

**LANA'I PLANNING COMMISSION
REGULAR MEETING
MAY 15, 2019**

A. CALL TO ORDER

The regular meeting of the Lanai Planning Commission (Commission) was called to order by Ms. Shelly Preza, Chair, at approximately 5:00 p.m., Wednesday, May 15, 2019, in the Lanai Senior Center, Lanai City, Hawaii.

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

Ms. Shelly Preza: Good afternoon everyone. Welcome to the Lanai Planning Commission meeting. Do I have to gavel this or do I not need to? It's, it's 5:01 p.m., May 15th. So let's see, Item B is public testimony. So because there's only one public hearing item after this. If, if you are testifying on that item, if you would like to wait for the presentation and provide your testimony after that that would preferable. But if not, we can do public testimony now as well so we can just go down the list and see if anyone wants to testify at this time. So first on the list is Butch Gima.

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

Mr. Reynold "Butch" Gima: Hi, my name is Butch Gima. I want to testify first because I wanted to go run before the sun goes down. So I'm testifying on the C.1. on your agenda. I would recommend or request that you disapprove the application based on representations made at the last planning commission meeting and the criteria by which you made your decision at the last decision. If you are not able to disapprove the application, I would strongly ask again that you defer all apps coming before you regarding short-term rentals until either an ordinance is passed, until Chapter 19.65 of the Maui County Code is amended, and, or if the Community Plan is amended to reflect better criteria for you to make a decision.

I made copies for you of the list of all the short-term -- not all -- the short-term rentals that I had found with names and addresses. And as you can see the ones in bold are Lanai residence except there's one in question. What's not on there and I was hoping the Planning Department would have done so is provide the property manager's name a phone number because not all of the signs have the property manager's name and number.

Also attached there is a . . . (inaudible) . . . from the Advertiser and basically stating you maybe as well as the Planning Department and the County be criticized like the City and County is for kicking the can down the road on this issue.

I had a meeting with the Mayor a couple of weeks ago and I asked that he support the deferral of all applications. And I asked that he speak with the Planning Director to have all

applications deferred till the ordinance, the amendment, or the community plan is changed. So, yeah, those are your options, the Planning Department's options. You can either come up with a new ordinance, you can amend the community plan to reflect a better criteria, or you can amend Chapter 19.65.

I want to make note on page five to nine of your application where the, where the Planning Department comments on whether this application complies with the County Plan and the Community Plan. I felt kind of -- I was disappointed, I was pissed off, and insulted in times because the statements that were being made were, I think, presumptuous and I couldn't see how that the County or the Planning Department could arrive to those conclusions. So please, you know, if you feel the same way please ask the planner about that. I was insulting too because they said there was no adverse impacts but there was no mention of the cumulative impacts and that's what many of us have been testifying too for going on, you know, six months now.

Chapter 19.65, I don't know how many of you have reviewed that, but specifically it says, I think, just Lanai, only Lanai is allowed to rent out single rooms. Everybody else, everybody, all of the communities, the rest, cannot do that, and so I don't know why that is in there. Unlike the other communities in Maui County, Lanai does not have a cap and that's what I've been talking about for months now. There's no density language, and I think it may be important for you guys to think about the discretion that the Planning Director has versus over what you guys have. There were several previous Commissioners that wanted all applications to come before the Planning Commission and not leave it to the discretion of the Planning Director in certain circumstances.

It's interesting in the report they make mention that there is no cap because it is -- it was not in the community plan. Now the community plan was done, I think, about 2012, 2013. Well, this short-term rental report made by the prior Planning Director was in 2014. And in that report, at that time, there was only one short-term rental on Lanai. So the community plan group that was coming up with the update really had no reason to come up with a cap because there was only one short-term rental on Lanai. So I didn't like the fact that they tried to pass off the responsibility on to the community plan group when in fact that was not an issue at that time.

So to summarize please disapproved based on the representations made at the last Planning Commission meeting by testifiers and the criteria that you guys used to disapprove. And again if you're not willing to do that please defer this until we make some changes in the language in either the ordinance, Chapter 19.65, or change in our community plan. Thank you.

Ms. Preza: Thank you. Any questions for Butch? Okay, Jerry has a question.

Mr. Gerald Rabaino: Butch, can you read me that ordinance that you said only one room? I mean, the room for Lanai?

Ms. Sherry Menze: It's on page eight.

Mr. Rabaino: Page eight.

Ms. Caron Green: Jerry, it's number nine. And every time we approve one of these we always say take that out. And last time we even talked about we wanted it off it there permanently but they wouldn't do it.

Ms. Menze: Caron and I have been talking about this each time we come to the Planning Commission and each time we see this in the bed and -- in the applications for the short-term rentals, and each time they say, oh it's not really in there. But it says because -- this time it says because we're on Lanai. Last time, it's never said because we're on Lanai before.

Ms. Green: It would always say with exceptions being on it.

Ms. Menze: Yeah, that you can, with the short-term rental you can rent one room at a time. And if we could just abolish that whole thing about Lanai because your short-term rentals, from what I understand anyway, the short-term rentals you can't rent just a room at a time, you're renting the whole house. Am I correct?

Mr. Rabaino: Right.

Ms. Menze: Yes. So, you know, each time this comes up it send a red flag to all of us. Well, Caron Green and I for sure because we've talked about it quite a bit. Now Butch brought it up too, so I think this is problematic.

Ms. Preza: And that is something that we can discuss when the ordinance itself comes before us and we can -- because I do think it's a problem as well.

Ms. Menze: Thank you.

Ms. Preza: Sorry any questions for Butch though, specifically? Okay.

Mr. John Delacruz: You made this paper? On the, on the column in the middle where it says, like, \$448 a night and \$325 a night. Is that what they would charge per night for the building?

Mr. Gima: That's what's on the sites, BRB or vacation rental by owner.

Mr. Delacruz: So these are already licensed then.

Mr. Gima: Yes. Yes. The ones that are pending has pending on it.

Mr. Delacruz: Pending on it. Okay, thank you.

Mr. Gima: The Planning Department provided the list of, of short-term rentals. I looked it up on the property tax list to come up with the name and address of the owners. So as you can see 90-something percent do not reside here. The other, the other thing too is the property manager, I believe -- well, there's an exception for Lanai. All other short-term rental property managers have to be relators. And I think there's an exception for Lanai, and I don't know why. And so need to ask the applicant, one, who is the property manager. Are they are a relator. Number two, the other question is to ask if they have other short-term rental applications or short-term term rentals that have been approved because there's a limitation. I don't know the specific wording whether it's one per person or one per family or one per family trust. Something to consider. Because I see the applicant, there's another applicant by the same last name that has another short-term rental on island.

Mr. Delacruz: If you have an impression on all of these houses coming up or have been changed to short-term rental homes, are these homes, if you have an opinion or impression, did local people bid for those homes and we're just out-bid or weren't interested?

Mr. Gima: I have no idea.

Mr. Delacruz: Thank you.

Ms. Preza: Thank you and I, I appreciate you going out of your way during your own time to compile this for us because I do think this is something that we should talk about when we discuss the ordinance by having like something that's easy to see who has, and where they're from. And I think it will be great if there was something with, you know, a list of property managers so that it's easier for people to reach out that would be great. But thank you for doing this on your own.

Mr. Gima: Yeah, we're missing few. I didn't add Alicia. Clay Richardson is not on there and there are a couple of others I think. I mean, put in on record, I'm disappointed in the Planning Department because we requested this before, and I'm disappointed that they haven't provided that to you as a resource in helping you guys make your decision. Thank you.

Ms. Preza: Thank you. Great. Next is Myles. Would you like to testify now or after the presentation? Now? Okay.

Mr. Myles Surawatari: Thank you Commission. Myles Surawatari testifying on C.1. I agree with -- I also ask that you not give this permit and I agree with a lot of things that Butch has said. But I also have a second reason. He did mention about the fact that there were two more that he's applying for applications. I mean, I don't know if the one by her husband is going through Maui County or before you or what, but I have a question about that. Is there a restriction on the number of short-term rentals that a person or a married couple because, you know, Hawaii is a communal state for martial property? Is there a limit that a person or a couple to have as far as the number of rentals that they can have?

Ms. Preza: Jared, can you answer?

Mr. Jared Burkett: Hi, staff planner Jared Burkett. The ordinance, I don't have it in front of me, but it is per person or individual in the family trust. So even if they're married, each person could potentially have their own rental. But there is also a stipulation if there's -- they could have more than one if the properties are more expensive, like substantially. I forget how much, like, 2.5? 3.2 million.

Ms. Preza: Thank you. Maybe Richelle, do you want to?

Ms. Richelle Thomson: So just for the Commissioner's reference, on page nine of the staff report, item (g). So the short-term rental home permit is issued in the name of the applicant who shall be a natural person, or persons, holding a minimum of fifty-percent interest in the legal title to the lot. And then there are some other caveats for like trusts and corporations and things like that. So as Jared was saying you have to own fifty-percent of the interest in the property.

Ms. Preza: Does that answer your question?

Mr. Surawatari: Yes, to a point. But it also came across, some information came across to me that they also have a third home here that's somehow is associated with somebody else that's applying for a short-term rental also, you know. I understand the law. Okay, individual. But to me it's kind of a backhanded, backdoor way of getting applications, you know, so that's not associated with just one person. I don't know. I mean, that's the best I can say about it.

Ms. Preza: Thank you. Any questions for Myles? Caron.

Ms. Green: I want to try to understand what you're saying Myles. Are you saying the application before us today, that the owners have an interest in another? Three other?

Mr. Surawatari: No, two others.

Ms. Green: Two others.

Mr. Surawatari: That's my understanding.

Ms. Green: That's your --

Mr. Surawatari: Okay, Lorrie is applying for the one on Fraser, right. That's before you right now. And there's another one by her husband. I don't know where that is. Okay, I don't know if that's before Maui or you. Yeah, I don't know if it's before you or Maui. But I was given information that they also have a third home that's also associated with someone else whose name is on it that's applying under their name. So that's three properties for basically that's

associated to them, but it's three different applications under three different people. So like I said, you know, I understand that the law allows for that which is fine. But I still think it's kind of a really underhanded backwards way of doing giving.

Ms. Preza: Thank you. I think we'll, we'll wait to hear what the presenters have to say, but thank you for your testimony. Any other questions for Myles? Okay, thank you. Next Phillip Sowers. Do you want to testify now?

Mr. Phillip Sowers: Is the presentation about this?

Ms. Preza: It is.

Mr. Sowers: Okay. I actually have a few questions.

Ms. Preza: Okay, questions for the applicant or for --?

Mr. Sowers: . . . (inaudible) . . .

Ms. Preza: Okay. Yeah, if you could --

Mr. Sowers: . . . (inaudible) . . .

Ms. Preza: So do you want to do this now or after their presentation?

Mr. Sowers: . . . (inaudible) . . .

Mr. Preza: Okay.

Mr. Sowers: Do I need to use the mic?

Ms. Preza: Yes. Sorry, it's for the record that's why. Thank you.

Mr. Sowers: Okay, I'll try to talk a little less because otherwise it's going to sound like this. Aloha, my name is Phillip Sowers. I live at 912 Fraser. I've been there for 10 years. I'm representing Cory's family, the Asuncion's, who have been since the beginning of time. I am the meat in the time share sandwich that is going to be going on with their house and the house on the corner. I have a few questions pertaining to that and the effects going forward if this passes.

If this goes through what becomes a nuisance or a headache because I guess the first question is, is this for an Airbnb kind of thing or like a monthly rental short-term?

Ms. Debbie Mitchell: . . . (inaudible) . . .

