

**LANA'I PLANNING COMMISSION  
REGULAR MEETING  
APRIL 19, 2017**

**APPROVED 06-21-2017**

**A. CALL TO ORDER**

The regular meeting of the Lana'i Planning Commission (Commission) was called to order by Chair Kelli Gima at approximately 5:00 p.m., Wednesday, April 19, 2017, in the Lana'i Senior Center, Lana'i City, Hawaii.

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

Ms. Kelli Gima: It is now five o'clock. Good evening everyone. We're going to go ahead and get this started. It is April 19<sup>th</sup>, 2017, Lanai Planning Commission, and we do have quorum. And again, thank you Commissioners for being willing to start at five o'clock to accommodate the Planning Department on getting back on the last flight. We're going to start off with introduction of three new members tonight, and I'm going to ask each of you to give just a little summary introduction, introduce yourself, so I'll start with Mrs. Shirley Samonte.

**B. INTRODUCTION OF NEW MEMBERS – Mililani Martin, John Dela Cruz, and Shirley Samonte**

Ms. Shirley Samonte: Good afternoon. I'm Shirley Samonte and I was born and raised here on the island of Lanai. I've been back on the island for approximately over 25 years. I work at Straub Medical Center, and have been working there for 25 years as well. Thank you.

Ms. Gima: Thank you. And then next we have Mrs. Mililani Martin.

Ms. Mililani Martin: Hello everybody. My name is Mililani. I've been back home, on Lanai, for about five years now. I moved here in the late, well, maybe mid-80s is when I lived here first, but returned home because my mom had a stroke, so I'm here to kind of take care of her. Her name is Jackie Woosley. I'm sure you guys all know her. She is one of the mothers, along with Phyllis McOمبر, for the Lanai Community Health Center. And I'm here today because my mom did a lot of community work, and I kind of want to follow in her footsteps, and she really cared about the people here on Lanai. And that's why the Lanai Clinic is called Lanai Community Clinic, and I'm hoping that one day we'll all feel that way. Thank you.

Ms. Gima: Thank you. And then lastly we have Mr. John Dela Cruz.

Mr. John Dela Cruz: Hello. I'm John Dela Cruz. I was born and raised here. I left to go out in the world after high school, and came back here in 1989, and now I'm a pensioner and I'm here because I love going to meetings.

Ms. Gima: Thank you and welcome you three. Next we're going to move along to the election of Chair and Vice-Chair for the 2017-2018 commission year. Clayton, I know sometimes Corp Counsel will run the election. Do you want me to do it still as the Chair, or do you want to go ahead and do that?

**C. ELECTION OF CHAIR AND VICE-CHAIR FOR 2017-2018 COMMISSION YEAR**

Mr. Clayton Yoshida: Either way. I mean, it's up to you.

Ms. Gima: I'll let you go ahead.

Mr. Yoshida: Okay. At this time the floor is now open for nominations for Chair of the Lanai Planning Commission for commission year 2017-2018, are there any nominations?

Ms. Beverly Zigmond: Clayton? Madame Chair? I would like to nominate you as our fearless leader for one more year if you would be so kind as to grace us with that honor.

Ms. Martin: I second it...and that's Kelli Gima.

Mr. Yoshida: So, it's been moved and seconded to nominate Kelli Gima as Chair. Are there any other nominations? Seeing none, all those in favor of Kelli Gima as Chair for the commission year 2017-2018, please raise your right hand. Okay, that's six. Okay, so there's no oppose. Okay, congratulations Kelli, another year as Chair. I guess Madame Chair, you can conduct the election of the Vice-Chair.

**It was moved by Ms. Beverly Zigmond, seconded by Ms. Mililani Martin, then unanimously**

**VOTED: to nominate Ms. Kelli Gima as Chair for the Commission year 2017-2018.**

*(Assenting: J. Dela Cruz, C. Green, M. Martin, S. Samonte, B. Zigmond*

*(Excused: M. Badillo, M. Baltero, B. Oshiro)*

Ms. Gima: Okay, any commissioners have any nominations for Vice-Chair?

Ms. Zigmond: Madame Chair?

Ms. Gima: Yes?

Ms. Zigmond: I would like to nominate Caron for Vice-Chair, please.

Ms. Martin: And I'll second it.

Ms. Gima: So it's been moved by Beverly, seconded by Mili to nominate Caron as Vice-Chair. Any discussion commissioners? None? Okay --

Ms. Zigmond: I wanted to say, Caron, I didn't mean to spring that on you, but thank you.

Ms. Caron Green: I was going to nominate you.

Ms. Gima: She would decline. Alright, so all in favor of the motion raise your hand. So that's unanimous. None opposing. Any other -- I forgot to ask if there were any other nominations for Vice-Chair. Okay, so congratulations Caron, Vice-Chair.

**It was moved by Ms. Beverly Zigmond, seconded by Ms. Mililani Martin, then unanimously**

**VOTED: to nominate Ms. Caron Green as Vice-Chair for the Commission year 2017-2018.**

*(Assenting: J. Dela Cruz, C. Green, M. Martin, S. Samonte, B. Zigmond  
(Excused: M. Badillo, M. Baltero, B. Oshiro)*

**D. 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.**

Ms. Gima: We'll move on next to public testimony, and I don't know if anyone has signed up to provide public testimony. Okay, Mr. Ron McOmber.

Mr. Ron McOmber: . . . (inaudible) . . .

Ms. Gima: Okay, so not wanting to provide public testimony. Anyone wishing to provide public testimony at this time? Alright, so I will go ahead and close public testimony. We we'll move on to our next item, Item E, which is the thank you resolutions for outgoing members, Stacie Koanui Nefalar, Stephen Ferguson, and Stuart Marlowe.

**E. THANK YOU RESOLUTIONS FOR OUTGOING MEMBERS – Stacie Lee Koanui Nefalar, Stephen Ferguson, and Stuart Marlowe**

Mr. Yoshida: Thank you Madame Chair. Another purpose of the meeting is to thank the outgoing members of the Lanai Planning Commission for their service and time to the people of Lanai. So that's the graduating class of 2017, Stacie Lee Koanui Nefalar, Stuart

Marlowe, and Stephen "Fergie" Ferguson.

So first we'd like to thank Stacie Lee Koanui Nefalar who has served on the Lanai Planning Commission since October 2012. And Ms. Nefalar was the Vice-Chairperson from April 2013 through March 2017, and she has served with dedication and performed her duties in the highest professional manner as a member of the Lanai Planning Commission. And the Commission wishes her the best in her future endeavors, and that copies of this resolution be transmitted to the Honorable Alan Arakawa, Mayor of the County of Maui, and the Honorable Mike White, Chair of the Maui County Council. So if the other members could sign the resolution then we can make a copy and send it to the Mayor and to the Council Chair. But, we do have this beautiful County of Maui folder with a congratulatory letter from the Mayor, as well as a certificate suitable for framing signed by the Mayor, and we're retiring the name plate of Stacie Koanui Nefalar. So, thank you Stacie.

Ms. Stacie Koanui Nefalar: Thank you.

Mr. Yoshida: Next. Next we have Stuart Marlowe. Stuart has served on this Commission since October 2012, and has also performed his duties in the highest professional manner as a member of the Lanai Planning Commission, and his term of office expired on March 31, 2017. And so the Commission would like to commend Mr. Marlowe for his dedication and untiring public service to the people of Lanai, and wish him the best in his future endeavors. And that copies of this resolution be transmitted to the Honorable Alan Arakawa, Mayor of the County of Maui, and the Honorable Mike White, Council Chair of the Maui County Council. In this case everybody signed Mr. Marlowe's resolution so we can present him with the resolution and the name plate retired, and the congratulatory letter from the Mayor as well as the certificate of thanks from the Mayor, suitable for framing in the County of Maui folder. Congratulations Stu.

