

**LANA‘I PLANNING COMMISSION
REGULAR MEETING
APRIL 17, 2019**

A. CALL TO ORDER

The regular meeting of the Lanai Planning Commission (Commission) was called to order by Ms. Caron Green, Chair, at approximately 5:00 p.m., Wednesday, April 17, 2019, in the Lanai Senior Center, Lanai City, Hawaii.

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

Ms. Caron Green: This is the April 17th, 2019 meeting of Lanai Planning Commission. And as is the normal procedure, the first meeting in April we are electing our Chairperson and Vice, right? And so at this time, I'll turn the mic over to --

B. ELECTION OF OFFICERS FOR THE 2019-2020 BOARD YEAR – Chair and Vice-Chair

Ms. Richelle Thomson: Thank you. So just to conduct the election of the officers for the 2019-2020 board year. So I would like to ask for nominations or a motion for a Chair.

Mr. John Delacruz: For Chair, I nominate Jerry Rabaino. He never hesitates to speak up on any issue.

Ms. Thomson: Okay. And are there any other nominations?

Ms. Sherry Menze: I would like to nominate Shelly Preza. She did a great job last meeting.

Ms. Thomson: Okay. And any other nominations? No? So between --. We have two on the floor. Do I hear a second for either nomination? Or you can second both, and then you can discuss it, and see which way the votes come out.

Ms. Shirley Samonte: I second both nominations.

Ms. Thomson: Okay. All right, so now please go ahead and discuss amongst yourselves and then we can take a vote on the nominations. So any discussion by either the board members or any of the two applicants?

Ms. Menze: I think Shelly did such a great job last week and filling in, and she can articulate so well, and be calm, and keep the meeting moving. Thank you.

Ms. Thomson: Is there any further discussion on either of the nominees for Chair? So, let's see how should we do this? Let's go ahead, since Jerry was nominated first, let's see a show of hands please for Jerry as Chair. One. And all opposed? Any others opposed? One, two, three, four. Okay, so we have, let's see, one, two, three, four, five. Okay, so that motion fails.

It was moved by Mr. John Delacruz, seconded by Ms. Shirley Samonte, then the nomination to elect Mr. Gerald Rabaino as Chair, FAILED.

(Assenting: J. Delacruz)
(Dissenting: R. Catiel, S. Menze, S. Preza, S. Samonte, C. Trevino)
(Excused: M. Martin)

Ms. Thomson: And for Shelly as Chair, the ayes, please raise your hands. One, two, three, four, five. Okay, five ayes. Noes? No noes, so the motion passes and Shelly is Chair. So I'll turn the mic over to Shelly Preza, our new Chairwoman, for --

Ms. Shelly Preza: Hi. Thank you so much. That's so nice of you folks and I -- we can, you know, continue to have really good meetings. And thank you Caron for your year of being such as awesome Chairperson, so we can just give her a mahalo. So I guess now we'll, we'll ask if anyone has a motion, a nomination for Vice-Chair.

It was moved by Ms. Sherry Menze, seconded by Ms. Shirley Samonte, then

VOTED: To elect Ms. Shelly Preza as Chair for the 2019-2020 Board Year.
(Assenting: R. Catiel, C. Green, S. Menze, S. Samonte, C. Trevino)
(Abstaining: J. Delacruz, G. Rabaino)
(Excused: M. Martin)

Ms. Roxanne Catiel: I nominate Chelsea for Vice-Chair.

Ms. Preza: Any second?

Ms. Menze: I second that.

Ms. Preza: Great. So any other nominations at this time? No? So, any discussion on the nomination for Chelsea, or should we vote? Okay, so all in favor of Chelsea as Vice-Chair please raise your hand. One, two, three, four, five, six, seven. So, unanimous, unanimously Chelsea is now our Vice-Chair. Thank you.

It was moved by Ms. Roxanne Catiel, seconded by Ms. Sherry Menze, then unanimously

VOTED: To elect Ms. Chelsea Trevino as Vice-Chair for the 2019-2020 Board Year.
(Assenting: R. Catiel, J. Delacruz, C. Green, S. Menze, S. Preza, G. Rabaino, S. Samonte)
(Excused: M. Martin)

Ms. Preza: Thank you all for coming. So before, before we begin public testimony, it was brought up to me that perhaps it would be, if possible, if you are testifying on the short-term

rental home cap, the caps specifically, if you have time --. Oh, the application. I'm sorry I was going to say the cap, then wait until the cap part. Oh, okay. Oh actually, I forgot, Richelle wanted to say a few works before we began. So if you want to --.

Ms. Thomson: Thank you Chair. I just wanted to first ask the commission members whether they had any further thoughts on the annual training. I know that all of you have had the training so you may not want the full blown or you may want to go ahead and just have that at the next meeting or two, or if there are any particular parts of it that you would like me to cover or staff to cover, I wanted to bring that up just for discussion. Would you like to schedule the normal regular training in the next couple of, you know, next session or maybe the one after, depending on timing?

Ms. Preza: Sorry, since we all have had the training within the past year, we also have the option to say we don't need it. I personally feel like maybe the only thing we should go over is how a meeting runs because I feel like there's been some confusion with that. I forget, Robert's Rules or something. Yeah, but I don't know if you folks have any thoughts if you want the full.

Ms. Catiel: Yeah, that's fine, the Robert's Rules.

Ms. Preza: I feel like that's what we use the most, so, but anything else you folks want to go over? I mean, we all had it within the past year, so I think if we could just have a short training on that. Thank you. Did you have other?

Ms. Thomson: Okay, great. And you know, obviously at any time if any of you either as a group or individually have questions or want training on anything that we handle, please, you know, just let me or staff know and we can schedule it whenever you want to.

The other quick thing I wanted to mention is that -- and this is related to Sunshine Law -- but, you know, during, during a meeting if the Commissioners could avoid texting on their cell phones. Sometimes that can be seen by members of the audience that we're either communicating amongst ourselves or receiving testimony or things that aren't happening, you know, in the sunshine law manner. So, if you could just refrain. Obviously, you know, we have to sometimes check text or if things come in or check time and things like that.

As far as the flow of the meeting, I suggested to the Chair that the short-term rental home permit application, Brenda and Mike Hinton, because we have to conduct a public hearing on that, I'd request that testimony on that particular item be held until that item comes up so hopefully the testifiers can stick around to offer testimony on the Hinton application. Thank you.

Ms. Preza: Thank you. But if not, then it's okay to testify sooner if they can't stay. Great, so if I could have the --? No, no, not the gavel. Great, so now I'd like to open public testimony. So Butch Gima, would you like to testify now? Thank you.

C. 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.

Reynold "Butch" Gima: Good evening. My name is Butch Gima. I'm going to testify on two items: the short-term rental discussion on the cap and the application. I think you've heard me testify on a number of occasions about the short-term rental ordinance and my recommendations for the caps so I'm not going to belabor those points since you guys have already heard it.

Regarding the application, I ask that you not approve the application tonight. As an alternative, I ask, like I did last month to defer a decision on the application until a short-term rental ordinance is developed specific to Lanai. And I'll reiterate, you as Commissioners have a responsibility to this community, not non-residents. Almost 90% of the short-term rentals that have been approved are for non-residents. I will be extremely pissed if you guys approve it tonight especially because if it's approved tonight that's going to be five short-term rentals within 500 feet of my house. Three will be within less than 100 yards of my house. So yeah you guys approve that tonight, I'm going to be fricken pissed. More importantly, I think it's a disservice to the community to continue approving these without having a short-term rental ordinance specific to, to Lanai. So again, to reiterate, please defer this decision until a short-term rental ordinance is developed. Or, I'd be very pleased if you guys disapprove this application for the reasons already stated. Thank you.

Ms. Preza: Thank you. Do Commissioners have any questions for Butch? Great, thank you. So next Melvin Catiel. Thank you.

Mr. Melvin Catiel: My name is Melvin Catiel and I live in this neighborhood. I'm against the short-term rental, the 516 Nani Street because I live within a 100 feet of the house and there's two more other there, and one more below of me. I'm looking at my neighborhood is becoming a commercial business area. It doesn't have that family, you know, neighborhood like feeling anymore because get all kind of people coming in. And these people who apply for the short-term rental don't live here, like Butch said. You know, why should you guys give them approval for these short-term rental if they don't live here? They only making a fast buck, to me, out of this short-term rental. They tell us, you know, they make, get story like, you know, we going provide homes for these people. Hey lady, we want somebody who buy the property to live here in the neighborhood so we know them, not we don't know who's that. This person that just applied for the permit I don't know even her. I see her rent the house to construction workers all this time. Why she had apply for a short-term rental permit? All this they were renting the house.

Another incident was the Oasis across my house, when I protest against that one, the lady call me, which made me pissed off because I don't like nobody call me. I just going put in my protest and that's it. She tell me why did you protest against me? I tell, lady, I don't like any short-term rental in my neighborhood. She say, oh, I'm going to apply for Kaiser Hospital when Kaiser was taken over the hospital and I going be one RN right there, and I going to, you know, have my family and friends stay at the house. Yeah, you going charge your family and friend? That no make sense. After that, she got approved, she not around. I don't see her. I only see contractors renting the house. So I call her a full of shit lady. Every time I see her, I call her a full of shit lady. So I no care this lady, try to send me a letter last week, trying to tell me to concede my protest. No way lady. You know, I don't know you people. You know, to me, you guys just using us. You guys want to buy houses here and have that pay your mortgage or rent. So I'm asking you guys to disapprove this permit. Thank you.

Ms. Preza: Thank you. Any questions for Melvin? No? Thank you for your testimony.

Mr. Catiel: And also, I get one more thing to say Shelly. I no think anybody who doesn't live in this neighborhood should say anything. Us, us, we live there. All the old people there. The neighborhood neighbors, we live there, not them. They shouldn't say anything. Even Corporate Counsel shouldn't say anything. You guys make the decision, not them. Thank you.

Ms. Preza: Thank you. Next is Phillip Strauss.

Mr. Phillip Strauss: Good afternoon. My name is Phillips Strauss. I am a resident of Honolulu, and I just happened to be on Lanai for the day. And I found out that there was a meeting and I wanted to share a few pieces of my opinion on what a successful Airbnb community looks like.

So I've been an Airbnb operator since 2012. My first Airbnb unit that I managed was a two-bedroom apartment next to the medical center in the Makiki neighborhood of Honolulu. And I originally intended on living in one of the bedrooms and Airbnb'ing the other bedroom as a means to cover a substantial amount of the rent. Due to some extenuating circumstances I wasn't able to live in the unit so I decided to rent it out as an entirely separate commercial entity in an apartment complex, a two-bedroom, one-bath, where I rented both bedrooms out as separate vacation rentals in an apartment complex. I did it for about two years and I had a feeling of guilt. I'd have to clean up sand in the hallway often, and most everyone who lived in the building were working nine to five jobs and they probably didn't like to see sand from vacationers in their hallway.

So after doing it for about two years I said I'm going to stop doing it. I told the person next to me what I was doing -- he was the building manager -- and he said, well, I don't know, we didn't really care. He was kind of absentee. But I still felt a little feeling of guilt. Especially when I noticed that when I first moved in the neighbor across the hall would always keep their

door open, and then after about four months, the door was always shut. A lack of community, it was my opinion of that. I didn't meet any of the neighbors, I only saw them in passing.

So a few years passed, and I had somebody moved out. I now live in a four bedroom apartment and I had one of my housemates move out and I had an opportunity again to use my Airbnb account to see maybe it would be an appropriate time to have a rental, an Airbnb. So we started renting one of the rooms out and we've been doing it now since 2016. And we know the neighbors, the neighbors know me. I'll give a few examples. A neighbor couldn't start his car a few weeks ago, and he said, bro can you help me start my car? And he knew that I could help him start his car. And I know my neighbor's names, Weldon. I don't know all of the other neighbors' names. There's also some -- I skateboard around the town. I skateboard around the neighborhood, and I noticed a few weeks after I bought my skateboard, some kids were skateboarding. All the kids thought it was so cool to skateboard. And just the day before I came here, I raced with the kids in the neighborhood on my skateboard.

So I run an Airbnb unit in the neighborhood that I live in, in my community where my neighbors know me, I know them, we're familiar with each other. And when they see these tourists come, and they recognize what I'm doing, they still know the safety and security they have with knowing that if there's an issue, they're dealing with me, they're not dealing random people. So I would say that before too much more Airbnb's take over this town, I think that some type of ordinance needs to be determined. If you guys are going to build --. My opinion is that live-in or community occupied units are the most successful. When you have absentee owners that just want to use this as a way to pay off their mortgage so they can come three months out of the year or three months every three years or never, I don't think that's the most successful way to build a community. So that's my opinion.

Ms. Preza: Thank you. Commissioners, do you have any questions for Phillip? Thank you. Next is Diane Preza. Sorry, it has to be on the microphone. Real quick please I'd like to --.

Mr. Strauss: Also, I wasn't able to afford to stay in any of the rentals on the island so I just sleep on the beach during my one night today.

Ms. Preza: Where are you from Phillip?

Mr. Strauss: Honolulu.

Ms. Preza: You grew up on Honolulu?

Mr. Strauss: I grew all over. My family is in military. But I lived there as a child, and then Michigan for other parts of my life. But, yeah, so affordable rental vacation options is desired by outer island people, that's for sure.

Ms. Preza: Thank you.

Ms. Diane Preza: Aloha. Diane Preza. Anyway, I'm in opposition of the short-term rental on 516 Nani Avenue because I feel like it's just too much in that one area. And although I don't live there, I did spend a bulk of my childhood there because my grandmother's house was right behind that property. And when we were growing up, we all knew each other. We played together, we felt safe, we knew the neighbors. And when you have so much short-term rental in such a small area, I think that's too much to ask of the people that live there.

I had a short-term rental in another house we lived in Olopuia across the street, and my children were young and they would come home from school, and there would be like strangers in house across the street. I don't know who they are. You know, and growing up on Lanai, you know, that's the beauty of growing up here because you feel safe and secure and you know your children are safe, but I did not feel that way. I felt uneasy because there were like new people all the time, every two days, okay somebody else.