Ms. Preza: So –

Mr. Sowers: Okay. So it could be Airbnb. We can have potentially 30 different people in a month to go through the house. Potentially. I know that's silly because that's a lot of cleaning. These are all questions I have to ask for my people. Okay, so that's cool. Alright. Thank you very much.

Okay, if it becomes a nuisance, I'm not saying, you know, because there's going to be people from all around the world and we all know there's donkeys out there. Is that alright right about there? I feel like I'm not yelling at you guys. Okay, what can happen -- like these are nice guys -- so if I say, hey, this is getting to be a little too much, and for whatever the reason I'm greeted with, "oh well," which I doubt, what happens? Do these things end or is it like, it's like forever?

Ms. Preza: I believe it's a five year or is it three year? Three to five year permit. At any point you can contact the property manager if there's an issue or you can also let the Planning Department know -- sorry, the mic's weird -- yeah, file a report. And so they do need to come for renewal and if there are, you know, -- some issues that come up, that's something that the Planning Department, I believe, takes into consideration when looking at whether or not to give them a renewal on their permit.

Mr. Sowers: Okay. So if it goes bad in like three months, I have to wait for three years to deal with.

Ms. Preza: No, maybe Richelle can explain the timeframe.

Mr. Sowers: It's just not, again, I have to ask these for my people.

Ms. Thomson: So the permit --. You know, if it's granted, the permit has a bunch of different conditions on it, and those are, those are public. You can get a copy of --

Mr. Sowers: I have no idea.

Ms. Thomson: Yeah. So the, this current staff report is recommending that this permit is valid until May 31, of 2022, so three years. But if there are problems, you know, during, during that time as the Chair said, you can file what's called a Request for Service. So if they're not complying with the house rules which is, you know, numbers of guests, noise. You know, if it's noisy outside of those hour limits. You know, things like that. If the operation is causing a problem to the neighborhood you can report that, you know, either to the Police or to the Planning Department, and through this Request for Service process the Planning Department would take a look at it.

Mr. Sowers: Okay. Yeah, I know because, you know, you don't have to talk to people. Okay, so that's it. Another question is if this one goes through because there's another one right on

the other side of me. There's another one one street back on Houston, I believe. How many more of these will show up in the neighborhood or will be allowed to show up or is this it?

Ms. Preza: So that's something that's been an ongoing conversation amongst this Commission for many months now and so the discussion about perhaps creating a cap for Lanai because we're the only community right now in Maui County that doesn't have a short-term rental home cap. That's something that we've been discussing and so right now I guess I'm not sure because we haven't set that yet so there's not really any regulation for --. I mean, there are certain triggers that would prompt a permit to come before us for review. And that means if there's two within a 500 foot radius, then it needs to come before us. So seeing that your house is in between or near two already permitted rentals, anything within that 500 foot radius would need to come before us again.

Mr. Sowers: Yeah, that's why I'm here.

Ms. Preza: Yeah, because of this one.

Mr. Sowers: Okay. Okay, I only asked that because the house behind them was purchased by some people that aren't here all the time also. And as he rebuilding the house, I was talking to him and they had expressed at that time and interest in also doing that which would be diagonal from my house.

Ms. Preza: There is a new, newer regulation that states that an owner of a home needs to own for at least five years before they can even apply for a short-term rental home.

Mr. Sowers: So they bought it before that. So does that matter?

Ms. Preza: It doesn't matter. If they bought it recently, they have to wait five years. Unless - -. I'm sorry, pardon me?

Ms. Green: Unless they applied before the deadline last fall. And that's why this particular property is coming up because this was only purchased in 2018. But if they applied before September, I think it was September of last year. Yeah.

Ms. Preza: Did they just buy it recently or within --

Mr. Sowers: I think those guys --. I'm not too sure about the one behind them. They've been for little over a year.

Ms. Preza: I guess if he's saying he's expressing interest and he hasn't actually put their application in then --

Mr. Sowers: Well, that's why that's a hypothetically and I'm just asking about potentially avenues that this stuff can take because --

Ms. Preza: Right. Right.

Mr. Sowers: -- you know, we're going to be there for a long time. And our grandkids will be after me and Cory go away then the next --. It's going to be a family home forever. So what they're asking is, is there a chance that we could just be surrounded by Airbnbs.

Ms. Preza: Thank you. I'm sorry I hope that --

Mr. Sowers: Well, no, and then a question I would ask is if that is something you guys would like at your house? So that's just one of the things I need to think.

Ms. Chelsea Trevino: I understand right now you're just asking questions and stuff for the family. Do you hold a position as far as approving or supporting this or not supporting?

Mr. Sowers: I still --. It depends on the answers here. I really, I don't have too much issue myself.

Ms. Trevino: Okay.

Mr. Sowers: But there's, there's those questions. It depends if all of a sudden we're going to be surrounded by Airbnbs. That's a different answer.

Ms. Trevino: Right. So one of the triggers that brings it to the, to the Commission is if even if there were no other short-term rentals in your neighborhood -- let's say there's none -- if, if a neighbor who lives right next door or straight across or right behind, send in a letter of non-approval, that will trigger it to come to the Commission as well. Oh, two? Two adjacent neighbors.

Some of these questions you're asking, there's no set answer for it which is why we're talking about there's decisions that need to be made in regards to caps, in regards to --. So if you ask right now, oh, is there a guarantee that there's not going to be other short-term rentals around here, the answer is no. There isn't. However, these come to the Commission for us to take consideration and decide whether or not they can be approved.

Ms. Preza: And I think something that has come up in many of our meetings that we are very contentious of is density of short-term rental homes because we are concerned that, you know, for families like yours, you're literally sandwiched in between two. Like we've discussed, you know, in length about, you know, is that something we want for our community and --?

Mr. Sowers: Is that something you want for your house?

Ms. Preza: No exactly. Because Lanai is a small community. We care about the people here and so it's something that we're going to be hopefully deciding on in the next few months. So yeah, not for this particular one, but it's something that's we're keeping in mind. Jerry has a question for you.

Mr. Sowers: I'm not taking questions from Jerry at this time. Jerry, if you can keep your questions under five words I'll be happy to take that. What do you got?

Mr. Rabaino: Okay, currently you say you have two and you're sandwiched in.

Mr. Sowers: I do not have two currently. On the corner is one owned by a guy named Dragon.

Mr. Rabaino: Understood.

Mr. Sowers: And the potential one owned by these people to my left.

Mr. Rabaino: And who's the one behind you?

Mr. Sowers: That's the one on Houston. It's not directly property line, but it's within the 500 foot.

Ms. Preza: So Jerry, if you look at exhibit five, that's exactly --

Mr. Rabaino: Yeah, I understand that. So in other words, you don't want to be crowded. Well, for me, my personal opinion is we don't want a crowd that small unit or block with so many short term rentals. That's my feeling. Because we want to keep it rural. We want to keep it Lanai.

Mr. Sowers: Well, I want to keep it mellow. I mean, there's no difference, Dragon, the guy next door, he rents to people at the Health Center, so that's a short-term, but a longer term short-term. I want to make sure there's not a potential of 100's of people going in and out of our tiny little neighborhood. That's kind of screwy. So how come other --. I'd like to have the same protection as the other ones have.

Mr. Rabaino: It's among us now to make the decision.

Mr. Sowers: Alright, that would be cool if you guys can watch out for the people that live here. That would be awesome. Alright, that's my, that's my dad's voice right there. The other questions was just stuff about noise. But I see it's nine o'clock which is fine because they haven't broken that rule. Yeah, I really, don't really have an answer, what the answers that I needed. I'm going to wait until after their presentation. I'm going to contact the people I have to contact.

Ms. Preza: Sorry, Chelsea has a quick question for you.

Mr. Sowers: Okay.

Ms. Trevino: Currently, you know, with short-term rentals they have to have two car parking available on their property, not on the street parking, yeah. In your experience has, has the property been using their property for parking or are they parking on the street as well?

Mr. Sowers: Well, in my experience it's mostly Russell and his work crew. So they have a big vehicle, they -- just like I park on the street also. So their work vehicles are in and out. There's not really -- I haven't notice. There's not a plethora of rental jeeps there, so I'm not sure what are renters, what are private vehicles. You know what I mean? It's like I'm not too sure. There's a garage there and they do have a gray truck that parks in the driveway. Other than that I'm not too sure. But mostly I can see -- well all of us on that street, Roger parks there who is right door to these guys and he has to park near their property because he's got a drainage ditch. And they have their work truck out front. So I don't really have a concise, kind of like you guys, I really don't have answer for your question at this time because I don't have the knowledge that is required. Because I don't stare at my neighbors.

Ms. Mililani Martin: I have a question for you if possible.

Mr. Sowers: Yeah ma'am.

Ms. Martin: How big is the lot that you live on? Square footage?

Mr. Sowers: Say about the size of this room probably.

Ms. Martin: 3,300.

Mr. Sowers: Yeah.

Ms. Martin: So the lot next door to you is 3,300. The one on the other side is about 3,300?

Mr. Sowers: Maybe. I don't know how to measure.

Ms. Martin: Pretty small, huh?

Mr. Sowers: They're small. I mean -- well, it's, it's, it's not really -- I don't want to say small because there's smaller places here and I'm very thankful for what we have land wise.

Ms. Martin: Yeah. But it's compact.

Mr. Sowers: It's compact, and I, you know, I have a garage too and I don't --. I pull the car in there when I can. But like on Lanai, you know, we are busy people and we've got a lot of stuff.

Ms. Martin: Thanks Philo.

Mr. Sowers: Sorry I don't have the answer to your question.

Ms. Martin: No, you answered it great for me.

Mr. Sowers: Okay.

Ms. Martin: I wanted to know how big the lot was.

Mr. Sowers: Yeah, I guess about the same size. But yeah as of right now I guess I'd like to retire the mic with a chance to come back. I don't know how that works. Oh, we got one more. Yes, Mrs. Green, what can I do for you?

Ms. Green: Thank you very much. I'm curious about the one that you said is kiddy corner behind you. It was recently --. I think I know which house it is.

Mr. Sowers: It's not yet. They're nice people and all.

Ms. Green: Right, but is it being used as a long-term rental?

Mr. Sowers: I have no idea at this time. I think there's one of the construction dudes. I don't know how to --. I'm very descriptive, the guys with the goatee and pointy ears. But he's been there for a while.

Ms. Green: Yeah because you know that's a little -- it's different than a short-term rental, but yet it's not somebody who's part of the community. It's somebody who's there temporarily. Just for more than a few days or a week or something.

Mr. Sowers: Yeah, I saw them when they were doing their rebuilding. And I've seen this other dude most of the time. But again it's just something that he mentioned so I'm just thinking ahead about what's happening. And I want to know what are the other courses too. This thing cool, what's going on.

Ms. Green: Okay. Well, it's just you bring up, in my opinion, an important point that I just wanted to say to everybody is we can think about short-term rentals, but it's only part of an equation for a neighborhood. Because when a house is rented for more than six months it becomes a long-term rental. But again, it is not somebody who's really a part of the community. It's somebody that's there on a temporary basis. So I think it all needs to be looked at together, not just in isolation.

Mr. Sowers: Yeah, and there is a big difference. Because even if it's somebody that stays here for just a month or a couple of months becomes part of our community just from them

rubbing off on you. But if you're talking about opening up a neighborhood to daily differences of people and when we leave the island we see what kind of people there are out there. Same as us, but not quite as nice. You know, I mean, we have a higher level of manners on us. That's the way it is. You guys get angry on it. I've been here 22 years and I've grown to love these people and I think they like me pretty much. But, yeah. So I'm watching out. That's all I want for the future and for nephews when they're in the house.