Mr. Stu Marlowe: Thank you very much.

Mr. Yoshida: And last but not least, Stephen "Fergie" Ferguson who has been a member of the Lanai Planning Commission since October 2014. Has served with distinction and performed his duties in the highest professional manner with the Lanai Planning Commission. And his term of office expired on March 31<sup>st</sup>, 2017. The Commission hereby commends Mr. Ferguson for his dedication and untiring public service to the people of Lanai, and expresses their sincere appreciation for Mr. Ferguson's services, and extends their best wishes in his future endeavors. And that copies of the resolution be transmitted to the Honorable Alan Arakawa, Mayor of the County of Maui, and the Honorable Mike White, Council Chair of the Maui County Council. So we have Mr. Ferguson's name plate, congratulatory letter from the Mayor, certificate of thanks, suitable for framing in the County of Maui, the beautiful County of Maui folder. Thank you Stephen.

Mr. Stephen Ferguson: Thank you.

Mr. Yoshida: Thank you Madame Chair.

**F. APPROVAL OF THE MINUTES OF THE FEBRUARY 15, 2017 MEETING.**

Ms. Gima: Thank you Clayton, and thank Stacie, Fergie and Stu. It was a pleasure serving with all of you. So we'll get into business. Our next item is approval of the minutes of the February 15<sup>th</sup>, 2017 meeting. Commissioners, any discussion regarding the minutes?

Ms. Zigmond: Madame Chair I move that we accept the minutes of the February 15<sup>th</sup>, 2017 meeting.

Ms. Gima: So it's been moved by Bev to approve the minutes of February 15<sup>th</sup>, 2017 meeting.

Ms. Caron Green: I'll second that.

Ms. Gima: You'll second. So it's been second by Caron. Any discussion Commissioners on the minutes? Okay, all in favor --. Oh, go ahead.

Ms. Green: I just have one question on page --. I'm doing a Bev.

Ms. Gima: That's fine.

Ms. Green: On page 4, under #2. It's the one, two, three, four -- fifth line down -- is it just a typo where it says "we're a shortage of?" Should it be "we've a shortage of?" I think it's just a typo. Do you see it here?

Ms. Gima: So it's basically saying, we are a shortage of both. We are a shortage of both.

Ms. Green: We've. We have a shortage of both, not we are.

Ms. Gima: I'm assuming that's what was recording, Leilani? Okay.

Ms. Green: That's it.

Ms. Gima: Okay, so it's been moved by Bev, second by Caron with that, that specific note to approve the minutes. Any other further discussion Commissioners? Okay, all in favor of the motion raise your hand? Opposed? None, so that's unanimously passed.

**It was moved by Ms. Beverly Zigmond, seconded by Ms. Caron Green, then unanimously**

**VOTED: to approve the February 15, 2017 meeting minutes with that specific note.**

*(Assenting: J. Dela Cruz, C. Green, M. Martin, S. Samonte, B. Zigmond)*  
*(Excused: M. Badillo, M. Baltero, B. Oshiro)*

Ms. Zigmond: Madame Chair?

Ms. Gima: Yes?

Ms. Zigmond: Excuse me, before we begin because I remember when Caron joined us there was the issue of whether or not she could vote. Is there anybody here who can tell us if -- because if our new members haven't signed that form that they need to, then we can't actually vote on anything. They can't vote on anything, and we don't have quorum to vote. Is that -- does anybody know where that stands?

Ms. Gima: Clayton?

Mr. Yoshida: Well, I guess to the best of the ability from the members who were there, if not, I guess we could defer it till the --

Ms. Gima: So would that mean we would have to defer the election then?

Mr. Yoshida: No the election, the election is fine. I mean -- they're, these people are commissioners.

Ms. Gima: Okay, so it's just, Bev, it was just a matter of because they weren't here for the last meeting to vote on something that --

Ms. Zigmond: No, that's not what I'm saying. When -- and it reminded me when Caron asked the question and said she was doing a Bev on the minutes, at the last meeting, and we can look at our minutes on that, I had thought that, silly me, because Leilani doesn't make those mistakes, but I thought she didn't mention that Caron had abstained from that voting. But then later on it said --. And that didn't matter at that point that she abstained because -- and she had abstained because she hadn't been at the previous meeting or whatever because it didn't matter because we had enough other people to carry that vote. But for that next item...which is on page 2, we had looked back on...whatever else it was that Caron had voted on and she couldn't do it because she hadn't signed that Oath or whatever. And so she wasn't officially a member. And so I'm wondering if John, and Mili, and Shirley have signed theirs already, and if they can indeed vote. Sorry, but --

Ms. Gima: No, that --. I mean, yeah, it clearly say by Corp Counsel on page 2...yeah that the Oath of Office is your official act under the Charter that allows you to be a voting

member for a Commission. So were the Oath of Office signed by the new Commissioners?

Mr. Yoshida: Leilani says yes.

Ms. Gima: They all did? Okay, so then we don't have to worry about this. Okay, no, thank you Bev for bringing that up. Okay, so we're good. That motion has passed, the minutes have been approved. Alright so let's go ahead and move on to Item G, which is the orientation workshop no. 1.

**G. ORIENTATION WORKSHOP NO. 1**

- 1. Roles and Responsibilities**
- 2. The Planning Framework**
- 3. Long Range Planning**
- 4. Zoning**
- 5. Chapter 343, HRS, Environmental Assessments and Environmental Impact Statements**
- 6. Bed and Breakfast Homes and Short-Term Rental Homes**

Mr. Yoshida: Thank you Madame Chair. We thought as we have three new Commissioners, we do a first orientation workshop. This is the first of four orientation workshops. There's one scheduled for the May meeting, which is more the Corp Counsel presenting the Sunshine Law and Ethics, and Rational Nexus and Rough Proportionality. There's a workshop scheduled for the June meeting, which is more the Coastal Zone Management, Special Management Area, Shoreline Area, in light of the fact that we are also having the update – Commission getting an update on the SMA boundary review project in June. And then the Council has...passed legislation where the three planning commissions and the Hana Advisory Committee will have training on Native Hawaiian Law provided by, I guess, University of Hawaii Law School, which we're trying to arrange for.

For purposes of timing, we are trying to catch the 7:45 flight, so we would like to try to end the meeting by 6:40 so we can pack up all the equipment, and go down to the airport, so we can catch the flight.

So again, we brought forth from the Charter this two pages, Section 8-8.4 from the Charter that the Planning Commission shall consist of nine members appointed by the Mayor, approved by the Council. Each member has to be a resident of the island of the planning commission on which the member serves. And then part of your jurisdiction is the island of Lanai, and all other islands lying within three nautical miles of the shore thereof.

As far as duties, you advise the Mayor, Council and Director in matters concerning planning programs. You review the General Plan, and revisions thereof prepared by the Planning Director or at the request of the Council. You review other proposed land use ordinances and amendments prepared by the Director or the Council, and transmit your findings and

recommendations to the Council for consideration and action no later than 120 days after the final public hearing. The Commission spent a lot of time, in the past years, reviewing proposed legislation whether from the Director or from the Council on short-term rental homes, accessory dwellings, and the like. And you are the authority in all matters relating to the coastal zone management law, Chapter 205A, and you adopt rules pursuant to the Land Use Ordinances or law. So we have a Business Country Town Ordinance saying that design guidelines should be developed for businesses in the country town, so the commission has rules with design guidelines for Lanai City.

