes away for some reason that the site, the land, the area, would be returned to its original condition. And just wondering how you felt about that because I think that's an important condition to have on.

Mr. Burgess: I mean I would say that in my experience that's certainly standard in pretty much every lease agreement that I see, and I certainly see it in almost all...conditional use or special use permits that I'm involved with. I'd say the only time I don't see that exact requirement is when sometimes landowners request that the pads be left behind because then they can use them later. But I'm not aware of that being a condition here and I would fully expect AT&T to follow that condition.

Ms. Zigmond: Okay, thank you because I will request when we get to that point that the Planning Department must have missed that one when they gave us their recommendation so I'll just add that. Thank you.

Ms. Gima: Commissioners, any other questions for Mr. Burgess? No? Thank you for the presentation. I appreciate it.

Mr. Burgess: Thank you very much.

Ms. Gima: Before you start, I'm going to open up public testimony again if there's anyone that wants to provide on this specific permit. Anyone? Alright, we'll close public testimony.

Ms. Aako: Thank you Chair. So the Department offers only the following brief comment; that the CUP application was sent out to approximately 10 County and State agencies for comment. Of these the Department of Public Works and Department of Environmental

Management and State Department of Health responded. All three agencies responded with a no comment so you'll see that as Exhibit 5, 6 and 7 of your staff report.

And with that I'll move on to the Department recommendation. The application complies with the applicable standards for a County Special Use Permit, and as such the Department recommends approval. Approval is based upon the six standard conditions. Chair or commissioners, would you like me to review the six standard conditions? Okay. And then there were three project specific conditions. Would you like me to review those? Okay.

So, project specific conditions, starting at #7; that the construction of the project shall be completed by July 31st --. Oh, I'm so sorry; I'm looking at the wrong recommendation. Just one second. That's from 2011. Okay, so starting at #7, that the construction of the project shall be completed by August 31st, 2017. Failure to complete construction of this project by this construction deadline will automatically terminate the subject County Special Use Permit. If necessary, an amendment to this construction deadline can be requested no later than 90 days prior to the construction deadline. The Planning Director shall review and approve this request, but may forward said request to the Lanai Planning Commission for their action.

#8, that the requirements requested by the Maui Police Department during the 2011 project review and approval process shall be complied with as follows, and there's quite a few so bear with me. (a), coordinate the turn up date with the Maui Police Department Communications Coordinator to verify that there is no adverse impact on the Maui County Public Safety Radio System in the area surrounding this site. AT&T Mobility shall be responsible for all costs incurred by the Maui Police Department to perform such test.

(b), AT&T Mobility will strive to meet the recommendation of the quote, best practices guide as it relates to reducing interference with public safety radio systems as recommended by the FCC.

(c), if AT&T Mobility equipment causes the RF noise floor to rise, resulting in interference which adversely affects the Maui County Public Safety Radio System or degrades system performance, AT&T Mobility shall be fully responsible for restoring the use of the Maui County's Public Safety Radio System by whatever means available and agreeable to the Maui Police Department Communications Coordinator. These remedies may include changing operational frequencies, filtering and controlling RF output, etc. All costs incurred shall be the responsibility of AT&T Mobility.

(d), any changes to the operations frequencies at the site, through re-tuning or dynamic reassignment shall be coordinated with the Maui Police Department Communications Coordinator to ensure that there is no potential degradation of the Maui County Public Safety Radio System.

And lastly, (e), AT&T Mobility shall notify the Maui Police Department Communications

Coordinator of system expansion, installation of equipment operating in the 800MHz band, or co-location with other wireless carriers at this site prior to these changes being made to ensure that there is no potential degradation of the Maui County Public Safety Radio System.

And then the final project specific condition #10, that in the event historic remains are inadvertently encountered during construction, all work shall cease in the immediate vicinity of the find, and the find protected for further damage. The contractor shall immediately notify the Department of Land and Natural Resources, State Historic Preservation Division, SHPD, who will assess the significance of the find and recommend mitigation measures, if necessary.

In consideration of the foregoing, the Planning Department recommends that the Lanai Planning Commission adopt the Planning Department's report and recommendation prepared for the August -- August 17th, 2016 meeting as its Findings of Fact, Conclusions of Law, and Decision and Order; and to authorize the Director of Planning to transmit said written decision and order on behalf of the Planning Commission.