Ms. Green: Just one last quick question. Are you a long-term renter or do you own the property?

Mr. Sowers: It is a family home so we're kind of caretakers kind of. It's going to be in that family until after we're gone. It's not a plan to ever be removed. So, yeah, it's Cory's family. Mr. and Mrs. Asuncion. Mr. Asuncion, Cecil. Some of you guys may have went to school with him or his sisters. And his father was the police chief for 33 years. So that's the history of the house.

Ms. Preza: Thank you Philo.

Mr. Sowers: Alright.

Ms. Preza: So you're going to stick around for the presentation too?

Mr. Sowers: Yes, and if anything changes.

Ms. Preza: Great, we'd love to hear it.

Mr. Sowers: So pretty much everything --. I mean this is pretty good. I guess the other question is who's going to be in charge of you guys property?

Ms. Preza: So I think they'll answer that during their presentation.

Mr. Sowers: Okay, then I'm cool. I hope I was not too un-PC for you. I just kind of tell the truth.

Ms. Preza: Thank you Philo.

Mr. Sowers: Thank you.

Ms. Preza: Great, next is Winnie. Winnie, would you like to testify now or afterwards? Now, okay.

(Shirley Samonte present at 5:35 p.m.)

Ms. Winifred Basques: Good afternoon. My name is Winifred Basques. I live on this island 57 years. I've seen people come and go. Okay when you talk about short-term rental, okay, where are the people who supposed to be buying the house? Where are they? They not here. Where are they so you folks can question them? That's the reason why I had to come home? You know I was in Honolulu for a long time, but I had to make an effort to come on this island to talk to the people who is buying the house, okay. Where are the other ones? I think you folks should send a letter to them and make sure they come here so we can question them, why are they doing this? They invading our privacy, okay. I'm talking from here. The man above there telling me what it's all about. Okay, the thing is that when they do this kind of stuff, they hanaino. It's being noisy. In Hawaiian, it's noisy. In Hawaiian, it's hanaino. I going talk Hawaiian, Filipino, Japanese. I hope you folks can understand what I going say. You know, when you talk about issues that comes up, where do you folks get your folks money?

Ms. Preza: Sorry. Aunty Winnie, sorry, we gotta address the Commission, not the applicant.

Ms. Basques: Okay, where do they get the money for buy the houses over? Are they on loan or they inherit money from the family to come over here and invade our island aina? I hate to say this, you know, it don't look good, period. A'ole. And that's all I going to say.

Ms. Preza: Okay, do you have any -- would you like us to approve or disapprove? Do you have an opinion on this particular application?

Ms. Basques: Veto.

Ms. Preza: You want to disapprove.

Ms. Basques: Veto.

Ms. Preza: Okay, thank you for your testimony.

Ms. Basques: Oh, you're welcome.

Ms. Preza: Any questions?

Ms. Basques: Anybody want to ask?

Ms. Preza: Okay, thank you.

Ms. Basques: Okay, thank you very much.

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

1. **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)**

Department's Report and Recommendation

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: Great, anyone else would like to provide public testimony at this time? So, yes, I'll close public testimony, and then we'll move on to Item C.1. which is Lorrie Nielson requesting a short-term rental home permit. So if Jared would like to speak, and then we'll have a presentation, and then after that we can have testimony as well. Thank you.

Mr. Burkett: Staff planner Jared Burkett. Just introducing the item on the agenda. As you have mentioned it's for Lorrie Nielson to obtain a short-term rental home permit to operate two bedrooms. And of course you've already heard what the -- the item's before you because there are two permitted short-term rental home operations within 500 feet which is a trigger to come before you to listen and to make that decision.

And just to let you know up ahead, instead of in my analysis, but there was one Request for Service (RFS) on the property, no others. And you can see that in exhibit seven. It was concerning the sign placement, and when the zoning inspector investigated and everything was corrected, I guess, it was provided. The photographs were provided to show that it was where it, the sign is supposed. So the zoning inspector closed off the, closed out the RFS and said we were okay to move on.

So now moving on, the applicant or the consultant for the applicant has a presentation that she would like to make, a slide show presentation, and then after that and if there is any more questions, then I can read the recommendation.

Ms. Debbie Mitchell: Good evening. My name is Debbie Mitchell and I am a consultant for Lorrie Nielson in her application for a short-term rental home at 920 Fraser Avenue. The house is located between Ninth and Tenth. As you can see by the red arrow, that shows the direction of the house. Moving in, you can see the block between Gay and Fraser, and Ninth and Tenth. The aerial view shows the nice, fairly similar sizes of lots, and the placement of the house itself on the lot.

And moving in directly, you see the main house and the parking area which is to the left, just off Fraser. Oh, once I make the presentation I'd be very happy to. Just to notice that the application is for two bedrooms which means that the most that anyone could stay there would be four people. That is all that would be permitted to stay at any one time.

Okay, there we go. Okay, the exterior of the house is nice and neat with a mature landscaping covering all three sides. And the views from the house shows that it is privately enclosed by mature landscaping as well. And then looking out to Fraser Street itself. The silver truck in the driveway shows you the location of the parking in the driveway.

There we go. The entry to the house. And the location of the parking, two parking places on either side. This is already in your packet, but this shows the layout showing the two bedrooms and the rest of the areas that will be for short-term rental home use.

The interior of the house is very nicely appointed. Living room. There are two bedrooms. Again, maximum of two persons per bedroom. And the bath and shower.

Just a little bit on the administrative side. All neighbors within the 500 foot radius were notified twice of this application. The first was just a notice of application, and the second was a notice of the public hearing. At no time during either of these mailings were any protests received. So no protests were received at all. And the reason that we're here as we've all discussed is that there are two other permitted short-term rentals within 500 feet.

Just a little graphic here that shows where those two are located. The pink show the two, the one that Mr. Sowers was discussing. His property where he lives is in between the subject property and the top STLA 180001. And then the second one is at the very far end of the 500 foot radius but still falls within.

And as we've discussed this from time and time again, as we met before these short-term rentals do fill a need for affordable combinations on the island. We've talked about usage by family, hunters, professionals, other schools visiting, and these accommodations are helpful to folks trying to stay on the island that aren't able to book rooms at Hotel Lanai or either of the two large resorts.

As was asked, the property manager for this is Gail Allen, and she will be the 24/7 contact for this. The owner is here. Lorrie Nielson is here and is able to answer any questions that you might have, and I'm available as well. Thank you very much for listening.

Ms. Preza: Thank you Debbie. Great, so Commissioners, do I have --? One moment. Sorry. Commissioners, do you have any questions for the applicant at this time?

Mr. John Delacruz: I got a question for Mr. Burkett, I think. Is it Burkett? Administrative, I think. On the property on the application, as long as the tax map key is correct, it doesn't matter whether you call Fraser a street or avenue as it's supposed to be?

Mr. Burkett: Could you elaborate? I'm not sure what you mean.

Mr. Delacruz: Okay. This street here or this roadway is Fraser Avenue. All the roadways running north and south on Lanai, mostly, the big ones are called avenue. Okay, on the

application it's called Fraser Street. So does it matter as long as the tax map key is correct on the application?

Ms. Thomson: John, I can answer that. I think what you're getting at is whether the notice is proper for sunshine law purposes, whether the agenda identifies the property well enough so that the members of the community would know to come out. I think it might be a problem if there are Frasers. If there's a Fraser Street and a Fraser Avenue. But if it's a matter of needing to correct that, to change out street for avenue, I think that's not a problem. Thank you for pointing that out.

Mr. Delacruz: So that answers, yes, it doesn't matter. Okay, but the second part and it ties into what you said about the fifty-percent. The owner has to have at least fifty-percent ownership on it. And it might only be administrative question, you know, based on when this Request for Service was processed. But on the Request for Service for the address at 920 Fraser Avenue it shows the owner as Moore, Leona Ann.

Mr. Burkett: So the KIVA system where the permits and those requests are stored is often not as updated as quickly as real property tax is updated. So it might just be the discrepancy in the permitting system and it's not -- it doesn't have any meaning for, as far as law, or the permitting.

Ms. Preza: So it doesn't matter that the owner is not her on this?

Mr. Burkett: It does, it does for the actual ownership documents but not necessarily in our permitting system.

Ms. Preza: Okay because this was just a request for service application at the time so.

Mr. Burkett: Yeah.

Mr. Russell Nielson: . . . (inaudible) . . .

Ms. Preza: Sorry, if you can talk into the microphone if you're going to --

Mr. Nielson: I don't know who Ms. Moore is. Lorrie bought the home in May of 2017 from a family trust that a deceased person. It was purchased from the real estate agent on -- Osaki, I believe, Carol.

Ms. Preza: Sorry, could you also state your name for the record?

Mr. Nielson: Russell Nielson. I'm sorry.

Ms. Preza: Questions? Jerry?

Mr. Rabaino: Jared, on Exhibition-7 on the very top, it says request for information, why is the name anonymous and there's no address or phone number? I have several to go down this list. Also, it doesn't -- I don't see anything that says short-term rental. And, Jared, on page two, it has two parking. The one in the back closest to the backyard, is that a garage with a car parked, and is it utilized, will it be utilized for a two parking space? And on page, on exhibit five, their legend, it says short-term rental, you got two. So currently in that, in that block, what Philo was talking about, he has one on his side and the one that you want to approve now, I mean, you want us to approve is on the other side which he is like an Oreo cookie.

Ms. Preza: Sorry, so the State hasn't give their, or the Planning Department hasn't given us the recommendation yet, so they're not recommending anything. But maybe if he could answer your first two questions before you move on because I'm sorry, I forget your two questions as you're talking.

Mr. Burkett: Okay so for the first question, the Department has made the determination that if it's regarding a short-term rental home or any type of vacation rental home that complaint or request can be made anonymously. So anyone in the public can call, and if they don't want to, you know, be in trouble by their neighbors, they can make that request. But they also have to provide some evidence. So, so this person who called provided evidence to the zoning inspector, and the inspector then investigated and --. And so the second part of -- was that your only question for that part, for exhibit seven?

Mr. Rabaino: Yeah, for exhibit seven and exhibit five.

Mr. Burkett: Okay. So I don't --

Ms. Preza: I'm sorry, the second question was about the parking.

Mr. Burkett: Yeah, right. I don't remember what the exhibit five was. But for parking, that building that's on the side of the house is a carport and it is going to be utilized for parking for the short-term rental.

Mr. Rabaino: For two?

Mr. Burkett: One in and the tandem behind it, outside.

Mr. Rabaino: When you say outside, that's off street parking.

Mr. Burkett: No, there's --

Ms. Preza: Within their property but off the street.

Mr. Burkett: Yeah.

Mr. Rabaino: Oh, okay. Yeah, but is there a car parked in that garage when only one going be utilized? That's my question to you Jared.

Mr. Burkett: There was originally in the first inspection, and then I had asked that if you're going to use this for parking it has to be cleared out. And so they cleared in out and provided proof that it was all clear and able and ready to be used for the rental.

Ms. Preza: Sherry, you had a question?

Ms. Menze: A question about the carport garage thing. The way I'm looking at it, it looks like it's almost on top of the neighbor's fence. Is there supposed to be a six-foot setback for that or is that not?

Mr. Burkett: I believe that you are addressing setback issues in one of your next agendas.

Ms. Menze: No I'm addressing this one right now, not, not something later. I know the one that we're going address later is, but I want to address this one right here. Is that a legal carport?