With that, I guess we have our illustrious Planning Program Administrator of our Long Range Division, Pam Eaton, who took the voyage by sea instead of flying to Honolulu, and Honolulu to Lanai. So, we'll start off with Long Range Planning and Pam Eaton.

Ms. Pamela Eaton: Hey everybody. How's everybody? We're not doing a community plan. I know you're disappointed, but it's done. I had to throw that in. So for the new, the new members, you should have gotten a copy of your Lanai Community Plan, yes? If not, please let me know. Okay, I can talk to Clayton and Leilani about that; we'll make sure you get one.

Alright. I'm doing myself? It's alright, I can do that. Alright, so as I said, my name is Pam Eaton, and I'm with the Long Range Division, in the Planning Department. Tonight, what I want to talk to you about is basically what we do, our responsibilities, the planning framework in the County of Maui, and then some of the key components being the Countywide Policy Plan, the General Plan, and our community plans.

So we had some changes. We had a couple of fairly significant things happen with staff. We are very, very happy to have Mark King back, and I'm hoping you're happy too as I am, and Doug Miller. And so the top picture is a tiny bit outdated and that Dave Yamashita has left us, but he went to the Parks and Recreation Department, which is a great thing. They're actually going to do planning over there, imagine. So Dave's over there, which is fantastic. I think that's great, although I do miss him. And then Doug Miller, in the bottom picture, he had to taken -- had to take another leave, but he is back, which is great. And Mary Jorgenson, I know you guys know Mary really well, Mary did retire, so she's traveling the world. Lucky Mary. So Mary is gone. But we hired Annie in the middle. She just came on about two or three months ago, taking Dave's place. And then Tiffany is born and raised in Maui, and she is -- I'm so excited about Tiffany. She's got a phenomenal shoreline planning background. She was with the Army Corp of Engineer in San Francisco for 14 years, so she came back home. So we're really excited about that. So you guys probably know a lot of these faces, but as you know in the Long Range Division we have both GIS, Geospatial Mapping, as well as, of course, the Long Range Planning.

So basically in case you're not familiar, a lot of our responsibilities -- and they're changing too by the way -- but primarily we are the division responsible for updating the General Plan -- and I'll get into specifically what I mean by that -- our community plans which many of you are very familiar with and were wonderful in terms of your role in getting that done. And then there's all kind of, which I do want to talk to you about, some long range activities that are happening



primarily on Maui Island related to transportation. How many of you folks heard that there is now a Maui Metropolitan Planning Organization, an MPO? And so that's on Maui and it had to do with the census and we hit a 150,000 and now we're required to form and the exciting part about it quite frankly is that it's a new entity that forces, thank God, some of our departments to work together on transportation issues, you know. Something near and dear to me. Public Works, Planning...okay, which is really critical and really, really important so we got very involved. And as you know the west -- our next community plan is West Maui so can you imagine the number transportation issue -- the number one issue there is of course transportation. So we've very involved in those sorts of activities in addition to the community plans. And you guys, I know, are familiar with the mapping that we do. And then Annalise Kehler, if anyone hasn't met her, she's our cultural resources planner.

So right now -- that's weird, it keeps doing that. So right now, the Molokai Community Plan -- as you know, we left you guys and we went right away to Molokai and did that plan. Six months and six months which I'll get into later, but it was transmitted to the Council May 2016, just to put that in there. And we are starting on the West Maui Community Plan, and sort of in the mist of researching and kind of preface. The CPAC has not yet been appointed, so we're still researching and drafting and so forth.

So for those of you who are new, when it comes to the actual community plan, we do have a section in the Code that dictates the content, the process, and even how CPAC members and who appoints them. And that is Maui County Code 2.80B. So that's sort of our Title 19 for us. It's where, you know, it basically dictates the legal status, content and process. And it also defines the General Plan. So now we have the Maui Island Plan, which I'm going to be getting into this, but that was passed in 2012. So all plans that we're working on now it's the first time they've ever been updated under the offices of a Maui Island Plan. So the Maui Island Plan was the first planning document ever to address regional issues across the whole island, and then inter-regional issues. It calls in per 2.80B, it calls for a directed growth strategy. So if you ever seen the maps on Maui and I know you've got some here, it has the urban growth boundaries, rural growth boundaries, and so forth, and it sets up the GPAC, or as you know, the CPAC committees.

So this is the framework. Back in 2010 --. By the way, I guess I should just mention, I moved over here from the east coast and have 28 years of planning experience, and I'm an oceanographer, that's my background. But, I came to the Water Department, so I was with the Department of Water Supply, and the division chief for water resources and planning with the Water Department. And then, I think, Michele uses the term cockroach. Is that like a Hawaii term? I never heard that term before. I hope that's a good term. So then I went over to Planning. John Summers left the Planning Department, and went to work with his brother and so that's the position I'm in.

So we have the Countywide Policy Plan, which in 2010 was passed. That's sort of an overarching, overreaching document, really is suppose to reflect the values of what people want to see in Maui County. Underneath that, I know we call Lanai and Molokai Community Plans, but quite honestly, they're island plans. I mean, you guys know that. So you've got Molokai,

Lanai, Kahoolawe which we haven't got to that yet. And then of course, the Maui Island Plan. So under the Maui Island Plan we truly have the community plans which you guys are familiar with. And I might as well say now because I don't have the slide is a lot of people ask, and I don't blame them, who determined the order of the community plans and when they're going to be done? And that was done by Council Resolution 13-13. So the Council actually, and I couldn't even begin to tell you the logic behind why they're doing what they're doing. I honestly don't know. Because I know Hana is like one of the oldest community plans, yet it's being done last. But it also probably has the least amount of changes and so forth.

So as I mentioned the Countywide Policy Plan really is that primary umbrella document that provides a vision. It talks about the core principals and themes as you guys are probably familiar, it reflects a lot of smart growth principals, better best management planning practices. What I do know is to get -- when they create that document there was a huge amount of community input. I mean, I've seen all the minutes and notes from that, so it really was reaching out and working with the community, and that was sort of the overall document was the Countywide Policy Plan.

So as I mentioned, just that so you know, the General Plan has a 20 year planning context. Our core document that we looked at is 2.80B, and it's very, you know, based on a community driven process, and it supposed to so what does this mean to you guys? What does this mean in terms of, you know, the Lanai Community Plan? And quite frankly if you're talking policies and so forth, the Countywide Policy Plan, it's an aspirational document which I hate to hear that word, aspirational. But essentially it's guidance. It is a guidance document. And what's really important in the community plan which is why I need to make sure you guys get it, is -- and I know Kelli's familiar with this -- is that there's community plan land use designations. So really the core and the heart of the document is land use, and what you want to see and so forth. So that's what's really important is to look at that.

So a lot of people ask a question which is a fair question and that is why does our community plan need to change? You know, we like the way it was, what -- you know, why are we changing it now? And so there's a couple of reasons. One is the County Code, as I mentioned, 2.80B, which was passed in 2004 requires that new issues be addressed. Issues such as climate change, sea level rise, you know, sustainability, hazards, natural hazards. So there's new issues that need to be addressed, so that's a requirement. And as I mentioned that there's also State Legislation mandating that. And quite frankly, I mean, this doesn't really fit with Molokai and Lanai because you guys are islands. But particularly back in Maui Island, there's a lot of changes that occur. They should be evolving documents. They should be reflecting issues. They should be --. I mean, these are the types of things that should evolve. It should not be a static document. It should be a document that reflects whatever is going on in this particular time and trends that have occurred.