I don't think it's fair. It's residential, and it should be. You should be taking care of the people that are from here, from Lanai. And we've asked too much of that block already because you look on either side of that house, they're short-term rental, and there's another one down the road. It's not meant for that. And although, yes, we would love to have people come and stay, you know, on this island, it's just too much to ask of them. I don't think it's fair at all, so that's why I disapprove it. That's all I have to say.

Ms. Preza: Thank you for your testimony. Any questions for Diane? Thank you. Next we have Debbie Wheeler.

Ms. Debbie Wheeler: Hi. I'm Debbie Wheeler, and I live in a house that is now going to -- if this is approved, and I do ask you not to approve it for many of the same reasons that everyone else has already voiced -- but I happened to live in the home that now will be surrounded, except for my wonderful neighbors across the street, by short-term rentals. And as Diane said, that's just not fair. I mean, my husband and I, we're relatively newcomers to the island, but this is our home now. We've been here 10 years, and before these other homes became short-term rentals we had a neighborhood. And just like Mel was saying, it doesn't feel that way anymore. I have neighbors across the street, but my other neighbors have moved away and short-term rentals, although the Richardson, they come and go and so we still, you know, like the gentleman from Oahu said, I don't feel so bad about that one because I know them and I know, you know, that they're back, you know, quite often during the year. This still is a home for them. But it's just too much. You know, we'll be 75% of our home will be surrounded by short-term rentals, and it's, I just really feel that it's not fair.

And I also wanted to give a testimony about the, about the ordinance that Butch has mentioned. I agree also that if you, if you don't choose to not approve this because I think that it's just outrageous to have so many so close together, that you postpone it or you defer it until you can get an ordinance going. Because this kind of thing is just too much. And you know I do kind feel for the people who come here and buy thinking well, I can just pay my

mortgage with a short-term rental. They should know when they buy home, whether or not that neighborhood is, you know, feasible for them to do something like that. It's just, I think it's a courtesy to the people who are purchasing homes. I would prefer that they be people who are going to live here, but I know that that's not something we can stop. But I do think that it needs to be something that we look at and have an ordinance put in place. Thank you.

Ms. Preza: Thank you. Any questions for Debbie?

Ms. Green: If we were to do an ordinance, what would you recommend?

Ms. Wheeler: Well, I think you'd have to really study it. I think actually right now one of the things that's difficult is that because the short-term rentals that are legal are almost all being rented full-term. So it's hard to know how many we really need in order for people from the other islands, or for our family and friends to be able to come here and have a, you know, reasonable prices place to stay. But I think that, you know, we can talk to some experts, we can talk to other communities where they have put ordinances in places, and find out what they -- how they went about it and whether or not it seems that it was working. I really don't know what the answer is but I do think that we do need to have something. And I think that this density in this one neighborhood is just way too much.

Mr. Rabaino: My question for you is how long you lived in the house?

Ms. Wheeler: Well, we've owned the house for 10 years. After I retired I moved here full-time and we've been living here for six years.

Mr. Rabaino: As you quoted, do you have to move out because they going into a short-term rental, the house that you're living in?

Ms. Wheeler: No, no. I own that house.

Ms. Preza: I don't think --

Ms. Wheeler: I own the house. We own that house.

Ms. Preza: So I think just for Commissioners, so everyone can take a look at the map that was provided to us so we know where Debbie and Alan live. They're --. If you can locate --. So Dole Park, look upwards you see Nani Street. So there's a high concentration, there's two squares that overlap and then the one that we're looking at is the triangle above that. Their house is right at that corner.

Ms. Wheeler: Right.

Ms. Preza: Just so we all know that it's like they're immediately surrounded by it just so we all know what we're looking at. Thank you for your testimony. Any other questions for Debbie? Yes?

Ms. Chelsea Trevino: Do you feel there's any other impacts around you in regards to noise, or parking, or anything like that as far as the short-term rental?

Ms. Wheeler: Well, definitely, parking in particular. Since it's been a long-term rental, you know, the contractors that have been living immediately next door to us, we share a driveway. But when it was a short-term rental, it was constantly we would have people blocking the driveway. We couldn't get in and out with our vehicles. And there is very limited street parking in that area, so you know, I know in this particular unit there are, you know, two spaces that, you know, that meets the requirement, and so does that one. But the only way they can keep us, you know, those two spaces have to be pulled all the way in in order for us to get in and out.

And occasionally there's, you know, there's some noise. Certainly, I know it was, you know, I've heard that one of the discussion was well, if we have short-term rentals all close together, then if a wedding party comes, they can all have a place to stay close. Well, I would imagine that might get a little loud. So, we, you know, haven't had that much experience actually with short-term rentals because the two that have been approved were almost immediately turned into long-term, so I really can't speak to how the noise would be all the time. But I imagine it could get bad.

Ms. Preza: Thank you. Any other questions? Great, thank you Debbie. And last on our sign-up sheet we have Gail Allen if you'd like to testify at this time.

Ms. Gail Allen: My name is Gail Allen and I've been a manager of vacation rentals here on the island for about 10 years. And what I've experienced in the last 10 years is that many of these houses were illegal before, before they were given the opportunity to become a legal County, State vacation rental or bed and breakfast. And they actually wanted to get legal because the fines were being imposed, and they didn't feel comfortable renting illegally. So they came out and they all signed up and they all followed the County rules, and they all wanted to become legal, to pay their taxes, and to, you know, represent our community as a place that people can come stay because our island was changing at that time. The Lodge was opened before and the Lodge was \$169 a night, and the Hotel Manele, at Manele Bay, was only \$250 a night. And sometimes those even include golf packages where locals from all over, and tourists from all over, could afford to stay at our hotels. Our island has changed, and now they can't.

So what we were affording them -- these are people from Honolulu, from Maui, from Kauai -- these are regular customers who come here to hunt, to fish, to come with their families. They have family ties here. They have graduations. They have parties. They have events planned. They have baseball, football, basketball games they come to, from Molokai, from Hana, from

everywhere where they are now calling me on a daily basis saying, Gail, where can we stay? And because all 12 of my vacation rentals have rented long-term, which I commend them, that's great. They can keep their license, legal license. They've been afforded the license. They've done everything. They've written. They've gone by the law, by the County law. They followed all the rules. They got their license. And now, they've decided to rent to Pulama because the rents are better than the sporadic vacation rentals. However, the vacation rentals are good too. So, and they're not just trying to pay their mortgage. A lot of these people have their mortgages paid off. They're actually sending their friends from Oahu or Maui. They're owners from Maui and Oahu and Kauai. Several of them are local island people from different islands who come here with their own families.

So there has to be a happy medium here. It can't just be that the Planning Commission decides tonight not to allow Brenda Hinton to get her license. She's followed all the rules. She's paid a lot of money to get her --. She's a wonderful person. The people in her community have been renting long-term for two years. There's only one vacation rental in her community and that just got approved, Alicia, last month who was actually -- Brenda was in line before Alicia to get her permit. But Alicia went though and got hers, which is great because now Alicia is booked solid and I'm forwarding her all my business because she's legal.

The problem is we don't --. You think we have 20, we have one or two that are legal that are now actively renting as vacation rentals. There are no more. I literally get calls 50 to 60 people per week that I turn away, and say, I'm sorry, our island is closed. We don't have a place for you to stay. I can't refer you to anybody. I don't know anybody. Because you guys are not letting these licenses go through because you think by listening to three or four neighbors that are unhappy, well, they're unhappy that they got their licenses but they're not vacation renting those places. They haven't been vacation rentals for two years. I manage them. They shut them down. The ones right next to the Catiels and the Wheelers, they haven't been a vacation rental for over two years. We have no place for these local people to come stay, and that's just not fair. There's 1,000's on Maui. There's 1,000's on Oahu. But none of these people that have been coming here for years. These people have ownership of this island too. Their families are here. Their relatives and their families are here.

I'm all for Brenda for getting her license. She's a wonderful person. And maybe the neighbors don't know her because she doesn't live here, she lives on the mainland, but she's been coming here for 25 years. Her and her husband has been coming here and staying in bed and breakfasts for 25 years before they decided to buy their unit. And they're community oriented people. They're lovely people. They're honest. They would give to this community. They want to come back and use the unit three months out of the year, but they also want to donate the unit to different organizations. They tried to donate to LAPA, but the County said they can't even donate it unless it's a legal bed and breakfast or legal vacation rental.

So I'm asking you to approve this one. I'm asking. We don't have any. There is not one left on this island except for Alicia and one other one that's on the corner of Lanai Avenue and

Fifth Street. I don't have anyone I can refer to. You guys are shutting this island down. And just for a couple of neighbors to shut this down this whole process. The County made this process so these people could get legal. What you're going to do is force everybody underground and they're going to be illegal. I'm begging you to pass this. This is just one, one that I can refer to. One that I can say, yes, I'm open for graduation. I have a two bedroom, one bath that can sleep four people. Because these people can't afford to spend \$700 at Hotel Lanai for four people. Her unit is \$250 a night if we were going to rent it for four people, and that's reasonable. I beg you to pass this. She's a wonderful, nice lady. And I don't think you can be --.

I don't think this ordinance has been set up yet, and I don't think we can wait for you guys to get this ordinance set up to turn her down. There's not many more people in line that want to get approved. There's only five other people that want to get approved and then it's over because of the law of the five year law. You have to own your unit for five years before you can get a permit now. That means it's all shut down now. These last five people are the only people that are going to get approved, and it's up to you to approve these five people because we need them. If not, I'm going to be shutting people down.

(Ms. Mililani Martin is present at 5:35 p.m.)

Ms. Preza: Thank you for your testimony. So you're saying of all the short-term rental home permits, permitted homes, there are only two that aren't filled by long-term tenants?

Ms. Allen: Yes, that is true.

Ms. Preza: Do you folks have any questions for Gail?

Ms. Trevino: How many short-term rentals do you own?

Ms. Allen: I don't own any.

Ms. Trevino: You don't own any.

Ms. Allen: No, mine are all long-term.

Ms. Trevino: So yours are all long-term as well.

Ms. Allen: I manage them for friends on Maui. Brenda is a friend. I would manage hers if she would let me. I would refer her business. And I don't have long-term myself but I promote it because I'm a businesswoman in town. I have store in town, and I'm a part of the Chamber of Commerce. We need these tourists. This is a tourist island. We are tourism, we're not pineapple anymore. We're tourism. And we need places for the locals to come and hunt and fish. We're known for that. That's a part of our tourism. The hunting business here brings in \$8 million a year to our economy. To my store, they come in to buy t-shirts, they buy gifts for

their wives, they buy t-shirts for their kids. They eat at all of our restaurants. You know, they rent vehicles from everybody. It's part of our economy here. If you shut that down and you don't let these legal bed and breakfasts come in, and these legal vacation rentals come in, the hunters are going to go somewhere else. We're going to shut down our tourism. And the hotel is going to fill up with very wealthy people; that's great. That's a part of the economy too. But this is also a big part of our economy.

Ms. Preza: Sorry, I have a question about when you said, after the five applications, then there's nothing anymore.

Ms. Allen: No.

Ms. Preza: No, you said, oh, we're going to shut down like the --. Can you clarify what you were saying because I don't see the alignment with the five years waiting because people who have had their homes for five years could still apply right?

Ms. Allen: But they haven't. And the lady who has been helping people get their licenses is no longer going to do it on Lanai. She's very frustrated. And so it's not the influx that you think it is. There's not that many people who own homes on the island right now that are going to apply for their permit. They have to own their properties for five years. We don't have any other applicants.

Ms. Preza: But we could have more applications in the future.

Ms. Allen: We could, but it would be very, very slightly that we would have that. And by then you guys would have an ordinance in within the next year. You'd put together an ordinance, that you could control it. But, I don't think it's out of control right now. I think you have much less than Hana, and you have none that are operating hardly. You have one on Fraser Avenue, one on Lanai Avenue, two on Lanai Avenue, and one on Na'o. You have four that are actually operating now as short-term rentals. But they...they, you know, they can't accommodate that many people.

Ms. Preza: Sorry, there's four or there's two?

Ms. Allen: There's four. I just thought of four. One on Na'o, two on Lanai Avenue, and one on Fraser Avenue. There's four or five and that's it. Four or five. That's only 30 people a night, and not even that. Four to five would only be 20 people a night that you're accommodating. And we're getting 100's and 100's of telephone calls. Hunters come in and they want to take two to three houses. They come in with their friends. Vacationers come in with four or five people, and they want two weeks. So you're eliminating a lot of people that want to come to this island. It's an economic situation. It's more than what you think it is with just neighbors, you know, a couple of neighbors being pissed off that they have two houses that are being rented. Well, what's worse, a vacation rental next to you or a house full of construction workers? Because you can't keep people from renting long term.

Ms. Preza: Thank you for your testimony.

Ms. Allen: You're welcome.

Ms. Preza: Any other questions at this time?

Mr. Delacruz: Aren't there 19 licensed short-term rental homes on Lanai? 20.

Ms. Preza: I think she's saying some of those --. Because the short-term rental homes can operate as long-term as well. But the short-term permit is just to be able to do short-term. But I guess she's saying that most of the short-term permitted homes are operating as long-term.

Ms. Allen: They all went to long-term so we have no place to refer. All of mines are shut down. They're long-term.

Ms. Trevino: Are you able to tell us maybe how long it's been since these short-term rentals have started renting long-term, and if you think that possibly the impact for the long-term rental right now is because of the work that's happening on Lanai?

Ms. Allen: This work is going to last another two to three years. After they finish the Koele Lodge, they're going to move down to Manele and do the lobby and the spa. That could take a year. This could take another year. And then they're going to start 225 houses. That could take three to four years of construction. These houses are slated to be rented for two to three years.

Ms. Trevino: Right. However any individual who applies for short-term rental, at any point can decide to rent long-term, correct?

Ms. Allen: Correct. As long as they have their license.

Ms. Trevino: Right. So there's no guarantee that anyone who's applying will continue to rent as short-term rental? There's no guarantee for anybody?

Ms. Allen: All of mine had already spoken to the company, and have all agreed to lengthen their lease. They all want that long-term money.

Ms. Trevino: Right, so the houses that you're managing are long-term.

Ms. Allen: Which is 18 houses.

Ms. Trevino: Right.

Ms. Preza: Jerry, did you have something?

Ms. Allen: Am I pau?

Ms. Preza: I think so.