Mr. Burkett: What I mean is on Lanai many of the carports and garages are touching property borders and it has been acceptable. So whether by law, I don't know, but that is one of the reasons why you are taking that up in one of your agenda items, I think next month.

Ms. Menze: So we're going to put the cart before the horse.

Ms. Preza: Well, that's not what we're discussing. But I guess we're going to have to discuss it at another time.

Mr. Delacruz: I can address that. I believe through experience if you don't have a door on your, quote, dwelling which you intend to put a car, the wall can be three feet from the property line. If you're going to have a door for the dwelling you're going to put a car in, the property has to be, the dwelling has to be six feet from the property line, okay. However, if you don't call it a carport, it's not a carport, okay. If you call it a carport, then the rules for setback apply. If you call it a garage, then it's got to be six-feet if you have a door, three feet if you don't have a door. That's why I asked that there somebody be here from the, whatever you call them, building instructors.

Ms. Preza: I think Richelle is going to look up to see what the regulations are for Lanai. Sorry. Do other Commissioners who haven't spoken yet have any questions? Okay, Jerry.

Mr. Rabaino: Jared, being that this is a plantation town, yeah, and I used to be on the Housing Committee when I was with the union. These lots, okay, according to when Goro Hokama was, before your time I guess, okay, these lots are all small. So we were told at that time

when Mayor -- what her name? Mayor. No, not Lingle. Back up. Well, anyway, we were told by her when she came and she said Lanai is unique and it's an exception. Now I'm going to turn this to Michele. Richelle. Michele. Sorry, I always give you a new name so excuse me. No offense. Okay, Michele, we know the setback, but for plantation homes on Lanai in Lanai City were built in 1920's, okay. That was for a single man for pineapple workers. With the lot or with 3,000 is there been any update for boundaries of each property? Is there any grandfather thing that they can build up to the wall, excluding the three feet that John is talking about etcetera, etcetera?

Ms. Preza: She's looking into it, but in the meantime do other --? Okay, Richelle.

Ms. Thomson: Thank you. So I'm looking at the Maui County Code, this is for the residential district. Sorry, I'm scrolling around my, my phone here. So this is Chapter 19.08 residential district and let me get back down here to the yard setbacks. So yards, "there should be a front yard of 15-feet, side yard of six-feet, and a rear yard of six-feet for all residential districts. Side and rear yards for two-story buildings shall be 10-feet in all." So, six feet is your, the distance between the property line and the building. As far as whether Lanai being an older plantation town there may be some grandfathering issues here. And I can't speak to that because I don't know the answer to that right now. I know that as Jared was mentioning, that's one of the reasons that the Planning Department was bringing that particular ordinance, possible amendment, to you is whether you wanted to look at changing the required setbacks because, you know, this standard code may not fit this town perfectly. So you may want to look at doing something more unique.

Mr. Delacruz: For Jerry's benefit, yes, Lanai is plantation town. It wasn't meant for us poor folks to buy cars, and my family didn't have a car until 1958. But as far as these old buildings that they built garages that are not allowed today. If those structures were built before the laws were made, okay, they grandfathered them in. There are many rules on how you can or cannot renovate those buildings. But there is a lot of grandfathering, but it's very strict on how you can remodel those grandfathered buildings.

Ms. Preza: Okay, so getting back to the application and --. Do you have a question?

Ms. Menze: You know we're talking about grandfathering in older homes, this is an older lot, but the home is not an older home. This is not an old style plantation home. This home was built, what, was it built in 2000? No, this house, this house here. Oh, 2006, so it really would never be grandfathered in because this is a 2006 home. It's not a 1920 home.

Ms. Thomson: So I think the question is, does -- when you did the zoning check, did it show any red flags in terms of what was built on the property conforming to the approved plan? I think that's what they're, the discussion is getting at.

Ms. Preza: Other questions for --? Sorry, sorry. Right. Sorry.

Mr. Burkett: So I looked at the plans. Everything complied to the building plans that I saw on file, but I can't recall from this point exactly what the carport was looking like on the plans. Because the plans aren't actually necessarily existing either. Sometimes it's just a tax map key, the, the field book, and so sometimes it's just a foot print of that we have to go by.

Ms. Trevino: So the current owners now you folks have vehicles, yeah, that you own that are there. So what's going to happen to the vehicles? I guess the reason I'm asking is because parking is a huge thing. And if you have two parking stalls that are provided for the rentals, and you have your own vehicles there, are you renting your vehicles to your visitors or what? I'm curious how the parking situation is going to facilitate people who visit and rent vehicles from other places or whatever, how that's going to work.

Mr. Nielson: Again, sorry, Russell Nielson. The vehicle we have is a company vehicle and it stays down typically either at the harbor or at the hotel property along with another commercial vehicle that's a box truck, like a big 15 foot box truck that never comes to the city because it's old. It wouldn't make it up the hill. But they typically stay on the hotel property down by the luau grounds for work purposes, or down at the harbor.

Ms. Green: For one of the owners, just out of curiosity you bought this in 2018, did you purchase it for your own use and you want to rent it out short-term sometimes, or is this more or less a business that you want to rent it out as often as possible.

Ms. Lorrie Nielson: Lorrie Nielson. We originally purchased it in 2017. I'm an event planner here in Hawaii, and we love Lanai. I grew up in Texas, and always had a family cabin and so this kind of that to our kids. But over the last, you know, year and half, as long as we've owned it, the expenses of it and everything, so we thought of this idea to help generate income when we weren't on island producing events which we do quite a few events here on island. So, so did I answer your question?

Ms. Green: Yes I believe so. And so when you're not on island, where do you reside?

Ms. Nielson: On the island of Maui. And we come over --

Ms. Green: So you're local.

Ms. Nielson: Yeah, we are local. I don't know where that lady went, but my family has -- came over from Texas in 92 and help rebuild Kauai and Maui after Hurricane Iniki came. And so I understand. They own the Betsill Brothers Construction over in Maui, and I understand, you know, about the aina and, you know, taking care of the land, taking care of the people. We, you know, specifically work at the Four Seasons and we know all these employees. And, you know, I feel like we always take great care of them and add to this community, and you know, bring business and bring...you know, good, good energy to the island. And you know, I'm very protective of these islands too just because of what my uncle instilled in me, so I just, I'm

grateful for this opportunity to live here and regardless of 'ya all decision, like, we still love Lanai, and we're just, you know, happy to be here. But for us, it makes sense financially to have some income.

Ms. Green: I see you haven't totally lost all of your Texas.

Ms. Nielson: No, I have not. Never.

Ms. Preza: Thank you. I have a question. So you two own another short-term rental home on island?

Ms. Nielson: I'll let my husband answer.

Mr. Nielson: No, I own another home at 1320 Lanai Avenue which I have a long-term rental with Pulama. But out of concern of how long that's going to last is we're applying for, I'm applying for the short-term rental permit. So Lorrie owns a home, and I own a home. Sole and separate property, mortgage is separately, deed separately, a 100-percent mines, a 100-percent hers.

Ms. Preza: So you're --

Mr. Nielson: There is no third home. I don't know what that person was talking about.

Ms. Preza: Okay, but you had applied for a short-term rental permit for this other house or you have a short-term rental permit?

Mr. Nielson: We've applied.

Ms. Preza: You've applied.

Mr. Nielson: We have not come before the Commission yet.

Ms. Preza: Okay.

Mr. Nielson: So nothing has been issued.

Ms. Preza: And when did you purchase that home?

Mr. Nielson: September-ish of last year. August.

Ms. Preza: Oh of 2018?

Mr. Nielson: Yes, purchased August or September and applied immediately. And we have a long-term one year lease with Pulama which we hopefully will last for many years.

Ms. Preza: I guess I'm wondering as residents of Maui like what's your interest in purchasing two homes on Lanai.

Mr. Nielson: The 920 Fraser is very small and we have three kids, so it would be nice to have a larger house. So until we can afford, you know, this is what we need to do. Unlike her, we don't have a trust fund or an inheritance or anything. We work our butts off.

Ms. Preza: How often are you on island?

Mr. Nielson: I'm here a lot. I would say probably 25 to 30 percent of the month I'm here working at the hotel. Lorrie's here at least one weekend maybe more a month.

Ms. Preza: Jerry, question?

Mr. Rabaino: Okay, you say you work at the hotel. What do you do at the hotel?

Mr. Nielson: I have an event rental company so I produce rentals and lighting. So whenever they have a wedding or a corporate event, we produce the event. We also have two containers that stay on property at the Miki Basin that we pay rent for so that's where we keep our inventory and then bring everything back and forth from Miki Basin down. So I have an event --.

Mr. Rabaino: Your other --. Because the name that I'm looking over here, do you have another one over here that says Lorrie Nielson, but you have one on Lanai Avenue, corner lot?

Mr. Nielson: That's my home, yes.

Mr. Rabaino: The little corner, the two-story.

Mr. Nielson: The 1320, yes.

Mr. Rabaino: Okay.

Mr. Nielson: Yes. That's the house. The two-story, blue house is rented to Pulama.

Mr. Rabaino: But it's both separate.

Mr. Nielson: Completely separate. One's in my name, completely, and one's her, Lorrie's name.

Mr. Rabaino: Thank you.

Ms. Preza: Other questions for the applicant before --? Okay great. So maybe I'll open public, the public hearing for this agenda item. So is there anyone who would like to make comments or --? Great, so you can grab the mic.

Mr. Mike Weinhouse: Hi my name is Mike Weinhouse and I think John was --. I'm going to go back to the carport or garage without --. John's right, if there's doors, it's a garage. It has to have a full breezeway to be a carport. I understand these things because I actually went through the process to try to set up a short-term rental home and was told that I would have to remove my garage and that was a deal breaker so I'm not doing it. And I sort of -- it's a thing of fairness, it's like why can't I do it when somebody else can. So what I've noticed and even in these pictures, if you look at the earlier ones, it's not there. So it's not a factor of being grandfathered in. This was recently built. And I actually walked over and there's 17-inches of walkway between the building and the --. And that's the wall, not the eaves. So I just wanted to make that point. I just had that problem with why I was denied, and it was denied by Bryce the County inspector. He just said, no way, you can't do this. So that's, that's why I'm here.

Ms. Preza: Thank you. Any questions? Jerry.

Mr. Rabaino: You're across . . . (inaudible) . . . that garage?

Mr. Weinhouse: No.

Mr. Rabaino: You're not across . . . (inaudible) . . . ?

Mr. Weinhouse: That's where we currently reside. Our family home is on Ninth and Gay, the blue house with the split fence. Kiddy corner to Philo, next to the other.

Mr. Rabaino: Okay.

Ms. Preza: Great. Any other questions? Thank you. Any other public hearing comments, testimony? Great, so I'll close public hearing at this time. Do you have something that you would like to --? Sure.

Ms. Nielson: So Lorrie Nielson. The doors on that, there's just a big piece of plywood. And so it's actually anyone could probably get in if they wanted to. But we do have an ATV in there right now that we want to protect. And we're 100-percent willing to remove that plywood door should we get, you know, this permit and make it, you know, a viable carport for people to get in and out of, absolutely. So I just wanted to let everyone know that. The ATV can easily go to the back of the house.

Mr. Rabaino: Okay, so you're going to remove the ATV out of that, and take away the doors.

Ms. Nielson: Yes sir.

Ms. Preza: If they get approved.

Mr. Rabaino: Okay, and you're going to park the ATV behind and chain it down.

Ms. Nielson: Yeah. Or we might move it down to his storage because you can't drive it on the public road, and it's easier to access down there. I don't know. We'll see. But, yes, we will 100-percent move it.

Mr. Rabaino: Okay, thank you.