So these are some of the key things in 2.80B, like, new topics that are in these community plans that might not have been in past ones, and that is, of course, desired population density. That's very important. Where you want to grow some key planning principles would be. You know, they talk about inner -- you know, in fill development. You know, we're obviously looking at very

critical issues particularly in Maui Island as far as infrastructure, the cost of infrastructure, who's going to pay for it, so why do you want to develop in the middle of nowhere. Who's going to put in water, waste water, and so forth. So that density basically where you want growth to occur and how much.

Then we're also required, and we're getting into scenario modeling to do this, and that is social, economic and environmental effects for future development. And that's going to change by every community. I mean, West Maui, you need to look at things such as potential run off where pineapple fields used to be. You know, how that's impacting the ocean and sort forth. Whereas there might be completely different issues upcountry. So that's where you sort of narrow down in terms of addressing that.

I talked about sequence, patterns and characteristic that really ties in infrastructure, the role infrastructure, who's going to pay for it, where is it? Design Principles meaning what do you want your area to look like? I mean that, that's very, very important. What is the character you want to retain, what do you want it to look like? Scenic resources or protection of views and so forth. And this is something that we have really gotten into at the MPO, and that is multi-modal. Trying to get -- this is kind of a nationwide trend -- getting more vehicles off the road, you know, especially in areas like Kahului, Wailuku and so forth, and West Maui. You know, using more and more transit, using more bikes. As a matter of fact, today, I look like this because I spent three hours walking up and down Papa Ave and Waiale Ave, hotter than blazes, looking at, quite frankly, huge funding initiatives that's going to put in bike lanes and more transit and pedestrian areas and so forth. Streetscaping, landscaping, and then implement -- implementation and monitoring is new. This is new per the Maui Island Plan and those requirements, and that is that, as you guys know, you went through this, having to identify implementation, and then monitor -- and that was done now we have a Plan Implementation Division and you'll hear from Kathleen, I think, in April or May, but she'll -- May. You'll be able to talk to her about basically they put out a monitoring report annually. We're required to do that.

So these are some of the things I mentioned already in terms of what the requirements are in terms of the updates. And as you can see there's some pretty critical issues with regard to, you know, sea level rise, erosion, and so forth.

So we get a lot of questions, of course, about the update process and the schedule. 2.80B dictates the six months and the six months, and then the 12 months of course. One of the things that we're doing with West Maui is doing a huge amount of community engagement. We're going to have a whole new website, phone app and so forth, so that more members of the community can actually engage. That's what we have found lately is that not everybody truly gets involved in the community planning process. So we've done some --. The Mayor put us in time out, which quite frankly, I think, that was the smartest thing he did. So we were able to use those six months to really research best planning practices around the country. And so one of the things that they're doing are these really amazing web apps where you can literally take your phone and you can walk around and you can do surveys. So you can participate without having to come to an evening meeting, you know, provide testimony because people work, people aren't mobile. You know, we're trying to reach the younger population. So we

have a very aggressive, sort of digital engagement, if you will, to make sure it's truly the whole community gets represented, or at least a much greater ratio.

So I think it's also important to talk about what the community plan is not, and I think a lot of times folks, you know, and it's probably because there's not a whole lot of interaction with government and so forth, but it's not a document that covers absolutely everything that happens in the community. So I think managing expectations are very, very important in terms of what it is, what it can do versus what it's not. I think the wish list of projects doesn't serve anybody because you have a huge amount of projects. I know with one of the community plans -- with, well, with Molokai, we were looking at -- I went back and looked at the last 15 years of CIP projects, what the Council had typically awarded Molokai, and it was anywhere from \$996,000 depending on the recession, to about \$1.2 million. When I went through the implementation table and added it all up because you're required to put in a price, and it missed, big, big projects like Kaunakakai drainage master plan. There was like TBD, so that wasn't even in there. The amount was like \$550 million. I mean, you know what I'm saying, get real because when that happens nothing is going to get done. Nothing is going to get done. So we've really switched things around in terms of going into a community saying here's your budget. And so you truly can prioritize and identify those projects that truly can get done.

We also have met with, and in the last year I've been able to -- or six months rather -- pull together the directors as well as the head of Finance and Budget and the Mayor, and really trying to link as we're suppose to be doing -- it hasn't been happening -- but trying to link these projects with the budget, the annual County budget. Because that link is suppose to happen, and it has not happened because, of course, people have been very angry and upset saying nothing ever happens in my community plans. You go back 10-, 14-years later, half the stuff isn't done. That's a mandate. So we have worked with and we've got an actual inter group representing every single department, making sure that come annual County budget time there is actual coordination that's happening in terms of linking back to community plans.

So the Maui Island Plan as I mentioned that really deals with more of an island wide strategy. It's the first time it's ever been done, so now these community plans on Maui Island are kind of under the umbrella of the Maui Island Plan. The CPAC -- I mean you guys know this and I'm just going to say I came here as you guys finished your community plan so I was only involved with the Council stage. But with Molokai, I did that one with suit to nuts. I'd say one of the most challenging things was getting people to attend the meetings. That is so critically important. We had to cancel more meetings because people didn't show up. And also come prepared. Read. And this doesn't apply just to the community plan. This applies to every meeting you have and your regular stuff, definitely come prepared, do your homework.

So with regards to, again, the planning commission, this is a little different. This is regarding the community plan review, but I think it's really important to have an understanding. I think it is important to read the community, and it really is a responsibility that you guys should do, as planning commission members, to understand when you do get permits and you do get applications what your own community went through and what their desire and their vision is. And then obviously taking a hard look at the community plan land use designations.

There, I'm done. Alright, thank you, any questions?

Ms. Gima: Any questions commissioners? Okay, thank you.

Mr. Yoshida: Thank you Madame Chair. Clayton Yoshida with the Planning Department. Okay, we had opening comments, so we'll start with the planning framework. This is somewhat of a model of the land use and planning framework that was created by our Long Range Planning Division. We'll start with the Hawaii Constitution that was adopted -- framed in 1949, and adopted in 1950, that went into effect in August of 1959. And it's just a basic framework for how the State government is organized. It created the Hawaii Revised Statutes, HRS, process where bylaws are passed by the Legislature so we have the Land Use Law, Chapter 205, Hawaii Revised Statutes; Coastal Management Law, Chapter 205A, Hawaii Revised Statutes. So with the planning policy framework there's analysis of each plan that's included in the staff report prepared for each permit application. It's your job as a commissioner to weigh the different policies. We have the State Planning Act. We have our General Plan. Well, we have our Countywide Policy Plan, Maui Island Plan, community plans, and then we have, yeah, the community plans.

The Hawaii State Plan was adopted in 1978 by the Legislature, and revised in 1986. It identified Long Range as the development of Hawaii. A very broad policy relative to various topics, economy, population, environment and so forth. A brief analysis of this is included in the staff reports. There's a Maui County Charter that we went over. It spells out the powers of the County's department. Code of Ethics that Corp Counsel will talk about at the next meeting. For the planning commissions it identifies your duties and responsibilities, and it directs the County to adopt the General Plan consisting of a Countywide Policy Plan and the Maui Island Plan.

We have our Countywide Policy Plan that Pam talked about that was adopted in March of 2010, which is the first component of the decennial General Plan update. It replaced the General Plan that was adopted in 1990, and amended in 2002. It acts as the Countywide Policy Plan, acts as an overall -- overarching value statement and umbrella policy document for the Maui Island Plan, and the Lanai Community Plan.

We have the Maui Island Plan which we kind of gloss over because it doesn't necessarily -- it doesn't apply to the Lanai Planning Commission...with the growth boundaries. So the County is divided into nine community plan regions. Both Molokai and Lanai are community plan regions onto themselves so their community plans, as Pam said, are the island plans. And these are again the nine community plan regions for the County of Maui. And see Pam went over a lot of this on the community plan updates, and where we're at in the community plan update process.