Ms. Allen: Thank you.

Ms. Preza: Sorry, Jerry, before we do this, does anyone else want to share public testimony at this time? No? Auntie Winnie, you can come up.

Ms. Winifred Basques: Good afternoon. My name is Winifred Basques. I've been on this island 56 years, okay. I don't like seeing people moving in on our turf. Don't come over here and . . . (spoke in Hawaiian) . . . That means bothering in Hawaiian. A'ole pili kia. Say, don't do it again. Because why? Like he said, the houses is over here has been, okay, going back history now. The houses that you folks are in now for the short-term rental, people work a day, pineapple field, 50 cents a day. They saved their money, they buy the houses, okay. Now when somebody come in and hana ino, and take over their place, remember now, they dead but they can still see what you guys doing to the house. Yeah. You going come over here, the . . . (spoke in Hawaiian) . . . is going to come. That's the fire ball.

Ms. Preza: Sorry auntie. Do you have testimony on a specific topic?

Ms. Basques: Yes, the short-term rental. This is coming to that.

Ms. Preza: So the permit or ordinance?

Ms. Basques: I don't like the permit.

Ms. Preza: Okay.

Ms. Basques: Period. But the thing is that when you folks come and allow people, this is on your folk's conscience now. If you folks vote, look out, the man above going be watching you guys. Mahalo.

Ms. Preza: Thank you Winnie. Okay, any other public testifiers? Myles?

Mr. Myles Saruwatari: Hello. Myles Saruwatari. I want to testify on the ordinance thing first of all. Now having a cap is a good thing, okay. But if you're going to do a cap, you can't leave it so open-ended like this 500 foot radius law where it can be overridden by a special permit, okay. Because if you have a cap -- let's say Butch mentioned 35 -- but if you are still allowed to give out a permit after the 35, what good is the cap? It's worthless because you're still allowed to give a permit after the 35. Just like this by going through the 500 foot radius thing,

okay. You're allowed to give a special permit on top of the two, you know, within the 500 foot radius. So, in a way it's a good thing, it gives you a little leeway, but then it kind of defeats the purpose of the ordinance. So if you're going to do a cap, you've got to make it a little bit more rigid, and a little bit more specific so that you can't just keep giving permits after you reached the cap. Because, okay, let's say you have a cap of 35. Technically you could have 35 permits in a three, four block area. What good, you know, if it destroys the neighborhood?

You know, and the thing is, you know, you got to realize Lanai is a small town. You know, Hana is a small town. By handing out so many permits for short-term rentals, you're destroying the ambiance of our small towns. Look in the mainland, you know, a lot of small towns have gone down the tubes. You know one of the biggest reasons? Wal-Mart. Wal-Mart started off in all of the suburban areas. They built a Wal-Mart, destroyed the downtown business because of their size. You know, a lot of people went under. You know, I'm not saying that's going to happen here with Wal-Mart, you know. But the small towns in America are being destroyed by big corporations and creating all these short-term rentals. Like she mentioned, okay, there's only a few short-term rentals. They went long-term. Why? It's more profitable. You're guaranteed to have a person in there. But it's still a rental. Now what happens when all the construction is done? What's going to happen to all these long-term rentals? They're going to convert back to short-term rentals, you know. And it's not good for the neighborhoods. It destroys neighborhoods. I mean, yes, it's good for the economy, and yes, we need the tourism and all this. But, you're destroying the whole family ambiance of neighborhoods, you know.

That's why in the large cities now, even all across America no matter where you go, neighbors don't talk to neighbors anymore. It's not like the old days. You live in an area, you knew all your neighbors. But now people are just like strangers to each other. You don't want to create that on Lanai. You know, when I grew up, I mean, people looked out for me when I was a kid. Why? Because they knew my family. They knew that I was a seven year old kid running around, so, you know, you see me running around, oh yeah keep an eye on him. But will these short-term rental people do that? They don't have that affinity with the neighborhood like the old timers have, you know. It's a lost thing, you know. I mean, like my neighborhood, I know pretty much all of the neighbors so I watch out for the kids. I see people driving around down the street, I yell at them, you know. Why? Because they're not my kids, you know, but they're kids. So you want to take care of the neighborhood and you can only do that if the people living in a neighborhood are familiar with the neighborhood. They don't know you, they're not going to, you know, keep an eye out for your best interest. I'm not saying that all short-term rental people are going to be bad or don't care. But they just don't have that attachment with you when you've lived in that neighborhood for 20, 30 years.

So all I'm saying is, okay, you may want to pass, you know, the ordinance and all this, but keep in mind that if you're going to pass an ordinance to have a cap, create the cap so that it's a little bit more stringent where it won't be overturned by, okay, well we're going to give more permits over the cap. And you know, you've got to have some kind of -- I don't know how to put it -- some kind of a criteria especially like putting -- it may be illegal, I don't know -

- but putting Lanai people old houses here to give them a permit should take precedence over somebody who had comes in from somewhere and bought a house. That's all, you know, I have to say. Thank you.

Ms. Preza: Thank you Myles. Any questions for Myles? Richelle, I do have a question about what he just said about giving precedence to Lanai people. I know that's kind of vague, but do you have anything to say about that? Is that possible?

Ms. Thomson: They would probably face some kind of challenge for unequal application of the law, so we can't restrict it based on whether or not the owners of the property are from Lanai or from elsewhere originally. What you can do is --. I think that was a part of the reason that the five year ownership criteria came in so that people weren't speculating on homes, you know, buying them for the purposes of almost immediately turning them into vacation rentals. So that's really kind of a better way of addressing that problem.

Ms. Preza: So if it wasn't a restriction, if it was just something we added in as, if we wanted to add it in as a note for we would like future commissioners to, you know, or Planning Department, to give preference even if it's not a restriction of any sort? Could that be added to that?

Ms. Thomson: I think it would be probably deemed to be illegal if it was taken to court.

Ms. Preza: Thank you for the clarification. Any questions for Myles or --? Thank you.

Mr. Saruwatari: One last comment if you don't mind. That's why I was against Alicia's. She's not a resident of Lanai.

D. UNFINISHED BUSINESS

- 1. MS. MICHELE McLEAN, Planning Director, transmitting proposed amendments to Title 19 of the Maui County Code to increase the penalty for the operation of a transient accommodation without a necessary permit from the current \$1,000 to a civil fine of up to \$20,000 plus \$10,000 per day for each day the unlawful operation persists. (J. Hart for M. McLean) (Public hearing was conducted at the December 12, 2018 meeting and Commission action was deferred.) [MEMORANDUM](#)**

The Commission may take action on this item.

Ms. Preza: Okay, any other public testifiers at this time. Great, I will close public testimony now, and we will move on to our agenda Item D.1., Planning Director transmitting proposed amendments to Title 19 of the Maui County Code to increase the penalty for the operation of a transient accommodation without a necessary permit from the \$1,000 to a civil fine of up to

\$20,000 plus \$10,000 per day each for the unlawful, or each day the unlawful operation exists. Do we have a presentation about this or --? Thank you.

Mr. Jordan Hart: Thank you Chair. My name is Jordan Hart, Deputy Director of Planning. Ideally everyone on the Commission already reviewed the transmittal that was sent. There was a version that was presented to the Commission previously. There were pending revisions at the time that the Commission saw the last time, as the Commission requested that the revisions be put into the draft ordinance and presented back to the Commission. I do want to say with regards to this item that there are other communities that are waiting for this issue to be completed so they could go to Council so that the revisions to fines can be implemented. So I hope that you will consider approving it tonight. And if you would like to make any revisions I hope that you will recommend that the Planning Department take those revisions and implement them on the way to Council rather than revise the ordinance and bringing it back to you for another scheduled meeting. Thank you very much.

Ms. Preza: Thank you for being here to provide us with that information. Commissioners, do you have any questions? Yes Jerry. Sorry, what was your name again?

Mr. Hart: My name is Jordan Hart.

Ms. Preza: Jordan. His name is Jordan.

Mr. Rabaino: Okay Jordan. On this penalty version of Title 19, how many --? This is by law, right, that you guys have installed and implemented?

Mr. Hart: Yes, Chair, if I may reply. It is -- this is a proposed ordinance.

Ms. Preza: So I think we saw this months ago, and then we deferred it and then we kept having things coming up. Do you have another question or any other questions from the Commissioners? Yes?

Mr. Delacruz: Like you said Shelly, we went through this months ago, and my remembrance is that we had recommended multiple changes to it, and it should have been completed back then. So now you know I remember very little of it. But whatever recommendations we made back then should be adopted and passed.

Ms. Preza: Sorry, Leilani, do you happen to have our comments from that meeting or --? Sorry, if was a very long time ago. I think the reason why we didn't pass it, I feel like we didn't finish having our discussion or we weren't decided. I feel like that's why we deferred. But do folks have thoughts now about like after revisiting it, seeing it? Jerry?

Mr. Rabaino: Richelle, can we make a motion on this or can we vote on it? A motion then vote?

Ms. Preza: We can make a motion but I don't know if we're done discussing it. I don't think we're done discussing. Maybe hold off on the motion for now.

Mr. Rabaino: Because I'm ready for make the motion.

Ms. Preza: I just have some comments before anyone makes a motion. So just for clarification, before these fines would be in place --. Actually, okay, so we also got testimony from Andrea Ippen. It was transcribed for us, and I think her comments make a lot of sense. She's referring to the section about how someone is notified that they are not in compliance with something -- and sorry Jared or Jordan -- people do have some time to come up to compliance before they're immediately fined, correct?

Mr. Hart: Generally. Generally the Department can work with the -- someone who's violating to, you know, try to establish compliance before fines are instituted.

Ms. Preza: Thank you. Yeah, because I think a concern that we addressed last time was that it seems like a very steep fine, and I think the idea is that you want to discourage people from being out of compliance. But, you know, with a lot of local people here, maybe they just didn't know. So I think, making sure that they are notified properly so that they can come into compliance is very important. And so Andrea's comment was about the section reading -- let's see -- "So they must --. Permit may have the person served by mail, or with proof of mailing, personal delivery, posting on the subject property, or publication in a daily or weekly publication of statewide circulation." And I think her comment was kind of rethinking the publication in a daily or weekly publication section because if that section has an "or," like, they could just post it there as opposed to notifying the person. And I feel like if people don't read a statewide circulated newspaper and don't see that they're out of compliance or something, then they just might not know, and it seems pretty steep to fine them tens and thousands of dollars. That's just my feeling. But Caron, do you have?

Ms. Green: No, that was the comment I was going to make also is just eliminate that it's published in a daily or weekly publication statewide circulation because you may not be in the state. So I think since these fines are so steep that it needs to be a direct mailing to these people rather than something that's published and they may or may not see.

Along that same line too on the second page here on under (C), it says final 30-days after date of mailing or delivery of the order. Again, I would be maybe more specific and say, date of receipt of the mailing or the delivery. You know, you can mail things and people have to send back when they've received it. And so the clock would start for them at that point in time.

You do have -- I do have a couple of other comments and I did have a question about how is the start date determined? In other words, you issue the original fine and then it's \$10,000 after that. But it wasn't clear to me, like, do they get 30-days after notification before it starts

the \$10,000 a day or when does that, the additional fine, you know, of not in compliance begin? When's the clock begin?

Mr. Hart: Chair, if I may. I believe the, generally, it starts at the issuance of the Notice of Violation is when, when a violation occurs, when the fines are started at the issuance of the Notice of Violation.

Ms. Green: So you're telling me that it could be \$20,000 on the notice, and then the next day another \$10,000? That seems a bit unreasonable to give somebody an opportunity to become in compliance rather than --

Ms. Preza: Or is after the 30-days and then that? Richelle.

Ms. Thomson: So typically the way these are handled is that a Notice of Warning is sent out, kind of in the same manner. So, you know, mail with delivery receipt, or the other ways of notifying someone. And that Notice of Warning gives them a deadline to cease the activity. If the activity continues on past that, then the Notice of Violation is -- that's the hammer. But they do have a preliminary step to that. They just don't go straight to a Notice of Violation. They have a period of time in which they can come into compliance first.

Ms. Green: I'm not sure that's clear in here.

Ms. Preza: You'd like to offer clarification?

Mr. Hart: Yeah, I'll try and revisit. So, so, there's two parts. There's the warning with the time period, and then there's a violation. So you were asking when the fine, the daily fine starts, and I was saying that the daily fine starts on the issuance of Notice of Violation which happens after the Notice of Warning is basically ignored and goes through its time period.

Ms. Green: And I have just one other little comment under (B), under (d), you have a typo. It's \$10,000 for the operation of a bed and breakfast.

Ms. Preza: Thank you Caron for your comments. I agree. I agree especially about the delivery. We all live on Lanai. We all know sometimes mail doesn't arrive in a timely manner, and so maybe as opposed, you know, instead of having it when it was mailed, like, if there's a way to find out it was delivered and then from that time, certified mail.

And I do agree with what everyone had said about -- Butch mentioned about having, making sure that if they are out of compliance that it's delivered directly and not in maybe in a publication. Or even honestly, like, being posted on the subject property. Like, I think, if that was posted as paper, like, what if someone takes it down and you know, the person doesn't see it? So I think making sure that the person is given proper notice through mail or something like that would be great.

Ms. Menze: I agree, and not to belabor the point, but on the first page, under the ordinance where it talks about proof of mailing, maybe instead of having it "or publication," have it "and publication" so that you're not just giving it to them in one way, but you're giving them the notification in two ways. Either by posting or publication and by direct mail. I see a question on your face.

Ms. Thomson: Just a little bit of clarity on this, on the process. The reason that you want to leave in publication as an option is sometimes people will try to avoid service. So, you know, you can mail them certified letters and all, but they won't pick them up especially if they know that it contains something they don't want to see. So those are, those are optional ways of serving. But typically when the zoning enforcement is going out, publication is almost the last resort, so is posting. They'll try the others first. If they don't work, then you know, they need to have that option of being able to post it on a door or, you know, hand it to the people so they can see them.

Ms. Preza: Okay, so we were saying is they first always try to mail, and then the publication thing is just a --

Mr. Hart: Under current conditions we do the mail.