Ms. Preza: If, if your permit isn't approved, what are your plans for use of the home? Are you going to keep it or --?

Ms. Nielson: Yeah, like I said, we still love Lanai no matter what. We still love coming here, 100-percent so. And we work, we work a lot here and it just makes sense for us to have it so yeah we would keep it.

Ms. Preza: Thank you. Any other questions? So okay, public hearing is closed but we should --. Okay I'll re-open public hearing for Alan.

Mr. Alan Calhoun: My name is Alan Calhoun and I have a couple of points that came out in the presentation tonight. If this particular property is, is very similar to last month's property, which we were surrounded by short-term rental houses, this particular situation is extremely similar. We're having short-term rentals boxing in homeowners. And you were gracious enough last month to deny that permit and I think that if we were to be consistent we should be looking at those similarities.

My other issue is that if, if they need some income to pay for this property and it's not going to be really their place of residence, then there is a very real need on this island for long-term rentals, probably far more than short-term rental housing. And I'm asking that we consider the homeowners to do that, that if there's a need for income that put it on the long-term rental market. We have a number of families that could use housing here in our city. That's it. Thank you.

Ms. Preza: Thank you Alan. Any questions for Alan, for Alan?

Mr. Rabaino: So in other words you're saying you don't agree with the short-term rental because you want to provide a long-term rental in the long run for whatever activity that is administered?

Mr. Calhoun: No what I'm saying is that I'm not crazy about short-term rentals and the direction that we're going right now. And these particular issues that come up because of the 500-foot requirement brings it into focus. And I'm offering an option that rather than do short-term

rental, they do long-term rental. That's a very real need and that will solve their problem and we don't have to worry about any other issues of the short-term rentals.

Mr. Rabaino: Jared?

Ms. Preza: Wait, sorry, do you have any other questions for Alan, or can he--?

Mr. Rabaino: No, none.

Ms. Preza: Any other questions for Alan? Sorry, Caron has a question for Alan.

Ms. Green: In thinking about that, saying a long-term rental, it doesn't necessarily mean it's going to be for a Lanai resident. It could be for somebody who's working on the hotel or some other project that Pulama Lanai has. So I don't necessarily find that a solution for them. And the other thing, and you may correct me, Lorrie, but I believe you want to still have access to the home on a periodic basis. I mean, if you're coming over once, so you don't want it rented out and you want to stay there. Is that correct?

Ms. Nielson: Yes.

Ms. Green: Okay, thank you.

Mr. Calhoun: If I might reply. That really wasn't made clear in what was being presented in my opinion. And as we all know more than fifty-percent of the short-term rentals are now being rented long-term to workers for Pulama and that's going to end someday. But the need for long term rental housing will always be there. And all these short-term rental homes are not necessarily going to be on the market for long-term rentals. There is a need. And I'm just saying, that's just a suggestion that they could go that route.

Ms. Preza: Thank you. Great, so at this time I'll close public hearing again. And did you have a question for Jared or --? Okay.

Mr. Rabaino: Sorry Jared, but on exhibition five, you didn't answer my question the first time. Okay, exhibit five, okay, you have the corner lot which exists as a short-term rental, okay. And then you have that number covering his, his little red square. Now the other one listed below which is 302, the longer arrow, within that 500 radius that would be a third one that will be coming up onboard in that 500 radius? Because right now you have one existing that's already have one permit, right? Because you have four, nine, zero, zero, fifty-two, nine, okay. You covered that red little square. That's their property.

Mr. Burkett: Yeah.

Mr. Rabaino: Okay. So, and then the other one with the longer arrow is that the future one that's going to come before us?

Ms. Preza: Those two with the arrows are existing short-term rental homes already permitted.

Mr. Rabaino: So in other words this is going to be a third within the 500 radius?

Mr. Burkett: Correct.

Mr. Rabaino: Okay.

Ms. Preza: Okay. Further discussion on this agenda item or is everyone feeling like they will make a decision on this? Right, right? But discussion? Or do you want to hear the staff recommendation before we discuss? Okay, Jared, would you mind offering us the Department's recommendation?

Mr. Burkett: Sure. Okay, so as we have --. As I've reviewed the application, we found everything to be in compliance with the law. And I'll just address some of the concerns that have been raised. Regarding the carport, a letter from an architect was submitted stating that they reviewed it and everything that was on the property was compliance with building, plumbing and electrical codes. And whenever the applicant files for a building permit those plans are sent to the Planning Department for their review as well to check for zoning code. So at the time when this was submitted which was September 12th, this professional certified that this was meeting all code. Then whether that is the case or not is, is on them. It's on them because they attested to that. So that was submitted as well. And I did the site inspection soon after so it was there. It was there right around that time because that's when I went out there. So I actually did two site inspections on the property as well.

So...I just wanted to mention that if you are deciding to make, make an approval today that the County recommends that you do an approval for three years, which would be until May 31st, 2022. And we also would recommend the inclusion of the 22 standard conditions that are listed in your packet. As well as, if you do make this decision that you would include this as a staff report and recommendation as the decision -- the Finding of Facts, Conclusions of Law, and Decision and Order so that we free up a lot of everyone's time.

So, and I believe that answers all of your questions. If you have anymore, I'll answer them.

Ms. Preza: Thank you. Jerry.

Mr. Rabaino: Page-10 Jared, Item (K), okay. I need clarification. Short-term rental homes lot shall be no greater than six on Lanai. Explain.

Ms. Preza: I think -- sorry to interrupt and take away your question -- but basically that's just saying that six bedrooms, that's the maximum. But their application in particular is only two bedrooms.

Mr. Rabaino: Okay.

Ms. Preza: Thank you. Commissioners, do you have comments about this? What are your feelings? Chelsea?

Ms. Trevino: For the notification process. The notices are sent out to the property owners versus the people who actually live in the home possibly?

Mr. Burkett: That's correct. All the property owners are listed with Real Property Tax.

Ms. Trevino: Okay because --. Are there, are there not homes there that are Pulama rentals is my question. Because I'm asking this because there are residents who live on that block who are renting from the Company so it would be Pulama who would get the notification for this. So possibly the people who live in the homes would not be the ones who would be notified who would actually be impacted by this, right?

Ms. Thomson: The law requires the applicant to notify the owners or leasees of record. And what that means is the owners, you know, that actually own the property, or if you have a long-term recorded lease, then you would also have to notify those types of leasees. So not for like for a short-term rental or a normal household lease where you're leasing for a year or six months, you would not have to notify those. Those wouldn't be public records, so there wouldn't really be a way to know that.

Mr. Burkett: And I believe that's why they have made multiple ways of noticing the public. So that's why they post the sign because most people see the sign when they drive by. And that's why it's also posted in the paper, or printed in the paper so that everyone can adhere it. And I think that was the solution that everyone made when they made the ordinance. That's just the methods that they came up with.

Ms. Preza: So I think this will be --. I'm glad you brought up this point because I think it's going to be a good point of discussion when we discuss the ordinance and something to consider. Because in a small community like Lanai and as we discussed at the last meeting certain method of notification don't necessarily --. They might work on Maui, but not necessarily on Lanai, and I think it is important that the long-term people who are staying in houses get notified. And sorry the issue that was the request for service was because the signage was not correct, right?

Mr. Burkett: The requirement is to have the sign five-feet from the property line which would be facing a major road.

Ms. Preza: And what was the problem with it?

Mr. Burkett: It was back further than that. And I did not witness this, but they said there were some bushes obscuring the sign as well.

Ms. Preza: Basically that was one method of showing people in the area that, notifying them that they're applying for a short-term rental home. But it was only rectified last month?

Mr. Burkett: I am not aware if it was --. So people can call and make these requests. It doesn't mean that they're necessarily valid. Most of the time they are. But anyone can call and make a request even if it's not true. So then the zoning inspector investigates and then determines whether it's true or not. And it's up to them to determine if they pursue it further or they just ask them to correct it. I don't know exactly if it was obscured, but I do know that they were asked to correct, though, so I'm guessing it was.

Ms. Preza: Would you like to speak to that? Okay.

Mr. Nielson: So the sign was placed directly in front of the bushes on the left, right on the street side of the bushes. It had fallen down is what had happened. So Roger, our neighbor to our right, who mows the lawn for us, picked it up and put it behind up on the stairs and had basically then set it below the stairs to the left and propped it against the bushes because he didn't know what to do. So when we were notified -- actually Gail Allen went over there for us and picked it up and then put it back out on the street. It had just fallen down.

Ms. Preza: Thank you. Jerry?

Mr. Rabaino: Richelle, on number, page-11, I want to make a condition slash or amend, okay. It says the Lanai Community Plan does not prohibit short-term rentals in designated areas. Okay, this is referring within the 500 radius, I would like to cap three.

Ms. Preza: I don't think that's what we're discussing right now. We're just discussing if we want to approve, defer or deny their application. I don't think that's something we can --. I don't think we can put a cap for this particular area.

Ms. Menze: If we're making the recommendations, I would like to make the recommendation to deny this mostly because for these reasons. It's that the lot size in the --

Ms. Thomson: If you're going to make a motion, it's better to just make a motion and then somebody can second it. And then when you're discussing it then you can bring up all the reasons why so then it's not all lumped into your motion.

Ms. Menze: Thank you very much. So I make a motion that we deny this application for a short-term rental.

Ms. Preza: So there's a motion to deny. Is there a second? Okay, Roxanne seconds so discussion. So if you would like to provide the reasons why you think we should deny.

Ms. Menze: Well because we keep talking about, you know, and like Butch Gima was talking about earlier about density and we haven't quite come up to the idea of caps and densities. And the way I'm looking at it, this is a 3,000 square foot lot. The house between this is a 3,000 square foot lot. The one on the end is. In fact when you look that map, it looks like that whole row is 3,000 square foot lots. The next row over it looks like, according the map that we had on whatever page that was. I'll find it real quick -- exhibit five -- and so when you have a 3,000 square foot lot, you know, your density becomes greater even though we're in that 500 square foot radius. So when you have that density is so great, it's greater than a 6,000 square foot lot which is your normal lot, in a normal place. And the new subdivisions are 6,000 square foot lots. So your density is just about twice as much. And the poor house in between is like, was it Philo who said is like an Oreo cookie. And last month we did deny for the exact same reasons.

Ms. Preza: Other comments?

Ms. Green: The only thing I would say to that is that, Sherry, is we had a lot of people who came up and testified that they didn't want. And the, Philo in the end did not say he was against it. But those people don't --. I know you're counting. But those people are not neighbors whereas we had a number of neighbors last time who were testifying that they did not want in their neighborhood. I do think that this just really brings to core again the problem that we need to adjust. We need to address the situation and make it so that this isn't something that we have to decide over and over again.

Ms. Menze: I agree with you totally on that. And the other thing that I had a problem with on this is the carport. I mean it shows on the map here that it's going to be a parking area. But -- what's her name -- by the wife's own admission they're using it for storage. I just have a problem with that saying -- presenting one thing, saying another. But it's mostly the density within this area of the square foot of the, for the short-term rental.

Ms. Thomson: I just wanted to quickly address the carport if. There's no indication in the record that the structures have not been built to code or, you know, or somehow non-compliant. I wouldn't want to encourage you to base your decision on evidence that's not in the record.

Ms. Menze: Thank you very much.

Ms. Preza: So your main issue is the density.

Ms. Menze: It's the density. It's just so much in that one small little area.

Ms. Preza: I think something that has come up also that Caron brought up is that because we haven't had a chance to really fully discuss the ordinance and layout what our criteria would like to be for a short-term rental home cap, if we would like a cap, and what the density

regulations would be. I also don't feel comfortable approving this application at this time. Jerry and then Chelsea.