So we have the community plan policies that express a vision for the region through policies, implementing actions, and standards. And the community plan maps which they fit in regulatory aspects of the plan. The Lanai Planning Commission reviews the community plan map and -- reviewed the community plan map and the language amendments in terms of the Lanai Community Plan Update.

So moving next in the regulatory framework we have Zoning. We have the State Land Use Law, Chapter 205, Hawaii Revised Statutes. So there are three layers of land use regulations. One is -- the first is the State Land Use District, again, Chapter 205, Hawaii Revised Statutes. And there's a Community Plan Designation that comes from the community plan maps. And then there is County Zoning pursuant to Title 19 of the Maui County Code. So each parcel has these designations. So for the State classification, all lands are classified into one of four land use categories: conservation, agriculture, rural or urban; and the Land Use Commission is responsible for these designations. They're supposed to by statute do 10 year updates, but due to inadequate funding it hasn't occurred that frequently. So 205 designates what's allowed in each of these land use categories.

So as you can see from the pie chart for all islands, from a change from 1969 till 2011, in terms of the four land use districts. Again, most of the lands in the state are either in the agriculture or the conservation district. There's only like 3% in the urban. Maybe that increased in 1969 -- that increased 5% urban in 2011. So again for Maui Island this 98% of all the land is either ag or conservation, and maybe 1% urban and 1% rural. So the State regulates all lands designated conservation. And the State and County regulate the reclassification of lands. If it's over 15 acres, it goes to the State Land Use Commission. If it's under 15 acres, it will go to the Planning Commission. Most times they move from ag to urban.

And then we have the Chapter 205A which is the Coastal Zone Management (CZM) Law regarding shoreline areas and special management areas, and the Commission will have a workshop specifically regarding to your SMA Rules and Shoreline Area Rules in June when we talk about the status of the SMA boundary review project.

Then there's the Environmental Review Law, Chapter 343, Hawaii Revised Statutes. So, the planner's role is to get the project ready for Commission and Council review. So prior to going to the Planning Commission, for the larger projects a lot of times there's department pre-consultation with the applicant. There's initial project review by the planner, is this the right permit application, is this the only permit application needed for the project, does it comply with the General and community plans? And the planner and the applicant work together to refine the project. So we send it out for various agencies, State, County, Federal, public utilities, for agency comment, and the applicant addresses the substantive comments from the agencies. Comments must be resolved. Some comments become conditions, others comments are policy related. All comments, agency comments are attached to the staff report.

So the planner writes a staff report and the department's recommendation. Staff report generally have a similar format for each project. There's a project description, there's a regulation governing the project as to why we're here, you know, they're coming in for a zoning change, these are the criteria, so forth. There are agency comments. There's a land use analysis, there's an infrastructure and potential impact, minimize social economic and environmental impacts. There are exhibits attached including public letters. And then we prepare a department recommendation. The staff report and recommendation, the analysis is generally prepared about three weeks prior to the meeting. Typically the public hearing notice

by County Code or your rules is published 30-days, at least 30-days prior to the hearing, and the applicant sends out the notice to the neighboring land owners within 500 feet, 30-days prior to the hearing.

There is public participation. The applicant is encouraged to meet with the community ahead of time. Some permits require the applicant to send notice of applications to owners within 500 feet. The applicant -- or the department does publish a public hearing notice in a newspaper, and the applicant does send out the public hearing notice to the neighbors. The department puts out a formal agenda six days -- at least six days in advance of the hearing. They provide written or verbal testimony. Affected property owners have a right to file a petition to intervene when the planning commission is the final authority.

Questions on the planning framework? Nope? Okay. Moving on to the next topic, County Zoning, Title 19, Maui County Code. I'm sorry. Any questions? Nope. Yeah. Yeah, sometimes like in the case of the various applications that Pulama has submitted, they have submitted their entire application packet to the Commission ahead of time so you can review it, you know what kind of studies have been done as far as archaeological, drainage, traffic, etc. So Pulama has kind of made it a policy to send their application packet in full, to you, ahead of time.

So moving to County Zoning, Title 19 of the Maui County Code which the department is going through a process now where a consultant from the mainland to...to audit Title 19 because it's somewhat dated and there is somewhat conflicts as to well which application -- you know some of them you have to do a -- send a notice of application to the landowners within the 500 foot radius. Some of them you have to publish a notice, in the newspaper, a notice of application. Some of them you have to send a notice to the neighbors within the 500 foot radius, and you have to publish in the newspaper once a week for three consecutive weeks a notice of public hearing. So try to -- if you're doing concurrent processing it makes it difficult because there's one set of notification for one type of application, and there's another set notification for another application. And you might be doing like three different types of application at the same time, so it gets kind of confusing at times...for applicants.

So what is Zoning? You know, according to Chapter 46 of Hawaii Revised Statutes that allows zoning at the County level. So we have Title 19, the Zoning Code, for Maui County of Maui which has --. We still have interim zoning. You know, basically in 1958, County of Maui had this interim zoning where a lot of the lands are zoned interim. So we're still living with the interim zoning in 2017. And then we have comprehensive zoning which is part two of Title 19 where there is specific districts, you know, residential, multi-family, business, hotel, light-industrial and so forth.

So basically there are purposes of zoning: to encourage the most appropriate use of the land, to conserve and stabilize the value of property, to prevent certain uses that will be detrimental to existing uses, and to promote, the general clause to promote the health, safety and general welfare of the respective districts.

So, you know, some of my staff are into cartoons, but maybe cartoons prove a point. You know, saying nobody should be, on the left, saying nobody should be allowed to tell me how I can or can't remodel my own home. And on the right is, you know, within reason. Sometimes you have to have some constraints or people go wild.

There are development standards typically, you know, with the height, maximum height, minimum setbacks, the lot size and width, the density, landscaping like one large crown shade tree per five stalls, and number of parking stalls for uses. You know, the number of parking stalls based on the use.

So again, you know, my staff is into cartoons, so it says, you want a real bargain because of...oh...something to do with zoning. So I guess he's living next to a soon to be open in the middle of a driving range.

So we have various zoning districts found in Title 19: open space, residential, agricultural, business hotel, industrial. Within the zoning districts there are like sub-districts like R1, R2, R3, and there are different, maybe different permitted uses like in the business zone. You know, what may be permitted in BC -- B2 may not necessarily be permitted in BCT or B1. But maybe accessory uses or special uses in B2 may not be accessory uses and special uses in B1, Business.

Okay, so the different types of permits, County Special Use Permit (CUP); for uses identified as special uses within the zoning district. There are specific criteria established that Planning Commission holds the public hearing. Planning Commission is the final authority. I believe you had this for that...cell antenna down at Manele in the ag district. It was a County Special Use Permit.

There's a Conditional Permit (CP), which is Chapter 19.40 of the Code which establishes uses not specifically permitted within a zoning district, that are similarly, similar, related or compatible to permissible uses. The Commission holds a public hearing and provides a recommendation. Council is the final authority, and I guess Candace was the one that put this particular presentation together so the Commission remembers last year Manele Golf Course Special Events, there was a Conditional Permit to allow for special events at the Manele Golf Course. So that's a Conditional Permit which is coming up for second and final reading on Friday, I believe.