Ms. Preza: Okay. Maybe we could just be specified that, that will occur first before any kind of publication happened just so that's more clear as opposed to, like, or this. Because I feel like that leaves room for, oh we could just --. I know that it seems like you folks won't do that, but in case someone is, like, we did just post it and not mail something to them. I think that was our concern.

Mr. Hart: Chair, thank you. And we're taking all your comments. I think that this kind of relates to the, the comment about the fines being implemented at the time the documents received. You know, that's -- there could be a way of evading. You know, basically these situations are supposed to be reserved for people who have had the opportunity to come into compliance by getting a permit. Had the opportunity to come into compliance by stopping illegal operation. And now they've gone through their period of warning, and they're continuing to operate knowing --. The Notice of Warning explains that fines are coming if they don't stop operating. So they now have gone through all that period and they know fines are coming, and then fines might be coming so then they might be trying to figure out ways to not pick up a certified letter at the post office or whatever it may be. So, we appreciate the comments, and we'll incorporate them and pass them on to the Council. But those are some of the things that are kind of going around as far as challenges of trying to nail things down on the Department side.

Ms. Preza: So this, what this is referring to, the part that we're discussing, is not about the Notice of Warning. It's about the issuance that they're out of --? Oh, okay. I think I have -- that helps me clarify in my head that there's two things that go out. Caron?

Ms. Green: I have just one other question. When I was reading through the various

testimonies that we got last time on this, I just want to clarify one thing and that was these are only for people who have never been permitted before. In other words, they've been operating as a short-term rental and but they have not been permitted as a short-term rental. And the reason I'm saying, and I'll quote this one letter that I have, is that these people were concerned that it says --. I'll read it: "Any change in the County Code should make explicitly clear that these new fines are to exclusively apply to short-term rental uses being made by property owners who have not been granted a permit, and should never be applied to permitted operator who may be in violation of a permit condition or whose permit may be inadvertently expired." This was a concern in a number of these is that people who have already been permitted, you know, that these excessive fines shouldn't be . . . (inaudible) . . . out to them. And is that covered in this at all?

Mr. Delacruz: I think what it was was when the resolution was presented to us, you had the same fines for people who had never had a license and for those who were operating as a legal short-term rental home whose license had expired. And a lot of people who are operating homes legally were saying I shouldn't -- the rules shouldn't be so harsh on me because I've been operating legally and I should be getting a warning notice, and my fines should not be as harsh as the people who have been operating illegally all this time. So, the way I remember it is we had recommended changes to the wording to make it less harsh for people who were operating short-term rental homes legally. And somehow inadvertently did not receive notification that they were, they were lapsed. And my remembrance is we had done all this, it would have been fine, but for some reason it was deferred. Somebody recommended and it was deferred. And so in that three or four month period, poof, the information is gone.

Ms. Preza: But I do remember now too that our concern at that time was -- and it seemed like the concerns of a lot of people who sent in testimony was that people who went through the trouble to try to be legal should not be, like what you said, shouldn't be subject to the same harsh penalties as people didn't try even to be legal.

Mr. Hart: I just want to say a few things. Certainly all of the information, the discussion that happened in the past is not gone. It's all in the record. Whether or not, I, you know, being me having my first meeting here with you, are able to read that back for you or go over the points of what was said, you know, we're not able to do that for you tonight, but have everything that was discussed. Leilani takes minutes of these meetings, so it's all in the record.

The other thing that I do want to say is reiterate we're taking forward your comments to Council, but it's kind of a challenge for Zoning Enforcement Administration Division to differentiate between --. Anyway, a blanket reduction of the level of fines that can be applied to anybody who has ever been permitted could be challenging especially if somebody at one time was permitted and then now chooses to be very difficult to work with. So anyway those are additional considerations on that subject. Thanks.

Ms. Preza: Thank you Jordan. Any other comments or discussion? Or would someone --? Oh, yeah, Jared?

Mr. Jared Burkett: I just also wanted to mention that the person that is lapsing in their permit, let's say, it was a short-term rental permit, they would also start with a warning. And at some point it doesn't even get to a warning. It could be just a request for service and it's looked into. And they would just say, I'm sorry, it just lapsed and if they would be advised to renew their permit. Well, they can't renew, but they can try to get another one. So they would have the same process and time to correct it before they would ever get a violation.

Ms. Preza: Okay, thank you. So, I think a lot of our concern was just, you know, people being properly notified and stuff like that, so thank you. Does anyone --? Would anyone like to make a motion? Or would you like further discussion? You want to make a motion? Great. Could you pass the -- I mean, the, the microphone? I don't know what I'm thinking about.

Mr. Rabaino: I would like to make the motion for this resolution, 19.530.030 affected -- an administration enforcement that we accept it as stated in this ordinance.

Ms. Preza: Is there anyone who would like to second this or would you like further discussion? Right, so Caron's asking if the comments that we made should be incorporated. But you're saying just accept it as it because you feel like what they said about people being notified . . . (inaudible) . . .

Mr. Rabaino: Yeah. I mean these guys, if they violate, they violate. It's just like driving down the street. If the cop give you a ticket, you know you were wrong. So why should we on going in circles.

It was moved by Mr. Gerald Rabaino to accept as presented, and due to the lack of a second, the motion died on the floor.

Ms. Preza: Would anyone like to second his motion? Okay, no one is seconding so I think we're going to kill that motion. But Chelsea would you like to --? Oh, you had a comment about the --. I mean, definitely we would like the error that Caron. I think we can all agree that the typo should be fixed. Is it possible to make a motion that's saying that we would like our, maybe not necessarily specific parts of it changed, but that our comments are taken into consideration? Well, also the typo though. Sherry?

Ms. Menze: I'd like to make a comment and a motion that we accept this as it is but with the understanding that you'll go back and re-read what we talked about in the last meetings about this topic and try and incorporate that into -- and this meeting -- and incorporate that the record, for one, and for whatever else we said at that particular meeting, and what recommendations we had then, to incorporate those.

Ms. Preza: So just not into the record, but also into their recommendation.

Ms. Menze: Yes.

Ms. Preza: Would anyone would like second that? Okay, Roxanne seconds. All in favor raise your hand. Okay, so all opposed? Abstentions? Are you abstaining, John? You can abstain.

It was moved by Ms. Sherry Menze, seconded by Ms. Roxanne Catiel, then unanimously

VOTED: To accept the proposed amendments, and incorporate the Lanai Planning Commission's comments and recommendations as discussed at the December 12, 2018 and April 17, 2019 meetings.

(Assenting: R. Catiel, J. Delacruz, C. Green, M. Martin, S. Menze, G. Rabaino, S. Samonte, C. Trevino)

Mr. Delacruz: I'll just make a comment. I will say yes just to get it over it. But, the reason why there was so much discussion back in October or November was we did feel some people are going to be treated unfairly if the resolution or ordinance goes through exactly the way it is written now without what we had recommended. But we do understand that we're not the only ones putting stuffs in. There's probably maybe four, five, six advisory commissions or planning commissions that advise the Council, correct?

Mr. Hart: Chair, if I may. There's three that provide comments, and those two, Maui and Molokai have already approved the ordinance that you saw here. But I do, you know, one of the notes that I have from tonight that will be, you know, part of your recommendations to Council, not the Department's recommendations, is that there be special considerations for former permittees who may, or permittees, who may have made minor infractions and operations and not, you know --. Anyway, some sort of method in the ordinance to address simple errors rather than outright ignoring the law.

Ms. Preza: And I think making sure that, if the understand the concerns, but if possible making sure that people are notified properly. We've just had issues with that in the past, I feel like on this commission so, yeah. So that pass --. You're saying yes, John? So I guess it passes unanimously. Yes Jerry? Are we --? Wait, are we moving on or do you have a comment about this?

Mr. Rabaino: You know for our next month planning commission, can you print out what addition you going add to that so we can review it on paper? Is it possible?

Ms. Preza: I think that asking for it to come back --. It seems like you folks kind of want to move it along into the County Council. I don't personally feel like it needs to come back with the additions as long as they're hearing what we are saying.

Mr. Rabaino: So you're going to entrust them to insert all of the recommendations without our seeing it, reviewing it?

Ms. Preza: I think it's going to take a lot of time go there, come back, and maybe they won't even take our comments at that point so.

Mr. Rabaino: I object because it's best that we see it even though we approve it on the minutes, on this recordation.

Ms. Thomson: So one of things that the Planning Department is going to do. They, they do a summary of, you know, that you have approved this ordinance and then your recommendations. And they're also going to attach, if I understand it, the minutes from the meetings that you considered this. So this one and the previous as well. So the Council is going to have all of that information when they look at it, along with the other planning commissions' recommendations.

Ms. Preza: So, it already -- this already passed, but I guess we could request to receive a copy just for our own awareness. Is that possible, Jordan and Jared, just to receive a copy? Not to provide further comment, but just so that we understand that what has happened after it leaves us?

Mr. Hart: Yeah, that's fine, and we can go through them verbally right now, if you'd like, to confirm that we have them all down.

Ms. Preza: Okay, that would be great.

Mr. Hart: So Jared and I are both taking notes so I'm going to go over the ones that I have. In the order that I wrote them on, on the ordinance, not in the order they were presented. But certified return receipt is the preferred method of attempting to make contact with the violator. That consideration for former permittees be extended on minor infractions or errors in operation. That we review the prior meeting discussions and recommendations from that meeting, and summarize those to go along with the recommendations that I'm going over with you right now. There was recommendation for consideration that the date of receipt, rather than date of mailing be the initiation of fines. There was question about, but not a recommendation on whether or not there can be any negotiations or settlement on the fining. There was the typo. There is daily fines start the date of notice --. Sorry, I wrote it two different times. Newspaper not acceptable. And that's all the comments that I have.

Ms. Preza: Thank you. I would say maybe not, not acceptable, but as the last, you know, like, I understand what you're saying about, you know, people evading, so as a last resort is the publication. Just because I know that, you know, people on Lanai we might not, you know, get the newspaper that's circulated. And so does that sound okay for everyone? Okay, great. Caron, you have a comment?

Ms. Green: So I just want one clarification. So you've given the warning. They're got their period of time. They don't fulfill it. They get up to \$20,000 fine, and then it's \$10,000 a day, up to \$10,000 a day. Does that start immediately? That's not totally clear to me here. So, you know, you've given the \$20,000 fine. The next day, another \$10,000. The next day, another \$10,000. Is that --? It was a little ambiguous to me.

Mr. Hart: The date, the way that it's done currently is that it's, it's on the issuance of the Notice of Violation. So the answer is yes that at the time that they've gone through their outreach, ignored the warning, ignored the attempts to communicate with them, they can dispute the Notice of Warning. After that period has concluded, then it's the time of issuance of the Notice of Violation that initiates the daily fines as well.

Ms. Preza: Thank you. Thank you Jordan and Jared for coming to explain this to us. So, I would recommend, if this is okay with the Commissioners, that we take a quick three minute break before we discuss short-term rental home caps just because I think it's going to be a . . . (inaudible) . . . discussion, and I want to give people a chance to take a little time. Does that sound okay? So, three minute break. It's 6:20 p.m., so if you can be back in a few minutes that would be great. Thank you.

(The Lanai Planning Commission meeting recessed at 6:20 p.m. and reconvened at 6:28 p.m.)

2. Discussion of establishing caps for Short-Term Rental Homes and Bed and Breakfast Homes on Lanai. (Previously scheduled for the November 28, 2018 meeting. Discussed at the December 12, 2018 and January 16, 2019 meetings and deferred.)

The Commission may determine whether a cap(s) should be established and if so what the suggested cap(s) should be proposed in future legislation. The Commission may then direct the Planning Department and the Department of the Corporation Counsel to draft such a bill for public hearing at a future Commission meeting.

Ms. Preza: So, now we will be speaking on Item D.2., a discussion of establishing caps for short-term rental homes and bed and breakfast homes on Lanai. And I will open it up to public testimony but I would like to give some background.

This has come up quite often on our agenda items, and we, we deferred it to this meeting because it was recommended that we have some time to think a little bit more about what we would like to do. But I would like to say, just to remind the Commissioners and then also the audience if you're planning to testify, this is just a discussion to make a recommendation for legislation to be drafted. And so it's not an end of all, be all. It's just if we would like to recommend something, what are those recommendations? Then it would come back to us,

and then at that time we can further discuss, we can make edits we would like. So we could even change the number if we would like one. Does that sound good to everyone? So before discussion amongst the Commission members, I think we do have testifiers who would like to share their thoughts on this item. So Bart if you would like to come forward. Thank you.

Mr. Bart Baldwin: Hi, my name is Bart Baldwin. I live on Lanai. I'm a real estate agent, serial entrepreneurial, entrepreneur to some extent doing whatever I can to continue to live here and raise my family here, and you know, hopefully contribute to this wonderful place that some of you have generations that are from here.

It is my opinion -- and I appreciate the clarification that this is just for a recommendation, but it's my opinion that -- and I understand some communities in Maui County have a cap. But I think it's too, too many moving parts right now on Lanai. And I understand people are passionate regarding the short-term rental topic. But I think it's too early to do a cap. And my reason for that is they just did the five-year ownership requirement in 2018. And it went into effect, I believe in September. So we're a little, you know, eight months, six months from that. And it will take a while to really understand how does that change the market of people speculating buying up houses. And, you know, as a relator, the job when you're representing the sellers to get them the most money that they can. And so those people are happy to sell their homes to whomever is willing to pay what they're asking. And we know that there's a negotiation involved in that.

There are so many on this island for hunters, for whoever, that do not currently have a permit, and need to get into compliance so that tax revenue can be collected, so that laws can be followed. Those people need to be encouraged to comply. And if you've done a cap, you're keeping them from being able to apply and do things the right way. They'll just continue to be under the radar.

I just encourage you guys to continue to have these discussions and talk to the major stakeholders and any stakeholders so that what Lanai does will be right for the current community as well as going into the future for our community. I don't know the right answers, but I suggest at this time you don't do a recommendation for a cap because I just think it's too soon. Thank you.

Ms. Preza: Thank you. Any questions for Bart? This is for Bart, a question? Okay.

Mr. Rabaino: Bart, how many homes are you renting out?

Mr. Baldwin: I currently manage two of the short-term rentals.

Mr. Rabaino: And overall, how many homes total, just by looking at this map that they presented to us that you are aware that exists within Lanai City zone?