Mr. Rabaino: Jared, with that garage so close to the boundary, what is the fire -- do you have any fire inspection that disapproved it of that, of the thing being close to the border boundary?

Mr. Burkett: So part of the application process is for them to have a safety inspection. And so they hired an inspector who happens to also be --. I think he's still employed by Public Works. But he has a business where he goes and inspects structures, and he checked for compliance for all of those types of things.

Mr. Rabaino: The inspector from Maui comes over and check. They don't have any inspector on the island itself?

Mr. Burkett: Yeah, it was Thomas Lewis.

Mr. Rabaino: Okay, thank you.

Ms. Trevino: So I'm just --. Go ahead.

Mr. Burkett: I just want to -- because we have to make a few, to deny, we have to make a decision and order instead of the one that you would adopt. So if you would help me by looking and identifying which criteria that you're using to deny if you are going to deny. That would be on page-10 starting at (N). On (N) and then one, one through nine are the ones that you would -- those are the criteria that you use to make your decision. So I would need those called out so that I can list those in the decision and order.

Ms. Trevino: Alright, so I'm speaking to, I guess, it would be (N) conforming of the character of the existing neighborhood. What I shared earlier about or asked about notification for other individuals is because culturally people who rent from the company are not, may not --. Number one, may not be aware and may not feel that they have the right to say that they don't want something in their neighborhood because they don't own the home, okay. And that may or may not be justification, but I can tell you that three houses down to the right of him are all company houses that people have lived in for a long time, and possibly, you know, they're good neighbors, they're not going to complain. I'm not sure about the row in the back, how many of those homes are private owned versus Pulama rental. But I, you know, we have to, we have to think about that.

Also in lieu of because we have the comment earlier about these people who are denying are not even living in the neighborhood. It's not a matter of notification, I think it's a matter of education for the community again. And I think I brought this up before when we talked about what triggers something coming to the Planning Commission for us to approve or not approve because again this is a unique situation on Lanai. And in general most people who are going to put in any kind of comment are people who own their home in the area. And you're going

to find neighborhoods now where you have two to three houses possibly that are now privately owned and the rest are Pulama rentals that have been there for ages. So I think that for me that's what I'm looking at in the sense of looking at the density that we're talking about and, you know, people saying approval or denial who live in the area or not. So I think that we have to look at that as well.

Ms. Preza: Thank you Chelsea. So I think, so for Jared's point we're pointing out, you know, specific criterion that we're using to, if we are to deny the application then it would be under (N), five and six particularly which we're addressing potential adverse impacts, you know, to the community, to the neighborhood. And number six, the number of permitted short-term rental homes surrounding the proposed short-term rental home property and their distance. So when we're talking about density I think that's what we're referring to. So is there any further discussion on this or would we like to move forward with the vote?

Mr. Delacruz: I have comments. You know, if you talk about density, you can't change the density because those houses are already there. If you're going to apply rules of density that you want for people who live there, you want to just buy the house and tear them down. That being said, I would have recommended approval of this, okay. You go to last month's thing, and I think the big reason why we disapproved was the argument that there was going to be another short-term rental home across the street from whoever was testifying. In this situation we had the house in the corner, Ken Kaughman's old house. We have the Asuncion house which is privately owned. And then we have the old Blakely house which is now owned by the Nielson's. Then you've got three company houses, and you know, Roger and then Cedric. And all of the houses behind that, the one in the corner is privately owned by his wife's aunty. And when you go down that house was sold on foreclosure. And when you go down you might have a couple of the houses and then you have Angel Boy's old house which he sold so that's privately owned. And then the house in the corner which is I don't know whether it's privately owned or not. But all these Lanai houses were built -- well many of these Lanai houses were built in the plantation days. It was never meant for normal people to live in okay.

So a lot of -- even Jerry who moved here from big city of Honolulu he had relatives who worked on the plantation, okay. Many of our relatives worked on the plantation. We were never intended to live in normal houses because we were hourly workers, okay. We were poor from the old country to work for the plantation and never intended for us to be successful, okay. Now that we are successful and we choose to live on Lanai, are going to deny people the availability to live here because they did not grow up in a plantation? If anything we should not deny, but defer and then we should very soon come up with our Lanai criteria based on our values for the city of Lanai, the people of Lanai, and the people who want to live in Lanai whether it be forever, three months out of the year, or nine months out of the year. It's only fair to people who already live here and people want to live here.

Ms. Preza: Thank you. I don't think -- personally I don't think that we were saying because they didn't come from the plantation town that we would deny it and stuff like that. When I was talking about or I think when we were talking about density, it wasn't necessarily density

based on property, like how big their property is, but in terms of within the 500 foot radius there's already two. So density of short-term rentals within a specific area not necessarily, like, their property. But that's just my two cents. Caron.

Ms. Green: Thank you. I'm with John here and that I think I would approve this because our last one there were three, not two, but three short-term rentals. And again, people who lived adjacent to it came and spoke. I don't think -- I mean, I think you have a great point there Chelsea about the people who are renting, but we can't, we're not in the position to try to think how they think. I mean, we don't know. And if they don't come forward and say something, then I don't think we can assume that they're against it. And so I wouldn't use that as a criteria for denying this.

Also when I looked at the map while Philo will be sandwiched, he didn't really seemed to really mind as long as he thought that there was a problem he had a recourse. And the other thing is, the other rental was several blocks away. Now I know it's a great distance here, but several block away.

But I'm going to come back to, I wouldn't defer it either, because if you defer it I'm feeling very strongly that I don't want these to come to us in the future. If there are two short-term rentals within a certain radius, I don't want even entertain having it because --. But I don't think under the current circumstances that we can say that because that is not our rule. We need to make the rule and then you have the justification. Well, it won't even come to us. It will be automatically denied. But until we come forward and say that there can be no more than two short-term rentals within the 500-foot radius, then I find we're on really difficult grounds to deny it.

Mr. Rabaino: Chair?

Ms. Preza: Sorry, let --

Ms. Martin: I agree with you on that point but like when we, when we didn't approve the one that we did last month it was because for one thing their lots were a lot bigger and they were spread out a little bit more. And we're talking about a smaller area, a denser area, yeah, that per square foot if we're looking at where, where -- I went blank and I looked at you. I went blank on your name. When we look at where, where, yeah, where Melvin and Roxanne live, the places are bigger there, you know, where they live and where they're looking to do their short-term. I mean, you're right, we do need to come up with rules, absolutely, of what we need to do.

I think deferring it may be in their best interest as well as ours because we need to get it together so we don't have things like this happen especially with people that want to come and do something like this. What people want to do with, with their lives it's none of my business or our business. It does have an impact on me when it impacts Lanai, it has an impact. That's why I sit here because of that. And like I understand like where they're coming

from too, and with Mr. Weinhouse when he said, "how come he's not getting?" I mean, we have to listen to everybody. It's just not --. I mean, what do we do? I mean that's the things we have to come up with. Do we go out as a committee and go to each and everyone's house and ask them? Hey, did you guys hear about that there's going to be a long-term to short-term rental? Do we do things like that? We might be. We're different from Maui. We're different from Molokai. We have to come up with our own set of what we come up with.

I think having two per 500 square feet is great. I think it's wonderful to have something like that. But, like I said again, it's like the density of it. I mean we're sitting --. I don't think it's fair to --. Like Philo asked us, he asked us, he asked us would it be fair if we were sandwiched between two short-term rentals. Nobody answered him. I know I wouldn't. I would like bum me out, you know, even if they were really nice people, and even if they do things and they've been here, you know. And I appreciate that what you guys do for us. As you've said that you've been -- you know, your family has come over here. But yeah we're the ones that need to get this together before we make anymore. That's just what I'm saying on that. Sorry.

Mr. Nielson: Russell Nielson. My wife wants to say something as well. But I think where I'm coming from is not feeling like it's being very fair as that we're just to make new laws. The fact of the matter is there is no law about this. So now we're trying to now say we should have a law, but there is no law. We've complied by everything. Everything. The application is complete. We've gone to the County. We've paid thousands of dollars to comply with every inspection, every certification, every time Jared's come over, every time Mr. Lewis, we've complied by everything. There's no reason. And density is not a law. So there is no law to sit here and say that. So if we're going to make up laws, then let's make up a new law that says, well, if it's within this many feet, you can only rent it so many times a month. Okay, fine. So five times a month is all you're allowed. Okay. But you just can't make up a law. That just doesn't make a sense. So again, a law would have to go to, I mean, a higher up government unfortunately.

Ms. Nielson: Yeah, and just being a homeowner here and taking time away from my children which I know a lot of you probably are and your families, like, it's very frustrating that these things aren't, they're aren't clear lines. Because when we started this whole idea and this process, we researched all of this. Like we said, we paid thousands of dollars and we're following all the rules, but yet there's all this gray area. And I don't think that that benefits any of us, and the time that we have, you know, in this community. So, again, regardless of 'ya decision, I, one hundred percent agree that there has to be, like, clear boundaries on what is allowed and what's not allowed. And I hope when we see you guys at the grocery store you still give us a friendly smile because again we're just trying to, you know, live our life, and work hard, and make a living, and support the community which I feel like we do a really good job of, and bring a really high quality people to this island. So, thank you for your time.

Ms. Preza: Thank you for your time, and you know, we understand that you're doing everything you can to abide by the rules. And we aren't trying to make up laws. I think your, your application comes at a time when we are trying our best to define the boundaries so that,

in the future this doesn't come up how it has and we apologize for that. But, and also as the Commission we only provide recommendations to the County Council so even if we recommended denial it's ultimately up to the County what happens with the permit. Oh, not for this one? Oh, never mind. I stand corrected. Oh, but, sorry, but changing the law, that's what I'm talking about is, you know, actual changing the laws that have to affect your permit.

But something I do --. I think the reason why we're all sitting on this Commission is because we care about this island. We've all been long-time residents of Lanai, and we care about this community. I'm not saying that you don't. But the reason why we're going back and forth is not because of your, you know, anything that you've done wrong but because we care about the integrity of our town and we want people who will actively invest. And something that has come up in the past is, oh, we were all so happy about the five year rule about owning a home because it shows that people aren't just going to purchase a home and then immediately try to make it a short-term rental home. This application did come in prior to that law, so you've owned it for, you know, a couple of years so I think we should all remember that also, like, how we as Commission, as representatives of the community felt about that.

Do you have something to add Jerry?

Mr. Rabaino: I need clarity. She said that she was going to defer. No. Okay, and then John made a suggestion so where, where are at?

Ms. Preza: So basically we have to go forward with Sherry's motion to see if we would, you know, kill the motion or create a different one. So do we all feel like we're at the point where we can vote on Sherry's motion which was to disapprove the permit or do you want to discuss a little more? I don't think that we are in the state right now to approve. That's just how I personally feel because we haven't set forth these very clear boundaries of what we would for our community and that's not their fault. But their application does affect this community and the makeup of it so. But, so Sherry's motion was to deny. Roxanne --

Mr. Delacruz: There are two options. She made a motion to deny. It was seconded by Roxanne. There are two options to this, okay. Either Sherry could withdraw her motion, or someone can make a motion to amend the motion. Very good Jerry.

Mr. Rabaino: Well, I've been cut off recently and they didn't let me finish my mana'o. Okay, so I wanted --

Ms. Preza: Sorry, so when --

Mr. Rabaino: -- on page 11, number three, I wanted to make a condition slash amendment before we move forward on any voting that because of the Lanai Community Plan, we should insert and then later on we can argue over it to cap it. Because of that block . . . (inaudible) .

. . .