We have Planned Developments (PD), Chapter 19.32 of the Code. And this is to encourage desirable designs and land use patterns within existing natural environments. The overall unit density while maintaining common open space, recreational and community facilities. It's a three step process and the planning commission would review and approve steps one and two. The director would review step three after the Commission has -- if the Commission waives its review. No public hearing required. These are overlay districts. We don't have any currently on the island of Lanai, but we have several on the island of Maui, the most famous being the Puamana Planned Development on the west side.



We have -- no we have Project Districts (PH). Yeah, people generally confuse Planned Development or this, the same initial, PD and Project Districts. Now this is Chapter 19.45 of the Code and this is suppose to allow for flexible and creative planning approaches rather than specific land use designations that are established through the community plans. So there's a Phase 1 which the Commission holds a public hearing, and the Commission recommends to the Council this is for the standards...and also the...sort of the dispersement of the different sub-districts. It's sort of the recipe, you know, we've got 20 acres of residential, and we've got five acres of commercials, and we have four acres of park and so forth. And so that's -- it's codified into ordinance by the Council, the Phase 1 approval. And so, again, for the island of Lanai, they had the first two project districts which were Koele and Manele back in the mid-80s. And then there's a Phase 2 project district approval where the Commission holds a public hearing and the Commission approves of a preliminary site plan. And then there's a Phase 3 project district approval which the department approves the final site plan. So, in the case of Manele and Koele, they started out with, you know, the hotel and some residential in the project district and they expanded through the golf course, to add the golf course to the project district. And then they expanded to add the housing around the golf course to the project district. Sometimes it comes in total like Maui Lani on Maui where there's 1,000 acre master plan community with different types of uses. So again this the map of Maui Lani, a 1,000 -- well, they added to that. Now there's the Maui Lani Village Mixed Use where they have across from the Kehalani Shopping Center, where they have all of the Ace Hardware, Maramac Ace Hardware and various -- Walgreen's -- and various business, yeah, professional offices and so forth.

Okay, there's the Change in Zoning (CIZ), Section 19.510.40 of the County Code. It allows for a change from one zoning district to another, say B2 to R3. The Commission holds the public hearing and provides a recommendation to the Council. The Council is the final authority. The Commission dealt with this last year again with the three houses project where it went from BCT to -- BCT, Country Town Business to R1, Residential. Okay, questions on that? Nope. Okay.

So now we're going to go into Chapter 343, Hawaii Revised Statutes Environmental Assessment (EA) and Environmental Impact Statements (EIS). So the purpose of Chapter 343 is to establish a system of environmental review within the planning process which was adopted in 1974. And it assures public participation. So there are some projects -- well we have all projects. Some projects -- all -- some projects are not subject to Chapter 343; they're exempted. Some projects require an Environmental Assessment or EA, and some projects required an Environmental Impact Statement which is a more rigorous...disclosure document.

Ms. Zigmond: Clayton, excuse me, could you briefly say what projects might need the Environmental Assessment as opposed to the Environmental Impact Statement, I mean, just generally speaking?

Mr. Yoshida: Well, I guess it --. Well you're looking at, you know, mitigating adverse environmental impacts if there are --. Well, environmental -- for an environmental assessment it's a, it's an informational, information disclosure document which if accepted they would issue a Findings of No Significant Impact (FONSI) with that. Environmental Impact Statement is a more rigorous process where there's like you got to do an EIS prep notice. And then you have

to do Draft EIS. And then you have to do Final EIS which has to be accepted or not accepted by the -- whoever is the authority. So say Kahului Airport Master Plan, Department of Transportation had various projects in the airport area that it wants to do in the surrounding. You know back in the 1990's the State wanted to do a Kahului Airport Access Road which they finally finished two years ago. They wanted to do various improvements at Kanaha Beach Park. They wanted to do various improvements within the airport like a sort of an alien species inspection building, a new cargo building and so forth. So for that one the State did an Environmental Impact Statement which was accepted by the Governor. It was like six volumes...six volume document with all of the agency and the public comments and the responses from the State DOT and their consultant to the various concerns raised. And then it's up to the --. For the public project, in that case, it's up to the Governor, for that one, to accept or not accept the EIS.

Okay, there are triggers listed in Chapter 343: use of conservation lands, amendments to the General Plan, use of State or County lands or funds. I mean the Commission again saw this with the three houses where Pulama prepared an Environmental Assessment. So the Commission reviewed and commented on the draft document. And then there was a Final Environmental Assessment done, which the Commission accepted as a Findings of No Significant Impact that was reported to the Offices of Environmental Quality Control, published in their OEQC bulletin. And then we could move forward to the Community Plan Amendment (CPA) and the Zoning Change. So the Commission basically saw that three houses project like three times...three times in maybe...less than a year. But because they wanted a Community Plan Amendment that was the trigger.

Okay, there are also various exemption classes such as interior alterations, or zoning variances, or small facilities or structures, repair and maintenance. I mean, the reason why the State got into the DOT -- I mean, DOT kind of got into this Airport Master Plan EIS because they were doing like smaller projects saying this one is exempted, this one is exempted, this one is exempted. But when you put it in its totality, the 10 or whatever, 15 different projects that they had, you know, there might have been a significant impact. So, they were kind of forced to do an Environmental Impact Statement for Airport Master Plan.

Okay, so, you know we could for the EA, the process is, you know, they produce a Draft EA, and we anticipate a Findings of No Significant Impact. An EIS anticipates significant impacts, and there are processing and document differences between the processing of an EA and the processing of an EIS. I mean, sometimes for the larger projects, they just go directly to the EIS because the conclusion for the EA it's going to be, well, it may have significant impacts, we'll require an EIS. So they just figure they just cut through that and just do an EIS.

Okay, there are various significance criteria that is spelled out in the Hawaii Administrative Rules, 11-200, relative to impacts to natural or cultural resources, public health, secondary impacts, and rare, threatened or endangered species or habitats. Okay, any questions on Chapter 343?

Okay moving right along to the...the area that we spent a lot of -- staff spent a humongous amount of time which is Bed and Breakfast Homes, Chapter 19.64, and Short-Term Rental

Homes, Chapter 19.65 of the Maui County Code. And even at those, you know, one was adopted, Bed and Breakfast, in 2008; one was -- Short-Term Rental Homes in 2012, but they're not the same as far as the notification requirements and so forth. So that's another problem with Title 19.

Okay, so, again, starting with the Bed and Breakfast Homes. The Council passed the Bed and Breakfast Home bill in December of 2008. So as of March 31<sup>st</sup> of this year the County had permitted 120 bed and breakfast homes. There is a Maui Island cap of 400. There's no cap for Molokai or Lanai, though Lanai has only approved, Planning Commission -- there's only one approved bed and breakfast home on the island of Lanai and that's for Kepa and Onaona Maly.

Okay, for the Short-Term Rental Home Bill that was adopted in May of 2012, amended in May of 2016. For the same time period, for Maui County we have issued 195 short-term rental home permits. For Maui Island there's a cap of 382, but there is no cap for the Islands of Molokai or Lanai. So we have issued thus far 15 short-term rental home permits on the Island of Molokai, and as of March 31<sup>st</sup>, nine short-term rental home permits in Lanai City.

Okay, the purpose is, both the B&B and Short-Term Rental Home is to establish a permitting process and standards and restrictions. Because before we would subject them to the Conditional Permit which has to go to the Planning Commission and then to the Council which there is a lot of review, there's a lot of time involved. It's to allow small businesses an opportunity to benefit from local tourism, to provide a visitor experience that is an alternative to hotels and resorts, and to retain the character of neighborhoods.