Ms. Gima: Thank you. Commissioners?

Ms. Marlowe: . . . (inaudible) . . .

Ms. Gima: Okay, if you want to provide a motion Stu?

Ms. Zigmond: Okay, when do we do conditions? Because I had a condition to add please.

Ms. Gima: Now with your -- when you propose your motion.

Mr. Michael Hopper: You could move to approve as recommended with the following additional conditions, and then read off the conditions if you like.

Ms. Zigmond: Okay.

Mr. Hopper: That's one way to do it.

Ms. Zigmond: Stu, do you mind if I --? Okay. So I move that we approve the application of AT&T Mobility with the added project specific or Lanai Planning Commission specific condition -- however it is best said -- and I'm copying this from the original 2011 recommendation. That should the telecommunication facility cease to operate or be abandoned the project site shall be returned to its original or improved condition.

Ms. Gima: Commissioners understand that motion? Do I hear a second?

Ms. Stacie Koanui Nefalar: Second.

Ms. Gima: Okay. So it's been moved by Beverly to approve as recommended with the Lanai Planning Commission condition stated in the 2011 application. It's been second by Stacie. Any further discussion? Okay, all in favor of the motion raise your hand. So that is unanimous and it passes.

It was moved by Commissioner Beverly Zigmond, seconded by Commissioner Stacie Koanui Nefalar, then unanimously

VOTED: to approve as recommended with the added project specific condition.

(Assenting: M. Badillo, K. Gima, S. Koanui Nefalar, S. Marlowe, B. Zigmond)

(Excused: B. Oshiro)

(Absent: M. Baltero, S. Ferguson)

E. DIRECTOR'S REPORT

1. Discussion on the starting time for the remainder of the 2016-2017 Commission Year.

The Commission may act to recommend changing the meeting starting time from 5:00 p.m. to 5:30 p.m.

Ms. Gima: Thank you again for the presentation. Okay, so moving along we're going to Item E, which is the Director's Report, starting with the discussion of the starting time for the remainder of the 2016-2017 Commissioner Year. The commission may act to recommend changing the meeting starting time from 5:00 p.m. to 5:30 p.m.

Mr. Yoshida: Thank you Madame Chair and members of the Commission. I believe this was brought up at the last meeting in July. We tried a variety of starting times for the commission meeting. We tried four o'clock, in February the public was here. We didn't have a quorum until a little after five. We've been trying five, and since then, and it seems like we've been able to get a quorum here to conduct business. I guess a concern with changing to 5:30 p.m. If you have a item or items that require a lot of discussion or a lot of testimony then typically, I guess, the Commission would try to end the meeting by about 9:00 p.m., so I guess they would have less time to, to...you know, conduct the hearing and, and the discussion and make a decision. I mean, we haven't had too many of those, but it has happen some times, a few times in the recent years.

Ms. Zigmond: Madame Chair? I'd just like to tag on to that. So for those who don't remember we use to start our Planning Commission meetings at 6 p.m., and sometimes we were here till 9:00 or occasionally 9:30, and I think maybe even one time till 10 o'clock so we always got our work done. And even though we have the barest of quorum at five

o'clock I'm still requesting that we change to 5:30 p.m. just for the slight convenience of most of us who continue to work. And again since the department has to stay overnight anyway and, you know, if we have to stay till 8:30 p.m., 9:00 p.m., then -- but it's so very rare that we do it. So I'm again asking that we change to 5:30 p.m.

Ms. Gima: Yeah, I mean I think this has been an ongoing discussion for some time. Like Clayton said, they tried out the four o'clock meeting time and just, it did not work at all. And so why it went to 5:00 and not back to the original time of 5:30 p.m. I'm not quite sure. I definitely hear the concern, Clayton, to make sure we have as much time as possible. And maybe if we know we have a very heavy agenda with a lot of action items then maybe it's something that the Commission can discuss and vote on at the meeting before, when setting the agenda, to set it as 5:00, if necessary. But, you know, like Beverly said, we start at 5:30 if we have to run a little bit later, past 9:00, we've done that before. So, no, I think starting at 5:30 does make sense especially if the Planning Department is already staying overnight because that was the big thing of not wanting to stay overnight, and then found out that they went back to staying overnight so any other comments from the Commissioners? I mean I want to hear kind of everybody's thoughts on it starting at 5:00 or 5:30. I mean, it's all of a half an hour difference.