Ms. Preza: Sorry, we have to kill. Sorry, I don't want this to turn into an argument but we just need to either kill Sherry's motion, she can withdraw it and then we can move forward with any amendments upon approval and stuff like that.

Mr. Rabaino: Okay, I amend to defer the motion.

Ms. Thomson: Let me, let me stop you before we get a second on that. You need to defer because you need specific information on this application. You can't defer simply because you think that the County Council is going to make a new law at some point. So that's a separate topic that we're going to have to handle when we take up the actual ordinance, and I think that we can do that sooner than later. But right now we're just making a decision on this application only.

Ms. Preza: So Sherry would like to --?

Mr. Rabaino: So we're going to --?

Ms. Menze: Alright. Sherry Menze and I'm going to make a motion to, to --. I'm going to amend --.

Ms. Preza: If you withdraw your motion.

Ms. Menze: I want to withdraw the motion to deny and respectfully request that we defer.

Ms. Thomson: Let's, let's go ahead and take this as it's been presented right now. So there's a motion and a second. Once a motion is made and seconded it no longer belongs to the maker of the motion. So what we need to do is go ahead and vote on that motion. You can vote it in the negative and then we can take up a new motion. As far as making any motions, though, if where this is headed is that somebody wants to defer this, you need to defer it based on this application. You can't defer it based on some future law that may or may not happen.

Ms. Preza: I understand that. Okay, so, we're going to vote on Sherry's motion. So all in favor of --. She wanted to rescind but --.

Ms. Menze: We have a choice either approve or deny. We don't have a choice to defer.

Ms. Thomson: I just want to, I just want to --. So I just want to recap where we are. So once Sherry you made your motion, and then Roxanne seconded it, that motion to deny this permit became the property of the body as a whole. So, although you may want to withdraw it, you may have a change of heart, you know, you can, in discussion you can say, you know what, now that we've had this discussion, I am no longer in favor of this motion that I made. So what I'd recommend is you take care of this motion that's on, on the table right now which is

to deny the permit. If you have other feelings you can approve the --. Your choice are...your choices are you can approve the permit with conditions, with or without conditions. You can deny the permit, you know, which is what's on the table right now. You can defer if you are missing specific information. So if it was, you know, we had a few permits ago, there was problem with notice. That might be a really good reason to defer it to make sure that that was corrected before you made a decision. So right now I'd recommend you take a vote on the motion on the floor which is to deny this permit.

Ms. Preza: And since --. But going back to what Jared said about having to identify specific criteria from this application in particular about why we want to deny, we were looking at number five and number six which were potential adverse impacts which is what we were discussing, and number of permitted short-term rental homes surrounding the property. So, those are all valid reasons why we brought up potentially denying the permit, just to remind everyone. But, in moving forward with the motion, not Sherry's anymore, ours, to deny the permit, all in favor of that, please raise your hand. One, two, three, four, five. So five. All opposed? One, two, three and abstaining. Abstain, okay, so.

Ms. Thomson: Just to clarify, an abstention is a vote in favor of the motion so when it's recorded your vote will be in favor of the denial. Just to be clear on abstaining.

Ms. Preza: So with that, the motion passes to deny the application. Okay. Thank you for your time and for coming.

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

VOTED: to deny the short-term home rental permit.
(Assenting: R. Catiel, S. Preza, C. Trevino, M. Martin, S. Menze, S. Samonte (abstained))
(Dissenting: J. Delacruz, C. Green, G. Rabaino)

Ms. Preza: Yeah, when we discuss, you know, the ordinance, you're welcome to come back. Thank you.

Ms. Nielson: We'll come back.

Ms. Preza: Great, so moving on. Would you all like to take a five minute break? Okay, great, five minute break. Try to return so we can get out of here.

(The Lanai Planning Commission recessed at 6:50 p.m. and reconvened at 7:00 p.m. Ms. Caron Green is excused from the meeting at 6:50 p.m.)

D. ORIENTATION WORKSHOP

- 1. Robert's Rules and how to properly conduct a planning commission meeting.**

2. Sunshine Law

Ms. Preza: We're going restart our meeting. Moving on Item D.1. which is the orientation workshop, Robert's Rules and then on to the sunshine law. So if everyone could --. The break is pau so if we could stop our side conversations at this time and continue after the meeting is done. Thank you. So I'll turn it over to Richelle who is going to go over with us Robert's Rules which is good because I think we may need a refresher on it given the last agenda item and then sunshine laws.

Ms. Thomson: Thank you Chair. And I will be -- I'll keep this brief and all of you are, you know, anytime you have questions, please ask me. So the first Robert's Rule is everybody has to pay attention and no talking. Jerry? So the Robert's Rules of Order, you have two basic sources for the way that you conduct your meetings. Your first source is your Lanai Planning Commission Rules, and that's -- it walks you through, you know, what if you're doing a contest case which tonight was a contest case. It walks you through how you take, you know, if it requires a public hearing. You open and close your public hearing. You know, the Department presents, and then you ask questions, etcetera. So your Administrative Rules handle a lot of that. If it's not answered in your Administrative Rules, we defer to Robert's Rules of Order. And it's parliamentary procedure. I brought -- this is what the, this is what it looks like. It's like a little bitty thick handbook full of very small words. And we have all kind esoteric, you know, really unique situations that they address in there.

This paper that if you turn to the second page that is where you get into more of the order and the flow of a meeting. And how motions are presented is very important. The Chair, her job is to control the order and the flow of this meeting. One of the things that she tries to make sure that she does is, you know, she introduces the topics, keeps things on point, tries not to let, you know, one or more members, you know, hog the mic and give everybody a fair chance, that kind of a thing. So on page two, that basically goes over how members make motions, how the Chair responds and then how the flow is of the discussion. And like I said the point of it is so that everyone gets the opportunity to be heard and have their voice, have their voices heard.

There some other things on the third page that we really don't use. So motion to table and a motion to postpone indefinitely. Those might be used in bigger, more complicated bodies like Maui County Council. But I even don't see those used there so. Really what you want to concentrate on is, you know, the order and the flow of the meeting, trying not to talk over each other or, you know, really hog the mic kind of things.

Tonight, I thought just, you know, to kind of put it in context of what we were doing at the tail end. So when a motion is made you try to keep pretty succinct. So motion to deny the permit. It's seconded. If it's not seconded, then it dies, and then the floor is open for a new motion. So tonight we had a motion to deny that was seconded. It becomes, that motion becomes the property of the body as a whole, and so the Chair controls the flow of the discussion, you know, make sure that everybody has an opportunity. And then once, you know, most of the

topics have been aired, the Chair can call for the vote. So, you know, it's the Chair's prerogative to, you know, kind of hear that okay, well we're kind of going into two or three of the same topics or, you know, like she did tonight she helped you pull back and take a look at your rules, you know, to say okay, we needed to cover specifically why we're going to deny that permit. So that's the Chair's job is to keep the flow of the meeting going, and then also, you know, bring the body back to what rules we're applying, what law.

Anybody have any questions on Robert's Rules? I didn't want to really elaborate on it too much, but if you have questions.

Mr. Delacruz: . . . (inaudible) . . .

Ms. Thomson: Anybody else?

Ms. Preza: Sorry, so, just so we're all --. Can I just, like, reiterate? Not reiterate, just go --? Because I feel like, you know, we had a little bit of trouble with this last agenda item, just so we're on the same page. Someone makes a motion, and if it's not seconded, then it dies. If it's seconded, then we proceed to discussion on that particular motion only. So I think what the confusion was with the pass one was Jerry was trying to bring up an amendment to something, but that wasn't the motion that we were discussing at the time. But just so that we're all clear. So we discuss whatever the motion is and then we either move forward, we move forward with the voting, approve or deny it. And then at that time, say Jerry you had an amendment you wanted to make, like, oh approve with amendments. Then you would make a motion for that. Someone would second or not second, and then we would forward in discussion and then voting.

Ms. Thomson: There's just a small nuance there. You don't want to make -- what I think what you're getting at is you don't want to make completely different motions that have nothing to do with your main motion. So when you have a main motion, it's been seconded. So say, let's pretend that we were approving it. So motion to approve with conditions as listed in the staff report. And then some seconds that. Then you have a big round of discussion, and then someone says, you know, I think I actually I'd really like to amend that one condition. I want to say it should only be a two year permit, not a three year permit. So I make a motion to amend condition number one that it's just a two year permit, not a three year permit. So then you have this amendment. Someone seconds that amendment. You discuss only whether it should be two or three years. Then you vote on that and say if that was approved, then you go back to the main motion as amended. So it's to approve with condition as amended as to the term.

Ms. Preza: There's really --. I saw, I don't know if anyone else did, I saw like a You Tube video on this and exactly what you're saying, like, it's within that. So maybe it would be helpful for us to watch at another time just so we all understand the flow. But what I was saying, though, was like, for example, when Sherry said motion to deny and then Jerry was going to go with, like, amendments we weren't even talking about --. I mean, you can't deny with

amendments, right? Or can you? Probably not, right? Yeah, because there's deny, defer, approve and we just need to stick within like a specific motion. And then either approve it or not and then move forward.

Mr. Delacruz: Well, let's see if we did this properly. Okay, again, let us look at 6 (c). Once your motion is presented to the membership by the Chairman it becomes assembly property. Are we presumed that it's already been seconded? Okay. And then following that, it says, and cannot be changed by you without the consent of the members.

Ms. Preza: That's, I think that's what she was saying was, if you wanted to change something, then everyone needs to kind of make a vote on if that amendment is approved.

Ms. Thomson: So 6(c) is talking about, you've had a motion, it's been seconded, it's the property of the body. You can either change it formally, like, you know, I move to amend to decrease the time limit or something. So that amendment, seconded, and then you take care of voting on that amendment, and then go back to your main motion, either as amended or not amended if that didn't pass.

You can do, what they're talking about cannot be changed by you without the consent of the members. You could do it by consensus. So if it's kind of an obvious thing that everybody is in favor of, the Chair would say, you know, without any opposition we're going to, you know, amend that. It's usually better, I think, to just go with formal amendment, vote on it, and then go back to the main motion.

Ms. Preza: Any other questions on this or kind of have a better idea? Maybe we can watch that video next time because I think it's really helpful to see it all play out and that helps me. Yeah. Robert's Rules, it's very helpful. Oh yeah, maybe I'll find it. I don't know where I found it, but maybe I'll send it to Leilani to send to everyone. So, we can move on to the second item which is sunshine laws.

Ms. Thomson: Great. So, just kind of for context, some of the things on your agenda are sunshine law items and some of them are going to be this body acting as basically judge and jury, so your quasi-judicial function is what it's called. On tonight's agenda, the public hearing item is a contested case, and it has its own set of rules and those are in your administrative rules and that includes how evidence is taken in, who speaks first and second, all of that. This orientation workshop, this is a sunshine law agenda item. And what the sunshine is intended to open up government functions so that everybody knows what decisions are being made, how they're being made, and there's not backdoor, backroom deals or whatever the saying is. So that's kind of the purpose of the sunshine law.

Our agendas are combined so they're combined right now, sunshine law and adjudicatory items in one. There's been some discussion, you know, with all of the planning commissions in general whether we should separate those agendas, agendas out, you know, and just handle our adjudicatory agenda separately, and then do any sunshine law, you know, else.

We haven't come to that conclusion completely because it's a little clunky especially for smaller boards so that may be where we're going, but for now they're combined.