Ms. Preza: Sorry, are you asking --? I really don't get the question, I think.

Mr. Baldwin: I understand what you're saying, but I don't think you asked the question very well. But ultimately you're asking how many are probably rented?

Mr. Rabaino: Correct.

Mr. Baldwin: Okay. So I don't have your list of 19 homes, and I wished I had done the research prior to this meeting. But I just quickly backed the enveloped type. I think there's at least eight homes that are permitted short-term rentals that are currently operating as short-term rentals. So about 1/3 of your 19 is what I can --.

Mr. Rabaino: How many is on long-term?

Ms. Preza: So --. But Jerry, I think he's just trying to answer our question, but I don't think he, like, knows for certain. So I don't think it's okay for us to demand it of him.

Mr. Baldwin: I mean, I can name the eight homes that I know for sure for certain operate as short-term rental homes that are not long-term.

Mr. Rabaino: Okay, go for it.

Mr. Baldwin: There's the Jasmine House that is located on Jasmine Street. There's the Artis House on Queen Street. There's three homes on Lanai Avenue: Dreams Come True, 444 Lanai Avenue, the other one I don't know its name, but I believe it's on Fourth and Lanai Avenue. There's one in Olopua Woods. And one on Fraser across from the fire station or near the fire station. And one in Lalakoa on Akahi.

Mr. Rabaino: You say across the fire station. There's one across the hunting station.

Ms. Preza: Yeah, on the map it shows. Okay, thank --. Yes John.

Mr. Delacruz: Jerry, let me give you hand. Lanai Today, November 15, 2018, two pages, it shows the homes that are licensed and are pending. And, yeah, the across the hunting station I saw is going to apply for a short-term rental home too.

Ms. Preza: Thank you so much accommodating our questions. So next we have Alan Calhoun. Okay, do you have to leave soon? Okay, so you're okay to wait for that agenda item? Thank you so much. Any other public testifiers about this? Great, I'm going to close public testimony so that we can have our discussion. I will ask if we could try to keep our comments concise because I feel like --. But I know that this is a discussion we have a lot of feelings about. I just feel like we've gotten so wrapped up in it. It's taken hours in previous meetings, and I think if we can just try to get something done and then it will come back to us and we can discuss further.

First of all, the reason why we deferred this item is because we were honestly a split decision about if we wanted to recommend a cap or not at the last meeting. And so just by the show of hands, because we've had a few months to think about it, if anyone has a, had a change of heart, how many of us Commissioners would like to see some sort of cap established? Can you raise your hand? Maybe? Okay. So definitely have a cap established?

Mr. Delacruz: Right now I'm kind of like abstaining because of Sherry. Because you said in October, I don't want caps.

Ms. Menze: . . . (inaudible) . . .

Mr. Delacruz: And I'm sure you had a good reason for it. And I feel that before we do a cap and . . . (inaudible) . . . we need to discuss it. We need to get the feeling of what our public feels what they want to happen. If we say no more short-term rental homes, we have to consider what's going to happen. One thing I think is going to happen is a lot of the people waiting for homes now, and a lot of the people living in old plantation homes now will wait for the 200 homes being built by Pulama. And one thing that's going to happen, I guarantee you, people who already own homes in the plantation houses, they're going to buy because they're going to be high on the seniority list, okay. And then if, if there's a cap, they can't sell. Because if there's a cap, people won't, won't be able to say, in five years I can have a short-term rental home. So those homes would go, are going to sit there and rot. They're already rotten now.

A lot of the people I think that are buying homes now are these mainland people who say, I want to live in paradise two months out of the year. I want to live in an old plantation house, and then you know, rent it out for the rest of the year. And that's one thing we have to consider, you know, what if we stop that? What's going to happen? Then what's going to happen if we don't have caps? So we can't just say, today, you know, we'll have a cap of 35 or we'll have no caps.

Ms. Preza: Right, I think there's also --. Sorry I think something that we were discussing with Richelle too is that there are ways to make conditions that --. I think you're right that we should discuss just our general feelings and ideas about it, and then maybe come to some sort of conclusion about how best to move forward and if there are ways that we can incorporate conditions that acknowledge, like, the concerns that you're bringing up about having a cap. So I guess we'll just, since we can't be, like, oh, I definitely want a cap or not, do you folks want to share your ideas about what you've gotten a chance to think about? Yeah, Sherry.

Ms. Menze: The hardest --. I was totally against having a cap before. But, now, you know, time has passed, and I've thought about a lot of different scenarios in my own mind what could possibly happen and how it would work. But my problem always has been with the cap is that how do determine the criteria to make a cap? We just can't decide what we want, you know, a cap out of the air. I would like to request that the Planning Department come back

with us and explain, you know, how other areas have -- what criteria they used to make cap. Like, Paia and they had that huge problem with short-term rentals for the windsurfers and such. What criteria did they use? What criteria did Hana use? What made these other communities determine the number of the cap that they have? I'm sure they just didn't pull it out. I'm sure that there was multiple discussions with other areas and why they capped, and what determined the cap. And so if we could have information how, back to us, on how other communities have determined the caps, it would really help us get beyond the block that we're having now, I think. So that we can even have more discussion on the short-term rental cap.

Mr. Rabaino: Chair, I'm going to read my little statement here, excluded the caps, okay.

Ms. Preza: Sorry, you're going to read what your recommendation is?

Mr. Rabaino: What I've written down.

Ms. Preza: Okay.

Mr. Rabaino: Okay, this is my feeling right now, okay. Regarding the short-term rental permits, currently there is no plan, no regulation -- that's where we're at now -- that affects the community and the town like rural community. In light of this manner which the community has expressed that it should be limited and, or set amendments and conditions that affects the neighborhood of each affected areas, meaning the blocks. Okay. And may I suggest to the Commissioners that we keep this town and community together. We need to discuss the 500 foot circle in each block within the town zoned called Lanai City.

No. 1, there will or shall be a limit number of short-term rental that exists, and any additional permit that affects block that shall be limited to three short-term rental and no more added.

Ms. Preza: Sorry, so you're saying three per block or three per radius?

Mr. Rabaino: It's a block.

Ms. Preza: What is a block?

Mr. Rabaino: See like . . . (inaudible) . . . house, Alicia's house --

Ms. Preza: Okay, wait. Sorry, we have to . . . (inaudible) . . . in some way that everyone can understand so --

Mr. Rabaino: Okay, wait, let me finish my --

Ms. Preza: Okay, I thought you pau.

Mr. Rabaino: Secondly, there should be existing STR homes onsite. Then any additional

application shall come before the Lanai Planning Commission for discussion to determine the additional permits may be denied or approved by the Lanai Planning Commission and suggested to the Council.

The intent of this issue, concern at hand, as I mentioned earlier, Lanai residents and town home owners want to retain the rural lifestyle that we have enjoyed before the plantation closed down.

Lastly, the lifestyle and the community and the neighborhood and the traditional use of local ways of living. Okay, I have this last one, and no. 3. Lastly, all short-term application and permit should cease at the end of April 30th, 2019. And that all application will be permitted, will not be permitted for the Lanai rural town zone. Commissioners of this meeting shall entertain by whether to discuss this item at hand. The reason why I said should cease is because we don't even have a plan. Okay, we don't want that number growing.

Ms. Preza: So you're kind of echoing what Butch testified and --

Mr. Rabaino: Definitely.

Ms. Preza: -- not reviewing applications until we have an idea.

Mr. Rabaino: Yes. Because I have Lanai people that come up to me when I go post office, store, and especially when I'm working at the harbor and they're exchanging their thoughts, okay. Your generation that comes down there talk to me, Shelly, they don't want to see anything because they're going feel left out of getting a home or even renting a home, okay. We know Pulama is renting out to all construction guys. What we want to know is what Pulama going to do once those construction guys leave? Are these Lanai residents going be able to have, whether they employed or not employed by Pulama, to get in there? Because it seems like Four Seasons gets everything before our own people in this community.

Ms. Preza: I think you're touching on, like, you're kind of going to, like, a separate issue. But I think the things that, the important things that you said were definitely trying to limit. I think it does sound like you're in favor of a cap, limiting it to some kind of distance and we can discuss that. And then what you brought up was, I think this is something that people testified about months ago, but taking homes off the market for people in my generation not being able to come and purchase. That's kind of the things you brought up so thank you. Commissioners, other thoughts?

Ms. Samonte: I also have a thought as to maybe the Planning Commission can give us recommendations as to if we're not to put a cap on the short-term home rentals, are there best practices out there that would help with, with help controlling I guess the number short-term rentals that we, that we have in our community?

Ms. Preza: Sorry, I don't know if either of you, like, could speak to that. I will say that,

something that came up last time with that, the Planning Commission will always get noticed when 10% -- when we've reached --. Yeah, there's the 10% of homes that have been filled and then we'll get notified. But do you folks have any, off the top of your head? If not, then we can just request that you look into it, best practices, if there was no cap for controlling numbers.

Mr. Hart: I'm going to try and respond to this Chair. You know, you're basically relying on the discretion of the Commission to do what they're going to do, you know, and that will be successors as Commissioners. A cap, you know, it was brought up the concern whether or not a cap is hard cap or not. It is a hard cap unless the Council changes it by ordinance. And, you know, this community could do that as well. Like let's say you introduce a cap. It turns out to be too low. You go back to Council, you basically say we need to raise this cap, it's not working for our community. But when it is ordinance it is a real cap. But besides from that, the criteria for decision making is really all that you can do in order to try and control how many permits might come out without a cap or potentially related. Anyway, we could think about it more. But the cap is the most straightforward way because it establishes a maximum number.

Ms. Samonte: Okay I just feel like what you're saying is that it's either we have a cap or if we don't have a cap.

Ms. Preza: I think what you're saying is that it's easier when you have criteria set forth to be able to follow as opposed to --. Because if there's no cap then he's saying it's really difficult to control. Right?

Mr. Hart: Chair, sorry, I don't generally like to use these words. But basically, like, subjective versus objective. Like a cap is fixed. You know, there's no real debate about whether or not you're at whatever your number is. You're there or you're not there. Other additional criteria, it gets way more complicated and it's, you know, this body's obligation to interpret what those additional criteria might be. They all have to be reasonable and legal. So if you just want to limit it or establish some sort of --. Anyway, any sort of criteria that you want is much easier to establish by ordinance than, than kind of beating around the bush and making these guiding pieces of ordinance that tries to steer you where you want to go without actually just setting your boundaries. That's my personal opinion on that. We will do more research and try to provide more information for your consideration relative to the end of this discussion. I mean, after we hear everything we'll come back later.

Ms. Samonte: Well, thank you. Then I would, I personally would like to see recommendations on, I guess, maybe best practices at setting a cap. Because like Sherry said, you know, how do we pull a number out of the air? How do we know what number is right for the cap. And I know that we can set a cap, and then we can go back later if that's too high or too low, but that's a process. That takes time. So we kind of want to get the right number kind of correct the first time around.

Ms. Preza: Is it possible --? So you're saying if it's, so say it's 50, a hard 50, is there any way

to say, I don't know if this is vague or not, but I mean we were given numbers about how many homes there are in Lanai City. Is there a way to say x-percentage of the houses in Lanai City?

Mr. Rabaino: Jordan, we read, if I remember correctly, that Molokai put a cap. Can we look at theirs just to review how they came about theirs one? You say Molokai is no cap, is that correct? We want to review what the other Planning Commissions have come up with so we can get some idea of how to create our own.

Ms. Preza: Sorry, so I think --. I mean, I agree --. It seems like people --. We want to hear about how the people came up with the numbers. But back to my question about the percentages, I'm sorry Richelle, is that something that's possible?

Ms. Thomson: I think maybe what the Planning Department could work on is basically we're talking Lanai City proper. So within the boundaries within Lanai City, how many residences are located in there and, you know, then what they're getting at is talking about is 5% a good number, is 10% a good number? We had that discussion a few months ago, and I think 4,000 is sticking in my head but I don't know if I'm remembering it correctly.

Ms. Preza: I wrote down -- sorry and Chelsea -- sorry, I wrote it down. I'm not texting. We did write that -- or someone had provided 929 non-Pulama homes and then another 200 or 300 Pulama homes, about 12 or so hundred in Lanai City. Just for reference. This is just an idea. Chelsea, you had thoughts?

Ms. Trevino: Okay, so I just, I guess for me, these are the things I'm thinking about consideration wise, and I don't know how they play into this term cap.

So some of the considerations I'm thinking of are first of all, we've discussed several times there are these, you know, the new laws, and there are these things that, you know, trigger things coming to the Commission. So those are already in place. So then it's like how do we help make sure our community know what these are. Because the trigger to bring it to us is, for instance, an adjacent neighbor not approving it. So even if it went to the Director and a letter came from an adjacent neighbor, it would come to us, okay. So there's that.

The other consideration is, you know, we've got people on both sides as far as we need the need for short-term rentals which I'm not saying there isn't a need here for certain things. However, we all know we don't control what the person who receives that short-term rental will do with it because they could decide to go long-term as we've talked about. And I don't think that because we don't have enough short-term rentals, oh, we should just be approving everyone. Because they're going to get them and then go long-term because they're going to get money possibly anyway. And that's, that's kind of the quandary we're in right now. And that's why I had asked earlier about, you know, what's going on for Lanai right now? We're talking about a three to five year work, you know. Because of course construction always becomes a part of our discussion. Because companies will rent a home for their, for their

company. So that, that is another consideration, I think we have to think about. We've got the new law, we've got, we've got work that's going on, so many of these short-term rentals are going to stay long-term rentals. I don't believe that means that we should accept every short-term rental that comes in.

I don't know if a cap can be something versus a number. Because we keep talking about 50, 35. Can a cap be only one short-term rental per block? My concern is if we have a number, whatever it is, 50, and these people come to us, what criteria -- we talked about this -- what criteria is the Council using to approve or disapprove these short-term rentals? So you can have this cap, but you could still have five homes in one little Lanai block coming to you for a short-term rental and haven't hit the cap. They're only coming because there's these triggers that are making them come to us. And what criteria are we using to decide this one can have it and this one can't. So my question is, does a cap have to be a number or can a cap be like I mentioned, I think that was one of Butch's recommendation, is just say one per block. Because tonight we're going to be hearing on another one, and there's already --. We all know how many are in this area. And many of the concerns that have come to us are about the lifestyle on Lanai, and having our neighborhoods be neighborhoods. So if we want to keep our neighborhoods, neighborhoods, I don't personally feel a number cap is what we should be talking about. Because that's not going to address that many of the community members are sharing.