Ms. Koanui Nefalar: For me for work, it's easier to start at 5:30. I have a family, I have a grand baby. It's easier to get them situated so while I'm here, my mind is here and not making sure wondering if they're okay.

Ms. Gima: Medigale, do you have any comments?

Ms. Medigale Badillo: I'm with Stacie as well that 5:30 would be nice to start if, yeah, as Ms. Zigmond said if we do have load to be done, we can just vote before then.

Ms. Gima: Stu, any comments? Okay, I mean, it sounds pretty unanimous that that's what we're agreeing on. Of course there are other members that aren't here, but they knew this was on the agenda. Do you need us to take a vote?

Mr. Yoshida: Uhm --

Ms. Gima: Yeah, I mean, it is unanimous consent. Stu's choosing not to --. Okay, is there -? Stu, are you objecting to starting at 5:30? Go on the mic.

Mr. Stu Marlowe: My position has always been that we've done a disservice to those that have to come over from Maui and stay overnight. I think these meetings should be held at 2:00 in the afternoon, and those that have difficulty with employers or whatever, I think, on an individual basis those can be addressed, so that's just my feeling.

Ms. Gima: Okay. Yeah, I mean, this has definitely been again an ongoing...yeah, and ongoing discussion. I'm gonna open up public testimony again. I think it's important to

include the public in on this because they are just as crucial as a part of this meeting so Aunty Winnie you wanna come up and get on the microphone please?

Ms. Winifred Basques: Thank you. Winifred Basques, living on Lanai 53 years. Okay, the situation came up when it was stated four o'clock meeting. Everybody was here. Stu was here, and one of the other ladies was here. We were all here waiting and there was no quorum. The thing is that when you come here you have to have a quorum in order to do a meeting. If there's no quorum, you only going talk story, and that's it. I left at 5:30 and still there was no quorum. I'm sorry to say, even though you is being elected to be on the panel, the Commissioners, when I go off island, I make sure I'm there. Because why I have to speak my mind about the issues, okay? I not saying that, oh, you suppose to be there. But the thing is that is being from five o'clock. That everybody can do, but some of the people like you say, they work, okay? They have to have a time off, from the bosses, some kind of a boss so give the time off. You know what I mean? But I was here from four o'clock to five thirty. I sorry to say that when you conduct a meeting they have to be on a time frame because why, it's going be recorded in the recorder. Thank you very much.

Ms. Gima: Thank you. Margaret?

Ms. Margaret Peary: Hi. There's a lot of talk about the board and about the staff, but what about the public? I totally disagree with having meetings in the middle of the day. If you're retired, it might be okay. But there's a lot of people -- I dare say, there's probably people that aren't here right now because they are employed, they do have families, they do need to eat, and even getting here at 5:30 might be a stretch, but certainly not any earlier than 5:30 should the meetings begin. And people shouldn't have to take off from work just to come here if were to be two o'clock. That doesn't make any sense. So let's keep the public in mind as well as the board and the Planning Department staff. And since they're staying over anyway, this isn't going to make a big difference in terms of their overnight stay. So, I'd say the very earliest 5:30. My vote would be for 6:00 only because it gives people a chance to get off work, come home, eat quick, get the kids settled and get over here. Thank you.

Ms. Gima: Thank you. Anyone else wanting to provide public testimony? Okay, we're gonna close public testimony. So because Stu is not in agreement with the discussion, I will ask if there is a motion, and we can vote on, on this issue.

Ms. Zigmond: I move that we begin our meetings at 5:30 since it causes no additional hardship to the Planning Department but would benefit the rest of us.

Ms. Gima: Okay, so it's been moved by Beverly to start at 5:30, second by Stacie. All in favor raise your hand. One, two, three -- unanimous, five, it passes.