So basic distinctions with B&Bs and Short-Term Rental Homes, for the B&B the applicant must live on the property but it is not required to live in the same dwelling. And they have to, right now, they have to serve breakfast. Okay. Short-Term Rental Homes, they're not required -- the operator is not required to live on the property but must have a manager who is a licensed real estate agent. The applicant or family member, except for Hana or Lanai community plan areas, were allowed per State law...which is an amendment that occurred in the 2016 amendments. So any manager must live within 30 driving miles, and the manager is required to respond within an hour after receiving a call, and must be available 24-hours for -- there's a permit violation.

Ms. Green: Can I ask a question. When you exempted Lanai from having a manager is it no manager or just doesn't have to be licensed real estate agent? I mean, we don't have any --

Mr. Yoshida: Well, I guess it wasn't a -- we're finding, like, in Lanai and Hana, there weren't any real estate -- there weren't real estate agents, licensed real estate agents who were willing to take the role of the manager. In the Hana area, they said, well I'll just leave it to Mrs. So-and-so to manage my property.

Ms. Green: Right, I understand that, but the way this is worded because it comes afterwards it says that -- okay, manager must be licensed real estate agent, the applicant, or family member, except for Hana and Lanai. But I mean, Hana and Lanai must have somebody that's a manager, maybe not just necessarily a licensed real estate agent, is that true?

Mr. Yoshida: Yeah, they could have a -- someone other than a licensed real estate agent, the applicant, or a family member. Correct. Good. Okay, so these are the caps, which remain the same except for Hana because the Hana Advisory Committee had a cap of 48 before, in Hana, but they wanted it reduced to 30, so the Council reduced it to 30. So that's why it's 382 instead of 400 because they didn't make up the other 18 some place else.

Okay, so where are with the caps? The one that we're the closest to is West Maui. As of March 31<sup>st</sup>, the cap is 88; we have issued 63 short-term rental home permits in West Maui. For Lanai again, we have nine short-term rental home permits issued, and one bed and breakfast home permit issued.

So the two have similar requirements. They're allowed no more than two dwellings. No more than six bedrooms on the property including both dwellings except on the island of Molokai where it's limited to no more than three bedrooms. And they have to have a GET and TAT license, and show proof of tax payments at renewal time. And it has to be, the permit has to be held by a natural person, not an LLC or a corporation, etc., a real person.

There are certain safety requirements. They have to have safety detectors, they have to have fire extinguishers, they have to have a fire escape plan that's posted in each bedroom, they have to be built to code either through...which is verified either by home inspection from our Public Works inspectors, or by hiring a private ASHI certified home inspector.

Okay, there are more requirements which is a required house policies; no amplified sounds beyond the property boundaries; no street parking, you have to park in designated stalls; and for short-term rental home permits, no group gatherings unless you get a Conditional Permit which has to go to the Planning Commission and the Council.

So again for B&Bs you have to serve breakfast, but, you know, you make non-hazardous food available, but you cannot operate as a food establishment unless allowed in a zoning district, or by a Conditional Permit. So...and there is a proposed amendment to eliminate this requirement. So, you know, you have to have like fresh fruits, or granola bars, or coffee, or tea or whatever. You cannot have like ham and eggs and, you know, those kinds of stuff.

Okay, short-term rental homes shall be limited to single-family structures existing. Okay, there is --. Yeah, existing and constructed at least five years prior to the date of application for short-term rental home permits. And then you have -- once approved, you have to be a good neighbor. You have to put up a two square foot sign which identifies the permit number, the telephone number for the manager, telephone number for the Department. And there is specific language for permit revocation or non-renewal. One, if the permit holder provides false or misleading information; during the applicant's application process if the permit holder is delinquent in payment of State or County taxes, fines, or penalties; if there's evidence of non-responsive manager; if there are police reports of noise or other disturbances. Warnings or violations, and non-compliance with permit conditions. If a permit is revoked or not renewed the

Department shall not accept a new application for two years. So there's like a two year ban if the permit is not -- is revoked or not renewed.

There is...let's see. Oh, there's also a prohibition against using affordable housing for short-term rental homes. So any dwelling unit developed pursuant to Chapter 201H, Hawaii Revised Statutes, or Chapter 2.96, the Workforce Housing Section of Code, shall not be used as a short-term rental home.

Taxes. Bed and Breakfast property, home properties, are not entitled to receive the homeowner's exemption. They are taxed at a commercialized residential rate. Short-term rental homes are taxed at a commercial rate. So these are the commercial and the commercialized residential. So the B&B operator would pay a \$4.35 per \$1,000 valuation. Whereas the short-term rental home permit holder would pay \$6.60 per \$1,000 valuation.

So there are -- there were the 2016 STRH Amendments which the Commission reviewed back in 2014. So that was with Stacie, and Stu, and Stephen Ferguson.

Ms. Gima: Clayton, I have a question. I remember when we had discussed -- and it would only be me and Bev -- and when we had discussed making amendments that were specific to Lanai. Remember Bev? Was that --? I mean, I'm not seeing certain things in here, so I'm guessing our...our recommendations were not accepted.

Mr. Yoshida: Well, I would say --. Yeah, I would say that the Council Planning Committee spent a considerable amount of time from November 2014 till May of 2016 on these short-term rental home amendments. And some of the suggestions from the Commissions -- Commissions and the Hana Advisory Committee were incorporated, some were not, and they're still floating under amendments through Council Resolutions to amend the short-term rental home ordinance.

Ms. Gima: So do we know if any of our...recommendations were considered or not?

Mr. Yoshida: The record of the Commissions and the Hana Advisory Committee were transmitted to the Council, so they have that in front of them.

Ms. Gima: So it hasn't been decided on.

Mr. Yoshida: I believe in that particular pass it has been decided on. But if you recall back in September, after the HCPO Conference, there were other amendments that the Council floated or passed out.

Ms. Gima: Right.

Mr. Yoshida: Which is the five year ownership clause.

Ms. Gima: Right.

Mr. Yoshida: And so forth. And the Commission weighed in on that. And then enforcement on B&Bs should be the same as short-term rental home.

Ms. Gima: So there is -- I guess my question is and I can't even remember because this was a conversation we've had such a long time ago about the various recommendations that we had when we were reviewing different, I think, it was Council Resolutions regarding short-term rentals and bed and breakfast. Is there a way for us to find out if, one, if our recommendations were accepted or if they were denied or if it's still pending? Like how would we know?

Mr. Yoshida: I think we --

Ms. Gima: Because I know we got a lot of public testimony regarding this as well.

Mr. Yoshida: Yeah.

Ms. Gima: So I think it would just be really helpful to know what the status is with that.

Mr. Yoshida: I think we had submitted or we had distributed copies of the ordinance with the 2016 amendments to the various Commissions and to the Hana Advisory Committee. But I can ask our person who's most up to date on this, Gina Flammer, who's --

Ms. Gima: Yeah, I think I remember we had --

Mr. Yoshida: -- yeah, about the status of your Lanai Planning Commission specific.

Ms. Gima: Yeah. I mean, I can remember things such as we were talking about not having to notify people in 500 foot radius or something, that it was more of...your immediate neighbors, side to side, front and back. I know we talked about the size of the sign. We talked about publications in the newspapers. I don't -- and Bev, correct me if I'm wrong -- did we make a recommendation for caps? I think we did make recommendations for caps.

Ms. Zigmond: I think we did too because I think --

Ms. Gima: I remember we --

Ms. Zigmond: -- gave a number, yeah.

Ms. Gima: Yeah, so I mean, those are pretty, were really significant recommendations that I hope weren't just tossed to the side. And again because we had a ton of public testimony on that. So if you could please follow up, Clayton, I would greatly appreciate it.

Mr. Yoshida: Yes, we can do that.

Ms. Gima: Thank you.