However, I don't think putting cap is going to address the issues of who's getting these short-term rentals. Because anybody can come in and say I'm going to do a short-term, and never rent it to any of the Lanai . . . (inaudible) . . . people, whether it's families of residents, health care people who are coming in, you know. There's nothing that makes them required, you know, so there's going to rent to whomever is going to give them the best buck for the thing, and keep their money going, right?

So I just wanted to --. I didn't know how these considerations come into play when we're looking at this. Because that's where I think many of us are struggling with. Because it sound very like black and white. Are you for a cap or you're not? Well, I kind of am, but it depends on what we're talking about. So that's why I wanted to bring that up because I'm not sure exactly how we should move forward because we do see that there's a protective factor. But we also see that there's a need. However, there are many factors that play into it that cannot be controlled such a, like we mentioned, receiving a short-term rental and then going long-term. Such as saying you're going to rent to, you know, keep the rates whatever so that people can afford to come versus not, you know. And so those are all things that people are going to share as far as supporting it, but everything is left up in the air.

So that was all I wanted to contribute because I don't know where to go with this. But I don't feel that it shouldn't --. Something needs to happen and I don't want to keep having these short-term rentals coming to us, and we keep approving or disapproving just based on whatever. So, I mean there are lots of reasons why you would or wouldn't, but that's my input.

Ms. Preza: Thank you. Do you have something that you'd like to share?

Mr. Hart: Yeah, I do. So first just to revisit, you know, what's being discussed now is whether or not you want to hear or see the Planning Department present a draft ordinance for consideration and discussion to potentially send it forward to Council. But, you know, it could be the conclusion is you want to hear more information and, you know, make a decision at a later date.

In response to your number, you know, the analysis of numbers or the question of that, I think --. I'm not sure if many of you are familiar with what Maui Meadows is, in Kihei, but it's a specific rural subdivision that's above the town of Kihei. But anyway that specific subdivision, it's just one little subdivision, has its own specific dedicated cap number. And that's kind of comparable to the block by block number you were talking about.

And then the final thing is that, that will amount to a number as well. But you --. I'm not --. There are some geographic limitations on uses in zoning code that I have seen. But some of the things that would have to happen if we were drafting an ordinance would be basically getting direction from Corporation Counsel about whether or not certain things would stand up, and I just don't know the answer to all of those things. But anyway we'll just continue to hear the comments and try to bring back useable information.

Mr. Delacruz: Before I get lost. I just want to add to Chelsea's comments. The cap is a number. Conditions are conditions. From previous discussions when I was the one who asked that every application for short-term home application come to the Lanai Commission, the answer was a flat no. But if we have conditions, it can almost work the same way. Based on today's testimony, most of the people testified were against the current application for a short-term rental home because of the proximity. One of the triggers that brought this forward, this application to the Lanai Planning Commission was that the short-term rental home application currently within a 500 foot radius there are two other short-term home existing. If we cannot have every application come to the Lanai Planning Commission, by setting conditions, it will almost satisfy the same thing, especially for Lanai. If a short-term home application is either adjacent or two houses away or three, mixed three in a block, would make five in a five a two block period, then we would see more. Especially after tonight where we saw on this one particular home, 70% of the testimony was against that home because that home was within three or four houses of most of the people who testified. Even the owner of a short-term rental home who did not testify in person, submitted written testimony that they were against having another short-term rental home so close to their own home. Because these people who own that particular home we see them almost six months out of the year. And the reason why they're gone is they, they close their business on Lanai and have to work elsewhere a lot of the time. But they're residents for like 15 years, and we still see them. These are the things we have to take into consideration. I mean, not only that they're opposing it, but why? I knew most of these people who testified in grade school. I just wanted to throw that in.

Ms. Thomson: Just in listening to some of the comments tonight and from previous sessions, maybe one of the ways of going about it is, you know, Planning can take a look at how other communities whether it's within Hawaii or even other jurisdictions how they are addressing their short-term rental home issue, come back with some ideas. We might schedule the entire ordinance, just bring the entire ordinance here so that you can really take a look at versus just parts. I think John's mentioning which applications and which renewals come to the Lanai Planning Commission. It could be all of them. You know, we could recommend to Council that the 500-foot radius is not the only trigger for coming here. The radius itself could be a cap, so if you have the radius of 500, you know, feet in a circle, or from the property boundaries, however it's measured. Maybe given the specific layout of the town, and the small sizes of the lots maybe 500-feet isn't the best measurement. So those are some of the things that you might be able to consider. But it sounds to me like there's some work to be done and maybe reschedule, you know, in several months, bring the entire ordinance and some of these factors back for a broader discussion.

Ms. Preza: Thank you. Sorry, Caron you had a comment? Thank you Richelle and John.

Ms. Green: Well, I want to build on what John said and also Richelle because I have been thinking about this and while we can put on a cap on numbers -- let's say we put 5% or 45 of them -- we are a long way away from reaching that number. But I think, and Myles, I believe you testified to this and I really think it's very thoughtful, how do you deny somebody when there are two other short-term rentals in the 500-foot radius? What is your criteria? It's pretty hard to come up with something unbiased as a criteria. So I was going to suggest, building on what Richelle said, is that we make one of our conditions that, that after this pipeline goes through because we're, you know, I think it's unfair to anybody who's already made the application, but going forward from there that there can be no more than two short-term rentals within a 500-foot radius, period.

Then we, the onerous isn't on us to decide every time there's, you know, somebody comes forward, whether we're being fair or not fair, or whatever. And I'm basing this mostly on the fact that what people have talked about is their neighborhoods, and keeping the essence of the neighborhood. So if you have more than two short-term rentals within a 500-foot radius you've impacted that neighborhood, whether it's a short-term rental or they turned it into a long-term rental. So personally I would like to see whether you make it a 500-foot radius. I think blocks are difficult because blocks are different dimensions, and sometimes, you know, they're two houses wide, sometimes they're only one house. So I don't mind this radius business. I don't know if we want to make it 500-feet or we want to look at something a little bit smaller because of the size of Lanai. But I definitely feel that I would like to see something so that the Lanai Planning Commission isn't put in the position of having to decide about a third one and then, you know, . . . (inaudible) . . . neighbors against neighbors, etcetera, etcetera, that, that's part of our ordinance.

Ms. Preza: Thank you. If I could just share some of my thoughts. So I think something that's

really come up in the past 10 minutes is, and even with Myles's testimony is the idea of density, right. It's maybe not necessarily, like what you're saying, a cap. But if you have 10 in a specific area, then it's not solving the problem that we want to solve.

I do think that, you know, what John was saying about there are other ways to have applications come before us, you know, most of them. I think that's a good idea. But then I'm also hearing what Caron's saying about it's -- then it's on us to decide who gets it and who doesn't. And I'm thinking about institutional knowledge and how we are all not going to be this Commission in five years, you know, so how do we make sure that future Commissions understand the essence of what we are trying to convey about how we want our community to look. Because that's essentially what we're coming down to, right? And personally I have taken the past few months to talk to as many people as I could about their thoughts about a cap. And I would say that 95% of the people I've talked to in this community, long-term residents, people my age, you know, they, they don't --. They're on --. People live on Lanai because of this place is so different than from any other place and the integrity of a neighborhood is because you can grow up in a place knowing your neighbors, and knowing, you know, not even just your adjacent neighbors, but, you know, your whole block. That's part of my childhood here and I think that is something that we all want to keep the essence of. And I know it's difficult to translate to an ordinance, but just so you folks know in the Planning Department.

I don't know if there's a way --. I kind of agree of what's being said to hear more information, and I think, particularly about how rural areas came about establishing their cap. But I do think it is important for us to figure out some kind of summary of all of the discussions we've had about, you know, our talking to people and our feelings about density, or block, you know, versus radius, summarizing in some sort of way where we can pass that on to future commission members who may not have the opportunity to talk at length about this, as much as we have, and to think about this as much. Because I would really, personally I would really hate all this work that we're trying to do. I think I'm also very proud of how thoughtful we are trying to be about this because we understand there's a lot of issues on either sides that I don't want that to just be lost in five years when it's a whole new Commission and, you know, this comes up again and then what are they going to do, you know. So I think that --. Well, so I am in favor of some kind of control. I don't know, I guess what you're saying is, you know, the cap, is that the best way? That's kind of something that came up. But I do think that there needs -- we do need to set forth some sort of criteria, some sort of criteria. And so maybe like what Richelle said about bringing the whole ordinance to us so we can take a look at what is there in the fine print and then make recommendations working off of that, and then working off of all the testimony we've heard. I also think, you know, testimony from neighbors, people who have lived here for a long time, Butch and Melvin, like, that's really at the heart of what this community is, you know. Yeah, I just really think we should pay attention to people who've been here for a long time and really take their considerations seriously.

So, I guess, we've spend a bunch of time on this agenda item. But perhaps would it be okay -- it seems like if we could get more information about how other people decided their

guidelines and then maybe potentially schedule a meeting that's looking at the ordinance so that we can kind of have something more tangible in front of us. Is that possible? Is that something Commissioners would like to do? Great. Thank you. So could somebody make a motion?

Ms. Trevino: My question is how does that affect or how does it help us with the current, the current applications -- thank you -- that are coming to us? Because, you know, that's kind of --.

Ms. Preza: Right, sorry. That's something I wanted to address and I forgot to so thank you for reminding me. Because Jerry brought it up, Butch brought it up, that how can we decide about what, what permit -- I mean, what applications are granted if we don't even know what our plan is or what we would like to see in our community. Caron suggested after the people who have already put in their applications, I think someone said there were five, then we just stop for now. Like, we request that Planning Department don't, don't accept any more applications after those five are reviewed so that -- until we create our recommendation, a criteria for the ordinance. Is that not possible?

Ms. Thomson: I know. Sorry. What you're talking about is basically a moratorium on STRH processing for the Island of Lanai, and only the County Council can do that by ordinance. So what we can do is try to bring this back before you, you know, without too much delay. Maybe in the next two to three months, you know, perhaps sooner than that. But as far as how do you analyze the applications that are going to come before you, the one tonight, you know, and the other subsequent ones, there are criteria that you're going by. And one of them is the effects on the community, the number of protests. Where do the protests come from? Are they from neighbors or are they just people from outside that aren't directly impacted, but just don't like the idea. You have a lot of --. They are subjective, but they're specific to that application and I do think that you have -- it's a tough job you're having to make decisions, you know, that involve real people and real neighbors. But you do have criteria to go by, and so for the time being that's what we're left with is the law as it exists.

Ms. Preza: Okay, so we're not allowed, like, to request a moratorium?

Ms. Thomson: It will take a while.

Ms. Preza: It would take a while. Okay. So if we could request that this comes back to us in a timely fashion, if possible. Sorry, I know you folks are really busy, but it's important to us. And as you can see, like, it really matters for our community. We want to keep the integrity of this island, and that can't happen until, I guess, we have some legal backing for the sentiments that we're expressing. Yes Jerry.

Mr. Rabaino: So my question is, what happened to the five right now that is in front us? Is that going to be put on hold, Richelle?

Ms. Preza: No, they're not because we don't have an ordinance that says that they can't be applying right now. So, but I will say this too, this is . . . (inaudible) . . . it's not off topic, but I do feel like if we can establish criteria, I feel like some of that criteria should include all applications coming before the Planning Commission. And I hope we can establish criteria that makes it clear for future Commissioners how they should decide about whether or not an application could come. And I say this because for the past couple of applications that we've gotten, there have been many, there have been issues. You know, with Alicia's one, that took months of going back and forth. And I think some of those problems with people not being properly notified wouldn't have come out unless we had the meetings. The other thing was, the previous one we looked at, the Coons residence, was mostly good, except the property manager didn't live on Lanai. And the Planning Department was recommending approving her permit until it came to us, and as Lanai residents we know who this guy, he doesn't live here, you know. I think Lanai people really take pride in how much we know our community and I think have a good sense of, you know, being able to examine certain things that maybe, with all due respect, the Planning Department might miss.

So that's just my feeling. But does anybody else have any thoughts? If we could maybe try to wrap this agenda item up so we can move along. Does anybody have a motion to defer but with the conditions that we said about, you know, coming back to us timely? Sherry? Caron?

Mr. Rabaino: This is for Item 2, yeah? Title 19, Maui County Code, where is that number?

Ms. Preza: It's okay. What is your motion for D.2.?

Mr. Rabaino: We going defer this until we get more information with the recommendation.

Ms. Preza: Right. So you're moving --. Jerry's moving to defer with more information about how other rural communities went about establishing caps, coming back to us in a timely manner, and any second? Roxanne. All in favor? And it passes unanimously. Thank you, so if we could move along. Thank you all so much for bearing with us.

It was moved by Mr. Gerald Rabaino, seconded by Ms. Roxanne Catiel, then unanimously

VOTED: To defer and requested additional information, as discussed, be brought back to the Commission in a timely manner.

(Assenting: R. Catiel, J. Delacruz, C. Green, M. Martin, S. Menze, G. Rabaino, S. Samonte, C. Trevino)

3. Discussion of allowing no building setback in the Residential District in Lanai City for carports, garages and storage buildings. (Previously

scheduled for the November 28, 2018 and December 12, 2018 meetings and deferred.)

The Commission may determine whether the front, side and rear yards should be zero feet for carports, garages and storage buildings on properties in Lanai City that are zoned Residential. The Commission may then direct the Planning Department and the Department of Corporation Counsel to draft such a bill for public hearing at a future Planning Commission meeting.

Ms. Preza: So this next one, D.3., is discussion of allowing no building setback in the residential district in Lanai City for carports, garages and storage buildings. I would like to recommend, and Commissioners, feel free to say, no, we don't want to do that. I would recommend deferring this until our next meeting just because I feel like most of our testimony, and because the applicants are here, to move on to short-term rental home permit. I know what Michele McLean, you know, wants to hear our recommendations soon, but if we could move it to the next meeting. Is everyone okay with that?