It was moved by Commissioner Beverly Zigmond, seconded by Commissioner Stacie Koanui Nefalar, then unanimously

VOTED: to start the meetings at 5:30 p.m.
(Assenting: *M. Badillo, K. Gima, S. Koanui Nefalar, S. Marlowe, B. Zigmond*)
(Excused: *B. Oshiro*)
(Absent: *M. Baltero, S. Ferguson*)

Ms. Gima: I just wanted to add because I had brought up at our last planning commission meeting and I noticed it isn't here on the agenda, and I'm -- because we're talking about meeting times and maybe this is the time to input in here. I don't know why wasn't put on the agenda, but at the last meeting I had stated that I had been contacted by the State Ombudsman's Office regarding a complaint against the Lanai Planning Commission for not conducting meetings on a monthly basis which is stated in the, I think it's the Lanai Planning Commission Rules and Procedures -- Policies and Procedures. So like I said last month, we need to have this discussion because right now the complaint is made against us as the Commission, and we need to have this discussion on record. So is there any objections to proceed with this because I think this is a serious issue that needs to be discussed and shouldn't be waited till it's put on the agenda? Oh, okay.

Ms. Zigmond: Madame Chair, didn't you ask that it be put on the agenda for this month?

Ms. Gima: Yeah. Okay. Alright, we'll move along and when they contact me again I will let them know that we won't have it on the agenda till, for, till the September agenda.

Ms. Zigmond: So can we request that it be on the September 28th agenda please?

Mr. Yoshida: Yeah, I guess we'll come to that item. Again we do circulate copies of the draft agenda to the Chair before we finalize the agenda.

2. Open Lanai Applications Report as distributed by the Planning Department with the August 17, 2016 agenda.

Mr. Yoshida: Okay, moving to Item 2, Open Lanai Applications Report. Are there any questions on the report?

Ms. Zigmond: Madame Chair? Clayton, #2 and 3 is of a concern. I definitely want an in-depth on Margaret Peary's review and comment on the project, but the one prior to that, can you just tell us what that is and where it's at...please?

Mr. Yoshida: On the open project's report #2? I believe the -- there was -- it's a proposal to clean up -- restore the fish pond. And so they went to Department of Land and Natural Resources, and the Department of Land and Natural Resources had to ask the Department to comment on the proposal to restore the fish pond.

Okay, Item 3...I guess this is that jet fuel storage. I guess the department has determined that, subsequently, that the -- it would require either a use determination or a County Special Use Permit. Although the Fire Department says it's safer to store jet fuel than it is gasoline.

Ms. Zigmond: Could you repeat that please, the use determination?

Mr. Yoshida: The department determines that either a use determination or a County Special Use Permit needs to be obtained to store jet fuel at that site.

Ms. Zigmond: So what happens now?

Mr. Yoshida: That --. I mean, that, that's the permit that would be required or determination that would be required.

Ms. Gima: So having this on the open project's list was specifically to just -- this doesn't get update about that specific project? I don't -- I'm -- instead of putting on the agenda. I'm just -- it's -- when I look at this, it looks like she has a permit for a project, and the permit name is "review comment on project." I'm just quite sure -- I don't understand -- I'm confused.

Mr. Yoshida: Oh, I guess Margaret had filed a request with the department as to, you know, there's a jet fuel storage going on and what kind of permits are needed.

Ms. Zigmond: Can I, can I ask a question then? So if the jet fuel is where it needs a permit to be then what happens to it until the permit is obtained?

Mr. Yoshida: Yeah, if it's at that site, either a use determination or a County Special Use Permit would be needed.

Ms. Gima: So I'm going to ask Lynn McCrory from Pulama Lanai because you might have -- I'm assuming you have more details than Clayton does about this that maybe you can just share and update on what's going on with that. And you can come up to the mic please.

Ms. Lynn McCrory: Thank you. Lynn McCrory, Pulama Lanai. We said from a few meetings ago, not this, but multiple other meetings, that we would be moving that. We're still intending to do that. There's no fuel in it, there's never been fuel in it.

Ms. Gima: Commissioners, any questions...for Lynn?

Ms. Koanui Nefalar: It's suppose to be down at Miki Basin, right? Lynn, is that where was -- is it suppose to go, to Miki Basin?

Ms. McCrory: Lynn McCrory, Pulama Lanai. It can go there, yes.

Ms. Koanui Nefalar: Where are you folks intending to put it?

Ms. McCrory: The airport. Long term, airport.

Ms. Koanui Nefalar: So it came from the harbor, I'm thinking, on Young Brothers. Wouldn't it have been easier just to take it to the airport versus coming up to the city and then back to the airport?

Ms. McCrory: The airport will take probably a year or more to get.

Ms. Koanui Nefalar: Oh, you need a permit to put there that's why.

Ms. McCrory: We need a permit to do all that.

Ms. Koanui Nefalar: Even if it's empty?