So sunshine law, the way that I boil all of this down to is if you have board business -- so if you know that an application or say, you know, considering changing the cap for short-term rental homes on the island of Lanai. We pretty much know that's going to be coming up on our agenda in the next month or two. That's board business because it's going to come before you for an official action so outside of a meeting you don't want to discuss it amongst yourselves. It's, it's permitted for two members to discuss, but you know, especially on a small island it's just too, it's right for, you know, inadvertent abuse with two people talk, and then one of them talks to somebody else and then pretty soon everybody's been talking. The reason that you don't want to do that is that it could void the action that you take later on. So someone could challenge. And that happened with the Maui County Council. It was a bit of a different scenario, but they had one of their decisions successfully challenged for failure to follow the sunshine law. So it is important. It isn't just a formality.

Ms. Preza: So, so I mean, we all had the training prior but then I asked that this comes back to us just so we can all be clear and we're not violating any rules or anything. But, so discussions outside of Commission meetings it's okay with two people if it's about something, but generally, like, maybe try to avoid just so that there's no, nothing that comes up in the future. But definitely not three people talking about an item. What about like --? Okay, if we want to break? Like, if we're at a Commission meeting, we're on a break, three of us can't talk about something that's on? That's also a part of that, right? Okay.

Ms. Thomson: And, yeah, especially you know, like, related to tonight's business. A contested case is even more strict really than sunshine law. You want to do everything on the record because that record could be appealed to circuit court and the court needs to look at the transcripts of the meeting, you know. And so they go through what you've done with a fine tooth comb depending on what the appeal is about. But you do want to make sure that you're conducting yourselves with decorum and not going outside of the record.

This is a little bit of an offshoot, but it's kind of related to this topic. You don't want to do your own investigations also. So you need to rely on the information that all of the board has. So, you know, say since we're talking short-term rental homes, I know that all of you are generally familiar with the neighborhood. You know, in fact, you can name all down the street who lives next to one another. But if you didn't already have that knowledge, you don't want to go on your own on a site visit or field trip to, you know, really investigate something. You do need to rely on your staff members and all of the information that this body has.

Ms. Preza: Or like could you -- like how, you know, in the past people have, like, provided papers of whatever they've, not investigated, but just like what their thoughts are, like, it has to be shared with everyone right?

Ms. Thomson: I think, you know, writing down, writing down your thoughts and your concerns

on an application, that's, you know, that's just sort of homework and you're putting down, usually putting down your thoughts so you don't forget to bring it up at a meeting. But what you don't want to do is, you know, go, like I said, go do a site visit on your own and just say I did my own site visit and this is what I think. So if a site visit is necessary what you'd want to do is have a discussion here at the board level and like we did with the Adventure Center actually go out there and take a look at it, you know.

Ms. Trevino: Can I use tonight as an example? Okay, so as an example, tonight there was a lot of discussion in regards to the garage thingy. Could we have requested --? Like, do we just have to go by like that paperwork says it was approved or could we have requested that someone go and --? That thing, you know, because it seemed to me like there was some questions in regards to what the actual law is and when was it put on and was it approved. Is that, like, say it was approved because it sounds like was, could we have asked for something like that?

Ms. Thomson: So, yeah.

Ms. Trevino: . . . (inaudible) . . . what direction we can take something in . . . (inaudible) . . .

Ms. Thomson: I think if there's sufficient enough indication that, you know, like the --. So Jared brought up that there's an architect examine the plans and certified, you know, put his stamp on it that said that those plans match what was permitted by the County. So, you know, I would probably, to me I'd probably consider that to be reliable unless there was, you know, unless you had indication otherwise. Or maybe if that wasn't in the record and you know, you had, you had some questions on it.

Ms. Preza: I'm sorry. I have something else kind of in regard to -- not, not tonight necessarily but in, like, doing your own investigation. So I feel like in past meetings and because we're from a very small community, you know, we all drive around. Like, you could not be purposely inspecting someone's house, but you pass by someone's house and then you come to the concern, like, it didn't seem like that was wide enough for, like, a carport or whatever comment you had just a passing observation not actually seeking them out. I mean, where is the line with that?

Ms. Thomson: It's not like a super bright line. You know, you can't drive around with blinders on and, you know, of course you're going to notice things in your own community. It's really more about, you know, actively going out and, yeah. You know, or going and consulting your own experts outside. So a board in Honolulu got in trouble in a contested case scenario. The board themselves actually went and, I think, interviewed a UH Professor that had special knowledge about this item that they were concerned with, this issue that was before them, and they got in trouble for that, you know.

Ms. Preza: So it's okay to ask like people's, like for example like the cap. Like we all wanted to go out into the community and just like talk to people about what their feelings are about

the cap so that we can come back and bring that knowledge. But you're talking about a specific, like if it was an item or a like something that you think someone has expertise on. Would the best course of action just be to invite them to come to the Commission meeting to provide testimony or something or --?

Ms. Thomson: The sunshine law prevents you from talking to each other but it doesn't prevent you from talking, you know, you to me or other staff or to members of the public. Yeah, you know, I think you'd want to, you'd want to have them come in a formal setting, you know, or provide written testimony or something. But you're not prevented from this with the sunshine law for sunshine law items. And the change in --. So the ordinance is going to change the short-term rental home cap, you're not the final decision making body. So you know you're gathering all of the information, making a recommendation back to the Council that's going to make that final call. It's a bit different than, like, the short-term rental home contested case issue.

Ms. Preza: Sorry, I think that's also clear why we should all be aware of is when you're saying sunshine law items those are items we just make recommendations on and then it goes to the County Council, right, or like the orientation workshop which is just amongst us. Whereas the public hearing case was action that we do take. I think that's what got confusing when I was saying about like, oh, but we don't --. I was talking about the -- you corrected me with the law, like, we don't make the final decision on, like, what the law is about regarding short-term rental home caps. Sorry, am I making any sense or kind of? Like she's saying, when you're talking about, like, adjud -- sorry, I don't know how to say it. Adjudicatory. I was going to say judicial. Adjudicatory item, that was the public hearing and that's when we do make a decision amongst us. And then like the orientation workshop is part of the sunshine law agenda item, right? And amendment to the ordinance is also that. Okay. Sorry, just to clarify.

Ms. Thomson: Okay the -- and back on page five of the handout and that goes through a couple of different types of permitted interactions. And these are exceptions to the sunshine law. So, I'll --. One of the, one of the ones that is used most frequently by these types of boards would be to establish a, an investigative group. So it's less than quorum, so it would be four, four or less. It has to be two or more. So for this board's makeup it would be three or four members could form a -- this body would form that group. You have a specific assignment. I'm trying to think of one. At any rate, you can, they can go outside of a regular meeting to investigate this topic. It's just the topic that's set by the board, just their assignment. And then they come back to the board, report their findings. This is and I'm not quite sure why the caveat. I think it's so that the public have enough notice. But you can't take any action on that until the next, until a subsequent meeting. So it takes three meetings. The first one is to set the group up, the second one to receive the findings, and then if you're going to take any action on what that other thing is, then you have to wait for the third one.

Executive meetings, that's on page six. The most common reason that you'll kick the public out basically and have a discussion just amongst the board, it's usually with your legal representative. So if you, if you have some questions, like, is this an illegal condition, can we

actually impose this condition or is this going to open us up to a court challenge. That's something that you would want to, we would want to go into an executive session and have that just amongst us and then, you know, I can give my candid answer on that. Like, you know, that's flat out illegal or it's not, it's better if you do it this way kind of thing, you know. So that's when you go into executive meeting. And that's the same thing with County Council. So when they, you know, kick out everybody from the gallery that's usually the reason is they're talking to one of us.

Just wrapping it up. Video conference meetings, this is --. We don't really have the capability of that, but there are a couple of times when members can't be present at a meeting, and then you could join in that meeting. If you're, if you're ill, which I don't know why you'd want to be present at a meeting if you weren't feeling well, anyway but sometimes, you know, a member will be in the hospital for a longer term but still want to participate. Obviously the public can't go to that place to testify, you know, it's not open to the public. But that member could still be present, so long as they can hear and understand, and have available all of the information. If you can have meetings that are with members present at different locations so long as there's the opportunity for the public to come and testify at that location where the members are. So it's pretty complicated, and I don't think it really happens that often.

So sunshine law testimony anybody can come and submit written or oral testimony to you, and you can set time limits. The people who come to testify can do it anonymously which we have a signup sheet, and you know, in a small community you know who they are anyway. But for sunshine law items you can do it anonymously. Contested case items are different. So when you're in a public hearing of a contested case, the parties have the right to cross examine so they applicant here would have the rights to cross examine the people who came to testify either for or against. That's kind of one of the differences in those types of testimony.

I think, you know, unless you have questions, I probably won't go through the notice requirements. I think we know, we know those pretty well. But if anybody has any questions, you let me know.

Ms. Preza: Thank you Richelle. Great. Do anyone have any questions or anything before we close up our meeting? Okay, so let's move on to Item E, the Director's Report. So we have the open applications. Is anyone speaking on this or --? Jared? Okay.

E. DIRECTOR'S REPORT

1. **[Open Lanai Applications Report](#) as distributed by the Planning Department with the May 15, 2019 agenda.**

Mr. Burkett: Okay so a number of the public actually asked me about this. Just so you know, Hale Nani is as you know was voted against approval. It's still showing open because we wait for the Decision and Order to be adopted, and in the process sometimes it's kind of a

Department --. Sometimes we give a letter of denial up front, sometimes we wait until the D&O is ready and we're trying to decide which is better. But when clerical gets the instruction to close the permit, that's when that happens. So, it's still showing as open, but it is definitely, it will have a denial and we'll close it.

As far as, I just wanted to give you an update because it takes a while to get these processed. But the Hotel Lanai garage, they did not need the Country Town Business District permit because portion of the property where they're doing that work is not in that district so that is - -. Because it has more than one zoning district on the lot so they mistakenly applied for that.

And then the De Brums Lanai, they are not eligible for a permit because of the new accessory dwelling ordinance which does not allow for short-term rental homes in an accessory so they are being sent a denial letter.

Okay, so that is all for the open Lanai application report unless you have any questions.

2. Agenda Items for the June 19, 2019 meeting

Ms. Preza: Any questions? Great, thank you Jared. So I don't think we have our next agenda items for June. Well, I spoke with Richelle and the ordinance about short-term rental homes that we've been discussing and we've been wanting to get in front of us will come to us soon so we'll keep our eye open on that next time. And our next meeting will be June 19, 2019 so we'll adjourn at --

Mr. Burkett: Chair? Chair?

Ms. Preza: Jared has something. Never mind.

Mr. Burkett: We do know for sure that Lanai Sunset Hale is on the next agenda.

Ms. Preza: Lanai Sunset Hale.

Mr. Burkett: 1270? I'm not sure. 1270, yeah.

Ms. Preza: Sorry, so that will be on the agenda.

Mr. Burkett: Yes.

Ms. Preza: Okay. Great, anything else?

Mr. Burkett: Well, there's discussion about having the cap discussion as well as the setback discussion on the next agenda, but the Deputy Director will still have some discussion on if it's going to be on the agenda or not.

F. NEXT REGULAR MEETING DATE: June 19, 2019

G. ADJOURNMENT

Ms. Preza: Thank you. Great, so if that's all, then we'll adjourn the meeting at exactly 7:30 p.m. Thank you.

There being no further discussion brought forward to the Commission, the meeting was adjourned at 7:30 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 (excused at 6:50 p.m.)
Mililani Martin
Sherry Menze
Shelly Preza, Chair
Gerald Rabaino
Shirley Samonte (present at ~5:35 p.m.)
Chelsea Trevino, Vice-Chair

OTHERS:

Jared Burkett, Staff Planner
Richelle Thomson, Deputy Corporation Counsel