Mr. Rabaino: Yes, so move.

Ms. Preza: Oh, so we have to move? We have to make motion or can we just move along? Okay, so all in favor of deferring this item to the next meeting all in favor? And unanimously everyone would like that, so thank you all.

Without any objections, the Commission unanimously voted to defer Item D.3., discussion of not allowing building setback in the Residential District in Lanai City.
(Assenting: R. Catiel, J. Delacruz, C. Green, M. Martin, S. Menze, G. Rabaino, S. Samonte, C. Trevino)

E. PUBLIC HEARINGS (Action to be taken after public hearing.)

1. SHORT-TERM RENTAL HOME PERMIT

BRENDA and MIKE HINTON requesting a Short-Term Rental Home Permit in order to operate Hale Nani, a two-bedroom short-term rental located in the R-1 Residential District at 516 Nani Street, TMK: (2) 4-9-010:050, Lanai City, Island of Lanai. (STLA T2018/0006) (J. Burkett)

The Commission is reviewing the application because there are at least two permitted short-term rental home operations located within 500 feet of the subject property. [REPORT AND RECOMMENDATION](#)

Ms. Preza: Great, so now we're on Agenda Item E.1., short-term rental home permit for Brenda and Mike Hinton requesting a short-term rental home permit in order to operate their,

their Hale Nani, located on 516 Nani Street. So do the applicants have a presentation? If I could --? Oh, and Jared as well. Okay. And I know some of you signed up for --. So Alan signed up for public testimony. So after they present their, are you okay with waiting for that? Thank you.

Mr. Burkett: Good afternoon or evening Chair and Commissioners. I just have a short introduction. So the owner applicant, Brenda Hinton and Mike Hinton are seeking approval for a short-term rental home permit, which is Hale Nani. Which is, as you know, 516 Nani Street. The zoning is R-1, and it's a two-bedroom home. And the trigger for this was because there are three short-term rentals, three short-term rental homes within 500 feet. You can see the location of those in the staff report in Exhibit 5.

There were four letters of protests received by the Department, and four letters of support that were received. Some of those were received today right before the hearing, so you were provided copies.

Then the applicant's consultant, Mrs. Debbie Mitchell, has a presentation that she'll give and then she'll also be available for questions and answers, or questions that you may have. Also, the applicant is here as well. So if you would like Debbie could start her presentation.

Ms. Preza: Yeah, that would be great. Thank you Debbie.

Mrs. Debbie Mitchell: Thank you Jared. Good evening.

Ms. Preza: I'm so sorry. One moment. Jerry has a --

Mr. Rabaino: Can they introduce the owners, the applicant?

Ms. Preza: Would you be willing to do that during your presentation, introducing the owner?

Ms. Mitchell: Absolutely. She is here and she is prepared to speak to the Council, so thank you.

Ms. Preza: Great. Thank you.

Ms. Mitchell: Just one moment, we'll get this going. All right, so good evening and aloha commissioners. My name is Debbie Mitchell and I'm consultant here representing Brenda and Mike Hinton in their short-term rental home application at 516 Nani Street. As you can see from the presentation, it consists of a main home with two bedrooms and a storage shed. The section in the middle is the parking and it does meet the requirements for the onsite parking per the short-term rental home ordinance.

Okay, we'll see if we can make this move along. There we go. Okay this is, all you, I'm sure are very well aware of where this is, but this is just to provide a little bit of information on the location. It's located just off on Nani Street, between Fifth and Sixth Streets.

Moving over into an aerial view, you can see -- stop doing that. We'll go back there. Oh, it doesn't want to. All right, bear with me. This, again, as we mentioned is a two-bedroom home, and it is, as from the floor plan, you can see the yellow represents the smoke detectors, and the red represents the fire extinguishers which was installed per the requirements of the ordinance.

There's the home itself. And again, you can see the adequate, more than adequate parking spaces which meets the requirements of the ordinance that there be no on-street parking. It must all be onsite.

This takes you into the interior of the house. It's a lovely home, very well kept, and it has mature landscaping which is great for noise abatement.

This is the views from all four sides of the house. You can see that it is fenced along one side, and again, it has mature landscaping on the others. The view on the bottom right is the storage facility which is not a part of the application.

The entry to the house. Inside the house, two views of the kitchen. The living room and dining area. And, the two bedrooms, which are very well appointed. They each have the required egress out through the windows in case of fire or emergency. The windows are in the satisfactory size per the home inspection form. The other facilities are the bathroom and the laundry room.

Just going over the administrative points. All neighbors within 500 feet were notified twice. First, it was about the application of the owners, and then once again, about the public hearing. As had been mentioned by Jared, four protest letters were received from neighbors who live within the 500 foot radius. The owner has reached out to each of these neighbors, and her letter is in the packets, the handouts that you had.

The reason that we're here tonight is because as had been mentioned there are three other permitted STRH homes within 500 feet. A total of four letters of support were received. Actually there was a -- should be a correction, that there were two that were within the 500 foot limit, and the other two were not.

And as we've discussed before, the short-term rental homes really feel a need for folks that are coming to stay. I can speak to that, as a Maui resident that we love to come over here and can't afford to go stay at the nicer hotels. But having this, it really opens up this beautiful island. For those of us who live on the neighbor islands and love to be there, it also provides a much needed place for other families during the holidays when they can't accommodate their entire family in their home, and then also for visiting professionals.

So that is our presentation tonight. I do have Brenda Hinton here with me, and she would like to say a few words to you all. And we are then both available for questions should you have any questions about the entire process. So I'd like to bring up Brenda Hinton at this moment.

Ms. Brenda Hinton: Good evening. How are you? My name is Brenda Hinton, and I'm the owner of 516 Nani Street, the application that's in front of you today for a short-term rental permit. First of all, I would like to say thank you all very much for being here. I am former a Cultural Heritage Commissioner at one of my previous residence where I used to live, and I know your job is a difficult one. I know you balance the desire of property owners and the community members, as well as balancing with the letter of law. So, thank you for your time and for hearing the permit application.

I wanted to just say a couple of things, and just to give you an idea of who I am and my intentions for the short-term rental, why I had asked for the permit. My husband and I bought our home. We've been long time lovers of Hawaii and we love the island of Lanai. And we bought it primarily to use it ourselves, three or four times a year, to come from the mainland, we are permanent residents there, to use our home ourselves. We do want to offer our home in the short-term rental opportunity, and mostly because I have been hearing and interacting with community members and being around for a while and understand all the reasons that people have told you that there's just not enough availability for people who are coming to the island. And not just the visitors who are coming, but the family members who are caretaking perhaps, our athletic teams who have their coaches come and the kids can camp. But maybe the coaches don't choose to do that, there's not an affordable rental for them. There are non-profit organizations that we have here on the island that have need for volunteers who are working with them. I reached out --. I'm a big cat lover, and go to the sanctuary, of course, like many do. But I reached out to Keoni Vaughn and spoke to length with him and understand a little bit more about their needs. And you know one of my biggest desires is to use the home to be able to offer it to people locally who have non-profit status, but also other activities that they're involved in. And Keoni gets many, many requests for people to come and volunteer for him, but they don't have a place to stay that they can afford and come. And one of the ideas I thought of was doing a bit of an exchange for so many hours that they are volunteering at the sanctuary to be able to exchange that for overnight stay or towards a rental at a reduced rate for the house.

There's also -- I spoke with Ann Lee, or Ann Young from, who was working with Sansei Farms. I am a cancer survivor. I'm also a former chef instructor and so I have a keen interest in sustainable agricultural and healthy growing methods. And my life for the past decade is really been centered on encouraging healthy living. And I really think that there's opportunity in really considering as Lanai moves forward, and my desire to see there be a sustainable part of our community. And working with some of these organizations that may have instructors or interns coming over, giving them an opportunity for some place to stay.

I also...I'm very familiar with the, not only the application process, but the conditions that are a part of each one of our short-term rental applications, and what we as owners are required are house rules which are posted. My intention is, of course, to vet all the people personally who would be using the house. And...as I mentioned in the very beginning, my primary focus is to use the home myself. But I am, my company has been about charitable giving as a part of the proceeds. I do conscience commerce. I have a company. But a part of my proceeds go toward charity just a part of my everyday work life. And to be able to use my possessions to help in my local community, maybe I don't live here full-time, but it's always in the forefront of my mind and that is just something that makes my heart sing.

So I'm asking for your approval of my short-term rental application. And as Debbie mentioned, I'm available for any questions and so is she if you have any concerns. And I have a question for Counsel at some point whenever it's appropriate from the Chair for me to ask that question.

Ms. Preza: Okay. Yeah, you can now and then I would like to hear from public testifiers. But thank you for introducing yourself.

Ms. Hinton: Thank you.

Ms. Preza: If you would like to ask a question, now would be a good time.

Ms. Hinton: Just so that I can clarify because I spoke with Zoning Enforcement because I wanted to be sure if choose to give away night in the house complimentary and not charge a rate for them at all that I am, based on the ordinance is I am prohibited from doing that unless I have a short-term rental permit. And that was my understanding.

Ms. Thomson: I honestly don't have an answer for that. I would have to look into it and get back to the Planning Department who could in turn get back to you on that.

Ms. Hinton: Okay. Because I called and I spoke to them and that's what I was quoted so I just wanted to be sure. And so the Commissioners know, moving forward, this is my permit with others, we can't even give the space away with a short-term rental.

Ms. Preza: Thank you. I am interested in finding out about that because it does seem like, you know, you are a very charitable person and you would like to help people on Lanai. But that is something that would be interesting to learn. Thank you. Commissioners, I would like to let Alan to testify if you can hold your questions for now if that's all right. Thank you. So, Alan, would you like to --?

Mr. Alan Calhoun: Thank you. Good evening. My name is Alan Calhoun. I reside at 534 Fifth Street and the applicant's dwelling is almost directly across Nani Street from where Debbie and I live. There's a whole bunch of points that have been brought up and I would really like to address all of them, but it's going to -- it takes up way too much time and so I'm just going to try to keep it short and concise.

The reason why the application comes before the Lanai Planning Commission is that trigger, that 500 feet within two others. Well, there's actually three others now. What concerns us is not the 500 feet, but that literally within 75 feet of our house we will have one, two, three short-term vacation rentals. We are literally, we will be literally surrounded by short-term rentals. This is not where we brought. We didn't buy into this. None of this existed when we came in here 10 years ago. This is extremely changing the neighborhood of what's happened around us.

The applicant seems to be a very nice lady. I wished she would have come and talked to us and gotten a better feeling from what's happening before all of this came to this potential. It's unfortunate, but this is not where we chose to live. If we wanted to live in a resort area, we would have bought down at Manele. Oh, wait, we can't. I can't afford it. But it's coming to us and it's not what we wanted. So I'm asking you to deny this application, or at the very least as Butch suggested, postpone it, delay it until we have regulations that can better define what it is that we want in Lanai City. Thank you.

Ms. Preza: Thank you. Commissioners, any questions for Alan? Okay, great. Thank you. So now any other testifiers? Alberta? Sorry, can you speak into the microphone please? Thank you.

Ms. Alberta de Jetley: Shelly, I submitted written testimony because I wasn't sure if I'd be able to finish work and still attend this meeting. So since I am at the meeting, I'd like to read the letter I submitted if that's acceptable.

Ms. Preza: Did Commissioners, did you have a chance to read her letter? Everyone did. Everyone got a chance to read your letter. If you want to summarize.

Ms. de Jetley: No, what I would --. Since you've all read this letter what, what I have noticed is since I've known Brenda and Mike, they really are community minded people. And one of the things that we have a real shortage of is rentals that are available for visiting professionals. People like the traveling nurses, visiting doctors, providers that are coming to Lanai, say for a week, or two weeks, or three weeks, there is no place for them to stay. And I think this is the market, the kind of market that Brenda's property would be perfect for. Not everybody who has a vacation house or a short-term vacation rental wants to be one of the places that rent for two nights, three nights, four nights. There are people in the community who would like to rent for longer periods of times like one week, one month, two months. But unless they're registered as a short-term rental, they can't do that. They have, they have to make all of their rentals six months and day, if I believe that's correct. So we have a shortage of houses that are available for visiting professional people servicing the community. So I would like you to reconsider her application and consider it. I don't know whether or not if you can impose conditions on it, but we really need more houses like this that are available to traveling professional people servicing our community. Thank you.

Ms. Preza: Thank you Alberta. Any questions for Alberta? I actually have a question for Alan. If you could get the microphone actually. Sorry. I don't know if you would like to speak to that. Because I know you know that there is a need for this kind of housing, but you and Debbie live immediately next to all of these houses that have short-term rentals already and this application. So, it seems like Brenda, you're here three to four times a year, but Alan are you saying that, you know, is it's like having these people coming in and out it's kind of changes your neighborhood?

Mr. Calhoun: I'd like to really address the point that Alberta made and that we don't have enough short-term rentals. The absolute fact of the matter is we do have enough short-term rentals on this island. They're just not being used as such. And that's, there's a problem in how that developed, and I have a lot of opinions about it. But the truth is we do have enough short-term rentals on this island. I certainly have enough in my block; they're just not being used as such.

Ms. Preza: Thank you. Thank you for addressing that. Great, so any other public testifiers at this time? Okay, I would like to close public testimony officially so --. Oh, and Richelle found the answer to your question Brenda.

Ms. Thomson: This is -- I'm just reading the beginning of the definition of a short-term rental home. Short-term rental home means a residential use in which overnight accommodations are provided to guests for compensation for periods of less than 180-days, and then it goes on to describe the unit. So you may want to double check and, you know, follow up with Planning regarding strictly a non-compensable use of your home to verify that you have that information correct.

Ms. Preza: Thank you. Is that something --? I just have a question before we start discussing. Is that something that you would be willing to do is charitably let, let these people willing --? I mean, charitably let these people professionals use your home?

Ms. Hinton: Absolutely.

Ms. Preza: Thank you. So your only concern was having to get an application in order to do this. But if what Richelle is saying is right that you're not asking for any compensation then she wouldn't need a permit?

Ms. Thomson: I don't know if you wanted to restrict your use just strictly to non-compensable or if you were looking also to do normal short-term rental home activity.