Ms. McCrory: At least...at least one year.

Ms. Zigmond: So how long do we anticipate getting the permits, either this Conditional Special Use Permit or the whatever else Clayton said? How long do you anticipate that to be?

Ms. McCrory: I didn't say we would change permits.

Ms. Zigmond: Then we're really confused and this seems to be going into a darker and darker hole. So where is the fuel now?

Ms. McCrory: It is not in the tank.

Ms. Zigmond: It's in a truck at the airport. It's not in the tank. So is it some place where it's allowed to be?

Ms. McCrory: Yes.

Ms. Zigmond: It's at the airport.

Ms. McCrory: It's in a place that's allowed to be. It's in Miki Basin.

Ms. Zigmond: It's in Miki Basin in a truck?

Ms. McCrory: Nothing's in the truck.

Ms. Zigmond: Okay, I'm confused. Can you specify where it is at Miki Basin in what kind of

container.

Ms. McCrory: They are in iso-containers...which is how all of your fuel comes to the island.

Ms. Zigmond: Okay, so the fact that this item is on the open projects, and Clayton said that they need a use determination or a Conditional Special Use Permit to be obtained to store the jet fuel is totally moot and irrelevant.

Ms. McCrory: That's correct.

Ms. Zigmond: Then...there's really something wrong with this picture.

Ms. Koanui Nefalar: So Lynn the -- why didn't they take the tanks to Miki Basin versus bringing it up to the city?

Ms. McCrory: Because we had a permit to bring it to the city.

Ms. Koanui Nefalar: You couldn't do a permit to Miki Basin?

Ms. McCrory: They wanted it in the city is what they had decided to do.

Ms. Koanui Nefalar: And they is?

Ms. McCrory: Pulama Lanai. Because all of the other gasoline and diesel fuel is all here so it was all in one place. And it's much, much less flammable. I mean you put a match in jet fuel and it puts the match out. That's how un-flammable it is.

Ms. Gima: So Ms. Peary's concern that was brought up at the last meeting hence this being on our open project's list, the concern was having stored jet fuel in the city around the residential area. So you're saying at that time it was just a tank and no fuel was in there?

Ms. McCrory: It has been a tank with no fuel in it. And at the meeting that she brought it up to begin with, I said there was no fuel in it. And I said we would be moving the tank, and that was probably two, three months ago.

Ms. Gima: Okay. Okay, so because -- Ms. Peary you had requested to have this for review or comment on the project. I'm sorry Clayton, I'm like super confused right because her request was to have this, to bring up on the agenda, correct? It's here listed on the open project's report. Have you received anything from the Planning Department in terms of comments on this? Yeah, please -- please come up because I think there's a few of us that are -- I'm confused. Why don't you come and speak on the mic and please state your name for the record.

Ms. Peary: Okay, my name is Margaret Peary, and I don't have your minutes from last

month. But, it was clearly discussed that what I was asking was that we review the process of how this gas storage tank morphed in jet fuel storage, okay. That was the request. It was very clear. And so when I saw the...the agenda, I was thinking well why isn't that really on the agenda and not in open reports. At no time have I ever been an applicant. I looked up the permit number on the Maui County website. I don't even know what 20160123 is. I don't see anything under that, on the website. It was totally and as I recall Madame Chairperson you requested that both the applicant and the County of Maui come prepared with all of the permits that were applied for and signed off on. And so how it morphed into this I don't know. The -- the Miki Basin thing is a totally separate issue. That's an enforcement issue.

Ms. Gima: So I'm going to stop you for a second. Looking at the minutes of the July 20th meeting you had asked to -- hold on a second I just saw it. Wanted to make a request to the Commission to have Pulama Lanai's jet fuel tank permit to be put on the August agenda. You gave background to us, shared your concerns, and then you further had asked "I hope that my request to this matter be put on the agenda for August to be considered and granted by the Commission. We need to know what permits were applied for, what permits were already signed off, and where did things go astray."

Ms. Peary: Yes.

Ms. Gima: And then it was at the end of our...minutes, or the end of the meeting where we had requested to have her request be put on the August agenda.

Ms. Peary: Right.