Mr. Yoshida: Again, all of the record, letters received, minutes of the meetings from the various Planning Commissions and the Hana Advisory Committee were transmitted to the Council. So they did have that.

Ms. Gima: Yeah. So just get what the status would be.

Mr. Yoshida: But I can check with Gina. I'll check with Gina.

Ms. Gima: Thank you Clayton.

Ms. Zigmond: Yeah, thank you Kelli because I think one of the things that stand out most for me is Lanai has no caps according to here, and I remember that we put caps on.

Mr. Yoshida: So these again are some of the amendments from 2016. One is applicant must be heard by the Planning Commission if two or more short-term rental homes are operating within 500 feet. It used to be at least one short-term rental home was operating within 500 feet. Now certification is required as part of the application. That the property has not been previously used or advertised as a short-term rental home, or B&B since January 1<sup>st</sup>, 2013. Or must show when rented, provide proof of GET and TAT. And all taxes including income paid for that period, paid after the fact fee as established by the Council, pay all notice of violation fines.

The owner certification, the owner has no financial interest in County with another short-term rental home permit property, or if they do, they must state the permit number and interest. Acknowledge that false information again may lead to a two year ban.

This is what the Commission commented on last year which was that the applicant must own a property for at least five years before applying for a short-term rental home permit. This was to attempt to address speculations, continue to support long-term rentals, and the slow conversion of long-term rentals to short-term rental homes. That was dealt with by the Land Use Committee, passed out for first reading, and referred back to the Land Use Committee.

Ms. Green: Excuse me Clayton, so that has or has not been resolved? Is that still being --?

Mr. Yoshida: Yeah, they're going to -- Council is going to work some more on that amendment. When they feel uncomfortable then they might refer it back to Committee. So in that case it . . . (inaudible) . . .

Okay, for the B&B homes, now it's, permits is up to three years. The initial permit before, for the short-term rental home permit was for one year, and then we're suppose to notify the permit holder, oh, do you want to renew for another two years if no complaints? But now for the short-term rental home permit amendment as of last year, we can issue the permit up to three years or less due to mitigative circumstances. So the Commission may want to consider one or two years when reviewing application that have a lot of neighbor protests.

Okay, there is this 19.65.080, which is when we have the full active enforcement of the five year ban for illegal operators that's advertising of a short-term rental home shall constitute evidence of the operation of a short-term rental home on the property and the burden shall be on the owner, operator to establish that the property is being used as a legal short-term rental home, is not in operation. So operating without a valid permit is prohibited. So we have issued several five year bans. We also, in the notice of warning, they put the language about the five year ban, in a fine again.

So in terms of the criteria for approval, the Commission can look at whether the property is subject to restricted CC&Rs, on the existing land use entitlements and uses, the applicable community plan, community input and potential adverse impacts from noise, traffic, garbage, etc.

Criteria for approval, the number of permitted of short-term rental home permits in the area, the number of substance of protest, existing/past complaints about rental operations on property, existing/past noncompliance with government request and application cooperation toward resolution.

The Council's intent was originally -- or most permits are approved administratively by the Department without subjecting them to a Conditional Permit . . . (inaudible) . . . Council.

The Planning Commission is in charge of protecting the character of the neighborhood, so they can look at the permitted B&B operating within the 500 foot distance, written protest comprised 30% or more, if a variance was obtained to meet the requirements for a B&B home permit, and in Hana, if they use more than three bedrooms for the B&B. So these are the triggers for a Planning Commission review.

So protecting a neighborhood, again, you know, two or more short-term rental homes operating within a 500 foot radius. They would have to go to the Planning Commission if written protest comprise 15% or 30% of the owners within a 500 foot distance. If a variance was obtained to meet the requirements for a B&B permit. And the 2016 amendment removed the trigger, this trigger for Hana of four or more bedrooms, so you could have up to six bedrooms in Hana. Only three on Molokai though.

Mr. Myles Saruwatari: I have a question for you. By Maui Code, what constitutes a short-term rental versus a long-term rental?

Mr. Yoshida: What kinds of -- what?

Mr. Saruwatari: . . . (inaudible) . . .

Mr. Yoshida: Well, as defined in the Code, long-term is for 180-days. You know, renting for 180-days or more. Anything less than that is considered short-term by the County Code.

Ms. Gima: Clayton, I just want to give you the heads up, it's 6:35 and I know you guys wanted to



wrap up at 6:40, so I don't know if --. I mean, based on how many more pages are in here, I don't know if this is necessarily going to get finished by tonight. I mean, can we continue the rest of this orientation workshop when we do our orientation workshop number two next month?

Mr. Yoshida: Yeah, we can continue next month.

Ms. Gima: Okay. Commissioners, any objections to continuing? Okay, because I do want to at least...within the next five minutes, talk about the Director's Report items. Okay, so thank you Clayton. So we'll just defer the rest of that to next month, and then I'll turn it over to you for the Director's Report.

## **H. DIRECTOR'S REPORT**

- 1. Open Lanai Applications Report as distributed by the Planning Department with the agenda.**
- 2. Agenda Items for the May 17, 2017 Lanai Planning Commission meeting.**

Mr. Yoshida: Yeah, I think -- we have submitted out list of open and approved Lanai projects. Now before Commissioner Green gets on my case, Manele Helistop is still pending, but it's a lot closer today than it was in the last meeting because it's up for second and final reading on -- Conditional Permit is up for second and final reading on Friday. So if it passes second and final reading, the Mayor signs the bill into effect, then that will be off the list -- that will be off the list. So any other questions on open?

Ms. Zigmond: I do Clayton please, on Hotel Lanai, the inquiry from Synergy, I think it had something to do with the...guidelines, the Lanai City Guidelines. So do you have any information on that because I'm really curious on that?

Mr. Yoshida: Yeah, I believe that it was a new sign at Hotel Lanai isn't in conformance with the guidelines.

Ms. Zigmond: Thank you.

Mr. Yoshida: Any other questions on --? So our next meeting is scheduled for May 17<sup>th</sup>. Again, we'll have our, your Deputy Corporation Counsel, Richelle Thomson here to do orientation workshop. I'll be here to finish up whatever I didn't finish which is almost finish, but, and Richelle Thomson will be here to talk about the Sunshine Law, Ethics, and Rough Proportionality, Rational Nexus, and important land use cases. We have at least that on the agenda for the next month.

Ms. Gima: Is there -- do you guys know of anything else that's going to be on the agenda for May?

Mr. Yoshida: We don't -- right now, we don't have any other items, but, you know, we still are about four weeks away from the May 17<sup>th</sup> meeting.

Ms. Gima: Okay.

Mr. Yoshida: And then in June we have the SMA boundary review status report.

**I. NEXT REGULAR MEETING DATE: MAY 17, 2017**

**J. ADJOURNMENT**

Ms. Gima: Okay. Commissioners, any other questions or discussion? Okay, so it is now 6:39 p.m., and the meeting is adjourned.

There being no further discussion brought forward to the Commission, the meeting was adjourned at approximately 6:39 p.m.

Respectfully submitted by,

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

**RECORD OF ATTENDANCE**

**PRESENT:**

John Dela Cruz  
Kelli Gima, Chair  
Caron Green, Vice-Chair  
Mililani Martin  
Shirley Samonte  
Beverly Zigmund

**EXCUSED:**

Medigale Badillo  
Marlene Baltero  
Bradford Oshiro

**OTHERS:**

Clayton I. Yoshida, Planning Program Administrator, Current Planning Division

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**APPROVED 06-21-2017**

Pamela Eaton, Planning Program Administrator, Long Range Division  
Richelle Thomson, Deputy Corporation Counsel (on-call)