Ms. Hinton: No, I don't want it to have it be a condition as the only rentals that I do. But it was my understanding from Zoning that I could not give it away at all without a short-term. In other words if my application was denied, and if I choose to use the home myself four times a year or four months a year and leave it vacant the rest of the time, then...I couldn't give it away for even three or four nights to someone because I didn't have a short-term permit.

Ms. Preza: But what Richelle is saying is that if you, if you don't do a mix of like getting compensated or not, if it was just like people staying in your home then it would --. Okay, maybe following up again with Zoning. Never mind. Okay, any --

Ms. Green: Remember when Alicia came to us and she said she was letting people use her house, and the only thing they had to do was to pay to clean it afterwards. But she was charging them no rent. So is that okay by Maui County?

Ms. Thomson: What we need to do is --. My, my role, I can't offer legal advice to, you know, non-County people. I'm strictly their resource here. But my suggestion is to follow up again with the Planning Department, you know, on that specific question. As far as what the Commission needs to do is just analyze the application before you tonight instead of kind of . . . (inaudible) . . .

Ms. Preza: Thank you. Sorry, I just asked because I think it determines how I think about this application. But Commissioners, do you have thoughts on this application? What do you think? Jerry? Actually, let's hear from Roxanne, she lives in the area as well.

Ms. Catiel: Yeah. There's too many short-term rental. Because the applicant, her home it's -- I did the radius -- where Alan lives, and Jerry Clay live, I mean, Clay Richardson live, it's within a 100 feet radius. Alicia's house is 200 feet radius. That's too close. We cannot have a cluster of short-term rental. Because like what Melvin was saying, it's almost like a commercial property. Yeah.

Ms. Preza: Thank you. Sorry, I didn't mean to just throw it in there, but I think it's important because you know you have insight into the neighborhood.

Ms. Catiel: Yeah, and we need to --. You know, these are long-term residents. He was raised, born and raised on that property, like, 60-something years. So the community, that area it's, it's changing.

Ms. Preza: Yeah, you know, I think we should all be thinking too about past testimonies, from Alicia's application, from people in that neighborhood who expressed similar concerns about how the neighborhood has changed so much and they don't want to see it changed anymore. So Jerry did you have comments?

Mr. Rabaino: Jared, right? How do you --? Okay, I'm looking at this driveway...when you allowed --? See, I'm not --. Okay, when you allowed the short-term rental, you have one on Fraser. I mean, Lanai Avenue. Okay, I noticed they when cut down and take down their fence because they don't have enough parking so it's really big. But this one, you have one driveway going in and allowed two cars. What is the Maui County Code for off road parking? Because that place is going to be cluttered. Because if there's a fire there, the ambulance and the fire truck won't be able to go through.

Ms. Preza: Jared, if you want to speak to how much parking is needed.

Mr. Burkett: So for this vacation rental two spaces are required, but the Code does allow for there to be tandem parking. So two cars can be parked in front of each other off the street. So I did a visit and there's, there's enough room to almost have four cars parked in her driveway, but she can only have two. But it is long enough.

Ms. Preza: Did you have another question?

Mr. Rabaino: So that's the County ruling?

Mr. Burkett: Yes.

Mr. Rabaino: Within her property, I understand that totally. Okay, I'm going to use another example. Like Palawai, the last time had one big fire over there, the fire truck and police car couldn't go through. As Roxanne was saying, it's clustered already.

Ms. Preza: So what Jared is saying though is that there's enough parking inside of the driveway so they wouldn't have to park on the street, so it's not a fire issue.

Mr. Rabaino: Well, but the place is getting clustered.

Ms. Preza: Right. Any other comments or thoughts about this? Yes?

Ms. Trevino: Just, just tonight the in person testimonies -- one, two, three, four, five, six. We had six saying that they do not want it approved. And I think out of the six, like, four or five of them live in the area. If I'm allowed to give my opinion, I feel there's already too many in the area. Of course, what she wants to do sounds totally awesome. However, there are like literally -- I don't know if anybody knows this neighborhood, but I used to live in the houses behind where her house is. So there's a whole row of houses behind them. The road that her house is on, although it's a two way road, is not a two road width. It's a very small two way road. The yards drop down as a hill. You cannot really park. You're in their yard on the corner and then it just drops down and then you have houses. And there's no park --. Like if you park in front of the houses or on the side of the road where their house is, you're in the road. There's no thing. So regardless as to how commendable the use of it would be, I personally cannot approve it based on how many people in the area who live there do not want it there. The impact already that the neighborhood has and I don't know whether this is appropriate to say, but many of the support letters are from individuals who are either in real estate or have short-term rentals already. You know, it's not in support as far as the people who are in that general area. And so that's all I wanted to share.

Ms. Preza: Jerry?

Mr. Rabaino: I'm in support with Chelsea, but correction. The road behind where you used to live is no longer a road. It's blocked.

Ms. Preza: Any other comments? I think, for me personally as well, I think I share Chelsea's sentiments. You know, this is nothing personal against the applicants, and it does seem like you guys have really great intentions, but I think in this case, you know, the people in the neighborhood who live here fulltime and make this community their homes should take precedence. And I think it's a luxury to be able to go back and forth, and make Lanai your home part time. And I think it's really great what you want to do for the community, Brenda. But, you know, after hearing from Debbie and Alan, and Melvin, and there's testimony from Brad Oshiro, Butch Gima, these are all people who live very close. And so it's kind of unfortunate that your house falls into this cluster and so that's not your doing. But personally I feel like it would change the integrity of this neighborhood. It would disrupt and, you know, negatively impact the quality of life for people who make Lanai their home fulltime and who have been long time residence here and I think we should really take that seriously. So does anyone else have further -- is there further discussion we would like to have or would someone like to make a motion? Sorry, Jared does have --. Oh, sorry, actually before we make a motion, we do need to hear Jared's, Planning Department's recommendations. Apologies.

Mr. Burkett: Okay, the Department, first has found that the application is complete. The application is complete and that they're eligible to apply for the short-term rental permit. I just wanted to summarize a few things that are important. That there are no reports filed with the Police Department for the property. There are no Request for Service requested on the property. And that if approved, Gail Allen will be the designated manager for the property. And when I did the site visit I found that everything was in order including the parking, the smoke detectors, house rules, fire extinguisher. So I just want to mention that the application complies with the applicable standards for a short-term rental home permit as described by the Maui County Code, Section 19.65.030. But however, due to the letters of protest and the existing permits within the 500 foot radius of the property, the Department is not making a recommendation at this time. So that's -- it's up to you.

But if the Commission decides to grant an approval of the permit, the Department recommends that you grant that approval for one year and subject to the 22 standard conditions. And then -- which are listed in the recommendation. And also in consideration of the foregoing, if the Commission approves of that permit, that the Planning Department recommends that the Commission adopts the Planning Department's report and recommendation as its Findings of Fact, Conclusions of Law, and Decision and Order, and to authorize the Planning Director to transmit that said decision and order on behalf of the Planning Commission. Thank you.

Ms. Preza: Thank you Jared. I want to thank all of you for being here and, you know, taking the time to provide your testimony. And yeah, I guess would someone like to make a motion about this agenda item?

Mr. Delacruz: Comment.

Ms. Preza: Oh, John has a comment.

Mr. Delacruz: I stated previously that I know most of the people who protested and I feel for them. This is their community, our community and we have to take everything into consideration, them included. But we have to understand we have to live with our decisions. If we want to keep Lanai with short-term rental homes not closer than three houses from me, maybe we can do it, maybe it's legal, but we'll have to live with it. The point is, you know, if you only want people who we knew as kids to live around you that's fine. But we're dying off, okay. I won't be here 10 more years.

Ms. Martin: Why?

Mr. Delacruz: Because I'm 71.

Ms. Martin: So, that's young.

Mr. Delacruz: So, you know, what's going to happen to my house? You know, so we have to consider. If the only reason we don't want people living close to us because they haven't been here for 10 years or 15 years, if we agree to that, fine, as long as we agree to it and live with the consequences. And, you know, consider who is going to be living in that house if we don't approve it.

What I would consider, okay, what I would ask you to consider is not have a denial. And we cannot have a conditional denial. But what Jared said kind of make sense. We are going to have the process of determining or making a recommendation on where we want all these red dots to be, okay. That's going to take us a couple of months, and I don't know if the County will accept this or the petitioner would accept this. But I would recommend a conditional approval. And if this particular short-term rental home application does not meet the criteria that we agree upon in the next couple of months. That's just a recommendation.

Ms. Preza: Thank you for your comment. I don't know if I necessarily agree, John. I'm sorry, I think from all the talks we've had about this, I just don't --. Even though --. I do agree that we do need to make criteria and we need to do that soon in the next few months, but I just don't see --. You know a big thing was about density, about that kind of stuff so I don't how this particular application we would --. I don't know --. I feel like with the criteria that we've been kind of discussing, I feel like even if we deferred it, it would probably get denied because of the kinds of things that we've just been talking about. So I don't know if anyone else has thoughts? I do hope that whatever we decide here that the applicant, you know, I think it's really great what you're trying to do in terms of allowing access for people who want to come here to do charitable things. And I hope you still, you know, are open to doing that if it's possible regardless of what is decided here. But does anyone else have any thoughts or

would like to make a motion? Everything is just breaking isn't it? Do you want to use this one Caron?

Ms. Green: Thank you. I have done a lot of thinking about this too, and I do think that the local people trump what . . . (inaudible) . . . short-term rentals are. So I would like to make a motion that we deny this application for a short-term rental.

Ms. Preza: Any second? Jerry seconds. All in favor please raise your hand. Oh, any discussion? Any discussion or we good to vote? All in favor? This is why we need to go over Robert's Rules. All in favor please raise your hand. In favor of denial. So that is four. That is --. Sorry, I can't count. That is eight out of nine. Any opposed and abstentions? John abstains. So it passes to deny. Okay, thank you again all for being here tonight. I believe that was --. Yes Caron?

It was moved by Ms. Caron Green, seconded by Mr. Gerald Rabaino, then

VOTED: To deny the application for a short-term rental home permit.
(Assenting: R. Catiel, C. Green, M. Martin, S. Menze, G. Rabaino, S. Samonte, C. Trevino)
(Abstaining: J. Delacruz)

Ms. Green: Jared, can I just say one thing that's been bugging me every time we get one of these through? When you get to condition no. 9 it say that each permitted dwelling unit on the property shall be rented to one group. And then you go on to say, with the exceptions being the island of Lanai, and every time we say take the exception out of there. Can we just do that? I don't know if we need a motion to do that or whatever? But your condition no. 9 should end with one group, period.

Mr. Hart: I'll just say that it's better to leave it in because we do these for multiple areas there's going to end up being an error somewhere. I understand that, you know, the desire to be recognized as unique and we're trying to do that by recognizing you by island in the condition. But what will happen because these are the Department's standard conditions is that there will be an error somewhere and somebody will get an unintended restriction or a benefit that -- well, really a restriction or a benefit actually. So anyway, I would prefer that we not do it, let me just say that.

Ms. Trevino: So we can just keep saying to override when we --

Mr. Hart: I'm saying that we could attempt to do this for the Lanai Planning Commission and it will result in an error very likely which is more trouble than the discomfort of seeing that that condition written the way it is. And the error will likely be on the one of the other islands that is not related to the situation.

Ms. Preza: So when we have, you know, our discussion about the ordinance and stuff, we can have some kind of criteria put maybe?

Mr. Hart: We can, and we can, we can respond to the request. I'm just expressing, you know, a likely outcome.

Ms. Preza: Perhaps Caron we could maybe make that part of our criteria for our own thing instead of changing this section. Thank you.

2. **NOTICE: Due to errors in noticing, the public hearing item below will not take place at this time, and no public testimony will be received on this item. A Public Hearing Notice will be republished and this matter will be placed on a future Lanai Planning Commission meeting agenda.**

LORRIE NIELSON requesting a Short-Term Rental Home Permit in order to operate Hale Lanai, a two-bedroom short-term rental located in the R-1 Residential District at 920 Fraser Street, TMK: (2) 4-9-005:029, Lanai City, Island of Lanai. (STLA T2018/0008) (J. Burkett)

The Commission is reviewing the application because there are at least two permitted short-term rental home operations located within 500 feet of the subject property.

Ms. Preza: E.2. says due to errors to noticing, public hearing item will not be taken place about Lorrie Nielson requesting a short-term rental home permit, so it will be placed on a future agenda item. So that is all we have to discussed, so if we could have the Director's Report. That's the next agenda item. Anyone doing that or are we just going to pass that over? It's okay. Are you doing it Jordan?

F. DIRECTOR'S REPORT

1. **Open Lanai Applications Report as distributed by the Planning Department with the April 17, 2019 agenda.**

Mr. Hart: I apologize, I was focusing on the requested amendment to the condition. So the list as circulated, these are open permits. All members have this. If you don't, we'll get you a copy. If you do, please go ahead and review it. This is the subject of the report. I really don't have anything to say about it beyond sharing this information with you. If you want to make comments or have questions, we can address those.

2. **Discussion on Commissions annual training. Since the Commission does not have any new members for the 2019-2020 year, what if any training would the Commission like the Department to provide?**

Ms. Preza: Thank you. Anyone have questions about that? So we already discussed F.2. which is annual training, and we would like to go over Robert's Rules if possible. Obviously I need some freshing on that. Thank you.

3. Agenda Items for the May 15, 2019 meeting

G. NEXT REGULAR MEETING DATE: May 15, 2019

H. ADJOURNMENT

Ms. Preza: And our next -- so agenda item for the May 15th meeting, is that something we have to go over, or I think we've kind of discussed already. Great, so our next meeting will on May 15th, next month, and until then, thank you and I guess we're adjourning at 7:57 p.m. Thank you.

There being no further discussion brought forward to the Commission, the meeting was adjourned at 7:57 p.m.

Respectfully submitted by,

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

RECORD OF ATTENDANCE

PRESENT:

Roxanne Catiel
John Delacruz
Caron Green
Mililani Martin (present at ~5:35 p.m.)
Sherry Menze
Shelly Preza, Chair
Gerald Rabaino
Shirley Samonte
Chelsea Trevino, Vice-Chair

OTHERS:

Jordan Hart, Deputy Planning Director
Jared Burkett, Staff Planner
Richelle Thomson, Deputy Corporation Counsel