Ms. Gima: Corp Counsel had, I think, talked about -- oh, said it was up to us. She said it's up to you to have this on the agenda as simply an update. We wanted an update on what's going on. A lot -- again, at the last's month meeting, this was not before us as a permit application, this was just brought up by a concerned community member, and at that time the Commission felt that we wanted to get some more information. So why it wasn't specifically put on the agenda and it was put this way, maybe Clayton you could clarify that. Because this just looks -- it looks really -- it's confusing because I think in the past we've asked for updates from Pulama Lanai, like the Miki Basin, to get an update. That was clearly listed on the agenda so I'm -- I'm -- yeah.

Mr. Yoshida: I believe there was a request by Ms. Peary to the County prior to the July 20th meeting. That is the RFC.

Ms. Peary: But that's not what I requested. I requested the process because everything that I got from Maui County said gas storage. Okay? So I got a building permit, I got a plumbing permit, I've got letters going back to 2014, and it's all about gas. Then, as this thing unfolded, and more and more information was coming out, and more jet fuel was coming on our island, I'm saying how did this happen? The only place that I called out of all

the departments that I called, the Fire Prevention Bureau with Captain Paul Haake was the only one that did not correct me when I said I'm calling about jet fuel. All the other departments corrected me. Oh, no, no, no, it's gasoline. I said, no, not at this point; it's becoming jet fuel. I've never gotten a copy of the Fire Prevention Bureau application which I requested in writing. There's a problem here because if you don't think there's a problem our community came this close to having an unpermitted use in the center of town. Gasoline is a permitted use, not jet fuel, as we later found out that they would have to have a Special Use Permit, and Lynn already said we're not about to do that. It's too much work, too much effort. So somehow when this started out with the County of Maui it was gas...that didn't require a Special Use Permit. I want to know the process.

Ms. Gima: So you're trying to look . . . (Inaudible. Multiple speakers.) . . . and where did it change.

Ms. Peary: Who -- who messed up.

Ms. Gima: So the request that you made for comments with the Planning Department before the Lanai Planning Commission, you have not heard back from them yet?

Ms. Peary: No. I've heard nothing. I've heard nothing about Miki Basin, whether or not --. That's why --. I'm not here tonight for that.

Ms. Gima: Right.

Ms. Peary: We're all supposedly going to get information from the County Planning Department and Pulama Lanai what permits did they apply for that I don't have here, and where did this thing fall off the track so that we know for future permits when somebody starts over here and then does an end run and puts in a use . . . (inaudible) . . .

Ms. Gima: Okay, so let's go ahead and have that discussion. So Lynn has stated that currently there's no jet fuel in the tanks. It's not being stored in the city any more. So if you don't mind Lynn addressing the question of what permits were previously applied for.

Ms. McCrory: Lynn McCrory, Pulama Lanai. There was originally a permit for gasoline. We then withdrew that permit. We then went back in with a permit for jet fuel. We understood it to be a permit for jet fuel. That's what we understood had been applied for. That's how we were going forward with it. Now apparently I don't know which permit she had there, but that was our understanding. So we moved forward with jet fuel.

Ms. Gima: Okay. Then Planning Department and I'm going to turn to you Clayton as you're the representative here because this was and obviously is in the minutes requested to be on the agenda. And so I'm hoping that after last month's meeting -- because you were here -- went back and tried to get some information to share and honor the Commission's request to have an update.

Mr. Yoshida: I guess there was a request. We did send the draft agenda to the Director and to also to the Chair, and in that draft agenda it wasn't on the request -- it wasn't on the draft agenda.

Ms. Gima: And that's when I e-mailed back stating to have that -- that was missing and to have that on the agenda.

Mr. Yoshida: Well, I thought that we -- before and after the Planning Commission the department did talk to Ms. Peary and did state that the conclusion was that this was permitting, either a use determination or a County Special Use Permit was needed.

Ms. Peary: I already knew that the night I came. I didn't need to know that again. We wanted to see copies . . . (inaudible) . . . I'm sorry.

Ms. Gima: No, I understand that, but we had specifically asked to have this on the agenda and it's in the minutes, and I don't know where this went array because even when the draft had come to me for review I specifically responded asking that this not be forgotten.

Ms. Peary: Can you use . . . (inaudible) . . .

Ms. Gima: Well it seems like -- it seems like the Planning Department didn't go back to get some information to give us an update. I mean Lynn is here -- still can provide us information and we have questions. I'm just really confused because we have on the agenda every month an item that talks about what's going to be on next month's agenda. And if we're having these conversations and even if it's going to vote and it's not being honored and the information is not coming back, I'm very confused on why that's happening.

Mr. Hopper: Okay, so at this stage what action would the Commission like to take? It appears that the --. Okay, then there you go.

Ms. Peary: I would request if you do that it not be until October because I will not be here for September. And this was intentional, I'm sorry. And if this the way Maui County continues to treat this Commission and the concerned people of this island, shame on you.

Ms. Gima: Okay, so thank you Ms. Peary, we will take your thoughts and comments, you know, under direction right now. But we are -- public testimony is not open. So we had given you the courtesy to come up and ask you questions. So Commissioners --. No, I mean I think at this point I'm not going to be opening public testimony for, for two reasons. We have -- there's nothing prepared by the Planning Department to even honor the request that we had to put this on the agenda so --. Alright, okay, so I will open public testimony. So Ms. Peary, thank you again for providing comments and clarifications and answering our questions. Mr. McOmber.

Mr. Ron McOmbler: This is --. My name is Ron McOmbler, a resident of Lanai, and I'm really confused about the testimony from Lynn. That tank showed up in the labor yard, and then the next thing we see is bollards put around it which gives you the indication that they're going to leave it there. It wasn't there temporary. It didn't come up from the harbor, and they did put it there as a freight item. The next thing we see is bollards all the way around it. No catch basins around so if it was to be filled with fuel it would be a hazard to the whole community up there. Now what I don't understand about what Lynn McCrory is saying is why are they bringing the tank up in the labor yard when they already got underground tanks for fuel at the labor yard already. Why would you bring another tank up there? They intended to put jet fuel in that from the beginning, absolutely. Now it is not appropriate to have that put in the middle of our town, above ground, where the trucks are going in and out of that labor yard at all days and nights and put the hazard to that. First of all there's no catch basin so they stopped doing that. It's really upsetting to me to be lied to by Pulama about this. Absolutely lied to it. It's our community and we need to protect our community. So, you know, this, this is "shibai" if anything, the best. And, you know, I watched that tank be sit there, and I thought, oh, that's really -- what are they going to do with that? Next thing I know, they're putting bollards around it. Then the next thing I hear, oh, we have permit for it. They haven't had a permit for it either. So I think the community needs to have a clear and honest understanding about this, and the only way we're going to do it is get it on the agenda and we can sit and talk about it. Thank you very much Madame Chair.

Ms. Gima: Thank you. Anyone else wishing to provide public testimony? Ms. Peary you provided testimony at this point so we need to give others -- we need to give others a chance if anybody else in the community would like to provide comments, questions. Okay, go ahead.

Ms. Peary: One other very disturbing point is that our local Lanai Fire Station has already said they are not prepared, they are not equipped to fight a fire should one happen if that was filled, and we're told it's not and it will never will be and blah, blah, blah. But it would have been have we not jumped in and, and rubbed peoples' noses in this whole thing, okay? What they said -- two fire captains said they don't have the foam truck. Okay? They also said if it was a small fire, let's say 50 gallons leaked out, they do have a small foam canister on their truck. But beyond that they would go from suppression mode to evacuation mode. Okay? So that's another factor. But what I'm most upset about is the secrecy that seems to be cloaked around this entire thing. That somewhere along the line I wanna see that application where the gas was withdrawn, and the jet was put on, and you have high paid consultants that should have known that jet fuel was not a permitted use at that site. So whether it was just going to go in under the radar and no one would be the wiser, I don't know. But that's what I am questioning. Where did this thing fall off the track? I wanna see that permit that you withdraw, and then put in as jet fuel, and I want to see who approved that. I wanna see where this thing because none of this -- this was from January 2016, County of Maui, Development Services Administration, 1/26/16. And all

these people are signing off supposedly gas, gas storage. Okay?

Ms. Gima: OK. Thank you. So again just to make it very clear this permit was never on our agenda for any action item. This was again just a concerned community member requesting to have an update given at this venue, at a Lanai Planning Commission meeting. So Commissioners, any -- I mean, any discussion here?

Ms. Zigmond: Madame Chair, I would request that this topic be put on the agenda, preferably for October so that -- and specifically to have the items that were requested so that we can have a better understanding of what's going on cause you know it's just not me that's confused. It seems to be most people that are confused, and I think it's pretty dangerous so I'd like some clarification and if we could have that. If we have to be specific in what we're asking the Planning Department for then let's do that. Let's make sure that it gets on the agenda. Thank you.

3. Agenda Items for the September 28, 2016 Lanai Planning Commission meeting.

Public Hearings on the following:

- a. **COUNCIL RESOLUTION NO. 16-93 containing a Proposed Bill Amending the Comprehensive Zoning Ordinance Relating to Enforcement Procedures for Bed and Breakfast Homes and Short-Term Rental Homes.**
- b. **COUNCIL RESOLUTION NO. 16-94 containing a Proposed Bill Amending Section 19.65.030 of the Maui County Code to Establish Ownership Durational Requirements for Short-Term Rental Home Permit Applications.**
- c. **Federal Emergency Management Agency's proposed revisions to Chapter 19.62 of the Maui County Code: Flood Hazard Districts for conformance with current federal laws.**

Ms. Gima: Okay, so I mean that's the next item is talking about the next month's agenda. Thank you, Lynn, for providing us information and questions that we've asked as far as an update. Is everyone -- Commissioners, are you all clear from Pulama Lanai's statement tonight about the current update right now of what's going on? Because I think that --. No? Okay, is there -- Beverly, is there any other questions that you want to ask them? Because what I'm kind of hearing is that when this comes on our whether it's our September or October agenda it's more of a request specifically to the Planning Department because that's the portion that we did not get tonight. So while Lynn is still here, while we're still talking about this, is there any further questions that Pulama Lanai, specifically Lynn can

ask right now. Never mind the permitting and the Planning Department's stuff because that will be requested for next meeting. Commissioners, anyone, any other questions? Bev? Okay. So then let's move in to the next agenda item which #3, agenda items for the September 28, 2016 Lanai Planning Commission meeting.

Mr. Yoshida: Yes, we have scheduled three public hearings, and the meeting is moved from September 21st to September 28th by the Commission because of the state wide planning conference on September 21st to 23rd. So we have the two Council resolutions relating to short-term rental homes which they sent to the three planning commissions for their review and comment. And we have the Federal Emergency Management Agency's proposed revisions to the County's flood hazard district portion of the Maui County Code, Chapter 19.62 to conform with current Federal laws.

Ms. Gima: Okay, so those -- those three public hearings will be on the September 28th, 2016 agenda. I'm requesting again to have on the September 28th, 2016 agenda the State Ombudsman's Office receiving the complaint against the Lanai Planning Commission. This needs -- this need to be priority. We need to have this discussion because again it's a complaint not against the Planning Department, it is a complaint against us as a commission. This needs to start. We need to have this discussion so that needs to be on next month's agenda. And then to honor Ms. Peary because it was her request to have this brought up on the agenda to then defer her item to the October hearing. And again that's specifically to get an update from the Planning Department, specifically about the permits that were issued for the gas fuel, jet fuel tank; any information from the Planning Department. Again, this was obviously a concern from one individual in the community but I'm sure there are more people concerned as well. So I don't think it can be brought up to the Planning Commission and it just be ignored and not discussed. So that to be put on the October agenda. Any other request to have on the agenda Commissioners?

Okay, so the next regular meeting date again is it's a little -- it's changed -- it is September 28th, 2016. And it is now --

F. NEXT REGULAR MEETING DATE: SEPTEMBER 28, 2016

Ms. Zigmond: Madame Chair?

Ms. Gima: Yes?

Ms. Zigmond: At 5:30 p.m.

G. ADJOURNMENT

Ms. Gima: Yes, September 28th, 2016 at 5:30 p.m. which we all voted on and approved tonight. It is now 6:04 p.m., and I will adjourn the meeting. Thank you everybody for coming tonight.

There being no further discussion brought forward to the Commission, the meeting was adjourned at approximately 6:04 p.m.

Respectfully submitted by,

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

RECORD OF ATTENDANCE

PRESENT:

Medigale Badillo
Kelli Gima, Chair
Stacie Lee Koanui Nefalar, Vice-Chair
Stuart Marlowe
Beverly Zigmond

EXCUSED:

Bradford Oshiro

ABSENT:

Marlene Baltero
Stephen Ferguson

OTHERS:

Clayton I. Yoshida, Planning Program Administrator, Current Planning Division
Evelyn Aako, Staff Planner, Current Planning Division
Michael Hopper, Deputy Corporation Counsel